



Ottawa, August 25, 2020

FILE 2019-UO/TI-17

UNLOCATABLE COPYRIGHT OWNER

Application by Bibliothèque et Archives nationales du Québec (BANQ), Montréal, Quebec, filed on July 11, 2019 for the reproduction of four films by Mr. Jean-Louis Fréchette, produced by Studio Fréchette, held in the BANQ's *Fonds P56 - Mine Johns-Mansville Canada Inc.*

The Copyright Board finds that the application does not meet the requirements of section 77 of the *Copyright Act* (the "Act").

In this regard, subsection 77(1) of the Act states that

[w]here, on application to the Board by a person who wishes to obtain a licence to use

- (a) a published work,
- (b) a fixation of a performer's performance,
- (c) a published sound recording, or
- (d) a fixation of a communication signal

in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in section 3, 15, 18 or 21, as the case may be. [our underline]

Subsection 2.2(1) of the Act states that

For the purpose of this Act, "publication" means

- (a) in relation to works,
 - (i) making copies of a work available to the public,
 - (ii) the construction of an architectural work, and
 - (iii) the incorporation of an artistic work into an architectural work, and
- [our underline]

In light of the evidence submitted by the Applicant, the Board has determined that the works subject to the application have not been published in accordance with the meaning of section 2.2(1) of the Act. Therefore, the Copyright Board cannot issue a licence.

A handwritten signature in black ink, appearing to read 'Lara Taylor'.

Lara Taylor
Secretary General