

SEAL  
04-Nov-24

Vancouver  
REGISTRY



Between

Court File No. **VLC-S-S-247574**

No.  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

CANADIAN LEGAL INFORMATION INSTITUTE

Plaintiff

and

1345750 B.C. Ltd., CLEARWAY MANAGEMENT LTD., ALISTAIR  
VIGIER doing business as CASEWAY AI, CASEWAY AI LEGAL  
LIMITED and JOHN DOE CORPORATION

Defendants

**NOTICE OF CIVIL CLAIM**

**This action has been started by the Plaintiff for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a Response to Civil Claim in Form 2 in the above-named registry of this court within the time for Response to Civil Claim described below, and
- (b) serve a copy of the filed Response to Civil Claim on the Plaintiff.

If you intend to make a Counterclaim, you or your lawyer must

- (a) file a Response to Civil Claim in Form 2 and a Counterclaim in Form 3 in the above-named registry of this court within the time for Response to Civil Claim described below, and
- (b) serve a copy of the filed Response to Civil Claim and Counterclaim on the Plaintiff and on any new parties named in the Counterclaim.

**JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Civil Claim within the time for Response to Civil Claim described below.**

## **Time for Response to Civil Claim**

A Response to Civil Claim must be filed and served on the Plaintiff,

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed Notice of Civil Claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed Notice of Civil Claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed Notice of Civil Claim was served on you, or
- (d) if the time for Response to Civil Claim has been set by order of the court, within that time.

### **PART 1: STATEMENT OF FACTS**

#### **A. Summary**

1. The plaintiff, the Canadian Legal Information Institute (“**CanLII**”), is a not-for-profit organization that owns and operates a proprietary search engine and database containing its work product, including court decisions, legislation and secondary sources that have been reviewed, curated, catalogued and enhanced by CanLII at significant cost and effort (the “**CanLII Works**”).

2. In keeping with its mandate, CanLII provides the public with free access to the CanLII Works on certain terms and conditions.

3. The Defendants, and each of them, have created a business by wrongfully taking for themselves the CanLII Works by way of a bulk and systematic download from the CanLII website without permission from or compensation to CanLII.

4. In doing so, the Defendants, and each of them, have engaged in the blatant and willful breach of CanLII’s terms of use and have otherwise infringed CanLII’s copyright in the CanLII Works.

5. CanLII seeks, among other things, injunctive relief, damages and disgorgement of the Defendants’ profits resulting from the Defendants’ wrongful taking and misappropriation of the CanLII Works, including copyright infringement under the *Copyright Act*, R.S.C. 1985, c. C-42.

## **B. The Parties**

6. CanLII is a not-for-profit company incorporated pursuant to the laws of the *Canada Not-For-Profit Corporations Act*, S.C. 2009, c. 23, with an address for service in this proceeding at 1200 Waterfront Centre, 200 Burrard Street, Vancouver, British Columbia.

7. The defendant, 1345750 BC Ltd. (“**134 BC Ltd.**”), is a company incorporated pursuant to the laws of British Columbia, with a registered and records office at 2900 – 550 Burrard Street, Vancouver, British Columbia.

8. The defendant, Clearway Management Ltd. (“**Clearway**”), is a company incorporated pursuant to the laws of British Columbia, with a registered and records office at 300 – 15300 Croydon Drive, Surrey, British Columbia.

9. The defendant, Alistair Vigier (“**Vigier**”) doing business as Caseway AI, is an individual with an address at 4442 Prospect Road, North Vancouver, British Columbia.

10. The defendant, Caseway AI Legal Limited (“**Caseway AI**”), is a company incorporated pursuant to the laws of Ireland, with a registered and records office at 3 Dublin Landings, North Wall Quay, Dublin 1, Dublin, Ireland D01 C4E0 which has its place of business in British Columbia and whose central management is exercised in British Columbia.

11. Vigier is the sole director and Chief Executive Officer of 134 BC Ltd. and the sole director and founder of Caseway AI.

12. 134 BC Ltd., Clearway, Vigier, Caseway AI and the John Doe Corporation (collectively, the “**Caseway Defendants**”) own and operate the website caseway.ai (the “**Caseway Platform**”).

13. Full particulars of the each of the Caseway Defendants’ respective ownership of or interest in the Caseway Platform and their respective participation in the wrongful conduct as set out in the Notice of Civil Claim are solely within the knowledge and control of the Caseway Defendants. CanLII will provide full particulars as discovered before the trial of this action.

### C. **CanLII Provides Access to the CanLII Works on Certain Terms and Conditions**

14. CanLII is a not-for-profit organization founded in 2001 by the Federation of Law Societies of Canada on behalf of its 14 member Law Societies.

15. CanLII's mandate is to provide efficient and open online access to judicial decisions and legislative documents from all Canadian jurisdictions and to support members of the legal profession in the performance of their duties, all of which CanLII provides to the public on certain terms and conditions.

16. CanLII operates a website (the "**CanLII Website**") which includes, among other things, a proprietary search navigation tool connected to CanLII's legal database which catalogues, curates and indexes Canadian court decisions, legislation and other secondary resources by way of search terms and other means.

17. For almost 25 years, CanLII has built its expansive legal database by, among other things, receiving data relating to court decisions, legislation and secondary sources from over 383 sources, including courts, governments, administrative bodies and other legal publishers, as well as by manually copying and digitizing printed documents and records (the "**Data**").

18. CanLII expends significant time, resources and expertise to review, analyze, curate, aggregate, catalogue, annotate, index and otherwise enhance the Data prior to publishing its original work product (being the CanLII Works) on the CanLII Website by, among other things, engaging in the following, as applicable:

- (a) cleaning, formatting and correcting errors in the Data;
- (b) structuring, sequencing and organizing the Data;
- (c) creating a Data compilation that organizes the Data in a logical and user-friendly way;
- (d) inserting metadata into the Data compilation, including, but not limited to, date, case name, jurisdiction, and topic, as applicable;

- (e) inserting hyperlinks and keywords into the Data which permits the user to note-up the court's treatment of a case decision, among other things;
- (f) extracting keywords and key-phrases from the Data;
- (g) reviewing and capturing citations relating to the Data;
- (h) detecting, reviewing and revising case decisions requiring anonymization;
- (i) summarizing court decisions and generating an original analysis containing case facts, procedural history, parties' submissions, legal issues, disposition, and reasons for judgment, with links to the pertinent paragraph numbers within the body of the corresponding decision;
- (j) indexing the Data to CanLII's search engine;
- (k) identifying topics of law in the Data and curating that Data for the purposes of CanLII's legal taxonomy, which permits a user to search 400 legal topics by theme; and
- (l) applying analysis and classification of certain case decisions, including with respect to the case facts, procedural history, parties' submissions, legal issues, disposition and reasons for judgment, with links to the pertinent paragraph numbers within the body of the corresponding decision.

19. CanLII's database currently holds approximately 3.5 million CanLII Works.

20. CanLII is the owner of copyright in the CanLII Works and copyright subsists in each of the CanLII works pursuant to *Copyright Act*.

21. CanLII makes the CanLII Works available for use by the public subject to a number of terms and conditions set out in its terms of use (the "**Terms of Use**"), which terms and conditions are intended to balance the public's interest in free and open access to Canadian legal materials with the interests of the participants in judicial proceedings that could be at risk by the bulk access and use of those materials by commercial and other parties.

22. By accessing the CanLII website, users consent and agree to the Terms of Use, as may be amended from time to time, which include the following terms and conditions:

- (a) users are permitted to copy, print and use the CanLII Works free of charge and without any further authorization from CanLII on the condition that any user identifies CanLII as the source of the CanLII Works and provided that the user does not engage in any of the prohibited uses (the “**Prohibited Uses**”);
- (b) the Prohibited Uses prohibit and restrict users from engaging in the following:
  - i. the bulk or systematic downloading of the CanLII Works, including by way of programmatic means or by way of hiring human resources to manually download the CanLII Works (the “**Bulk Download Prohibition**”); and
  - ii. the incorporation of the CanLII Works into another website, whereby the user masks the original source of the CanLII Works by way of framing, re-use of search processes or any other means, so as to create confusion or misrepresentation of the fact that the CanLII Works originated from CanLII and the CanLII Website (the “**Misrepresentation Prohibition**”); and
- (c) CanLII reserves its right to block any user from accessing the CanLII Website at its sole discretion and without prior notice if that user misuses the CanLII Website or otherwise uses it for illegal purposes.

23. Although CanLII has been approached by commercial parties seeking bulk access to the CanLII Works for business use, CanLII has denied such access and has maintained the Bulk Download Prohibition, while encouraging those parties to obtain the Data from its sources.

**D. The Defendants have Misappropriated and Misused the CanLII Works**

24. In or around September 2024, 134 BC Ltd., Clearway, Vigier and the John Doe Corporation (collectively, the “**Defendants**”), or some of them, launched the Caseway Platform.

25. The Defendants describe the Caseway Platform as an AI-driven chatbot and legal research assistant that considers and reviews over 3 million court documents.

26. The Defendants provide their customers with access to the Caseway Platform in exchange for a monthly subscription fee.

27. Although the Caseway Platform does not disclose the source of its catalogue of legal documents on the face of its website, the Defendants have suggested in public articles and promotional materials that the Caseway Platform uses the CanLII Works.

28. In this regard, and at a time unknown to CanLII, but known by the Defendants, one or more of the Defendants or their agents accessed the CanLII Website and coordinated the bulk and systematic download and scraping of the CanLII Works from the CanLII Website (the “**Copied Works**”).

29. On or about October 3, 2024, CanLII was alerted that the Copied Works were placed in an open elastic cluster located on a host with the IP address 24.144.94.114, which was the same host used by the Defendants, or some of them, to develop and host the Caseway Platform.

30. Although a full investigation of the incident is ongoing, to CanLII’s knowledge to date, the Copied Works include over 120 gigabytes of data and 3.5 million records.

31. Full particulars of the Copied Works and the means and particulars of how the bulk and systematic download of the Copied Works was coordinated and executed by the Defendants, or any of them, are solely within the knowledge and control of the Defendants. CanLII will provide full particulars of the Copied Works as discovered before the trial of this action.

#### **E. Breach of Contract**

32. By accessing the CanLII Website, the Defendants, and each of them, agreed to, accepted and were bound by the Terms of Use.

33. The Defendants, and each of them, have breached the Terms of Use by, among other things:

- (a) engaging in the bulk and systematic download of the Copied Works, in breach of the Bulk Download Prohibition without CanLII's authorization or consent; and
- (b) incorporating the Copied Works into the Caseway Platform in a manner that creates confusion and misrepresents the fact that the Copied Works originates from CanLII, in breach of the Misrepresentation Prohibition.

34. The Defendants' breach of the Terms of Use was undertaken by the Defendants so that the Defendants, and each of them, could profit from the CanLII Works, which have been developed at significant cost and expense to CanLII.

35. CanLII has suffered, and will continue to suffer, loss, damage, expense and irreparable harm in connection with the Defendants' breaches of the Terms of Use.

#### **F. Copyright Infringement**

36. Commencing on a date unknown to CanLII, one or more of the Caseway Defendants copied and reproduced, or caused or authorized other persons to copy and reproduce, the Copied Works for use by the Caseway Platform, which reproduces, publishes and creates a derivative work based on the Copied Works (the "**Infringing Works**") for the Caseway Defendants' own commercial purposes.

37. Full particulars of the Infringing Works are solely within the knowledge and control of the Caseway Defendants. CanLII will provide full particulars of the Infringing Works as discovered before the trial of this action.

38. The Caseway Defendants, and each of them, continue to use the Copied Works and continue to publish and distribute the Infringing Works without CanLII's authorization or consent.

39. CanLII has suffered, and will continue to suffer, loss, damage, expense and irreparable harm in connection with the wrongful use of the Copied Works and the reproduction and distribution of the Infringing Works by each of the Caseway Defendants.



## **H. CanLII's Demand and the Refusal of the Caseway Defendants to Cease and Desist**

40. On October 9, 2024, CanLII demanded that the Defendants cease and desist from using and distributing the Infringing Works and further demanded that the Defendants delete any and all CanLII Works in the Defendants' possession or control, including the Copied Works and the Infringing Works (the "**Demand**").

41. Upon receipt of the Demand, the Defendants secured the port holding the Copied Works, but failed or refused to delete or otherwise cease its unauthorized use of the Copied Works and the Infringing Works.

42. Also upon receipt of the Demand, and on or about October 16, 2024, the Defendants, or some of them, caused the incorporation of Caseway AI, which has a registered and records office in Dublin, Ireland.

43. The Defendants, or some of them, incorporated Caseway AI in bad faith, including for the purposes of attempting to avoid detection by CanLII and others and to move the assets of the Caseway Platform to a different jurisdiction.

44. At the time that Caseway AI was incorporated, Caseway AI and its sole director, Vigier, were aware of the Demand and were further aware that the Defendants had procured the Copied Works in breach of the Terms of Use and had used the Copied Works to produce the Infringing Works.

45. The Caseway Defendants, or some of them, including Caseway AI, continue to use the Copied Works and continue to publish and distribute the Infringing Works without CanLII's authorization or consent, despite receiving the Demand.

## **G. Conversion and Unjust Enrichment**

46. By taking the Copied Works in breach of the Terms of Use, and without CanLII's authorization or consent, the Caseway Defendants, and each of them, have interfered with CanLII's lawful right to the Copied Works.

47. By reason of the Caseway Defendants' wrongful conduct, each of the Caseway Defendants have been unjustly enriched and CanLII has suffered a corresponding deprivation, without any juristic reason.

48. Unless each of the Caseway Defendants are restrained by this Honourable Court from engaging in the wrongful conduct described in this Notice of Civil Claim, the Caseway Defendants will continue to engage in and repeat that wrongful conduct in connection with the Caseway Platform, and CanLII will continue to suffer loss, damage, expense and irreparable harm.

**PART 2: RELIEF SOUGHT**

49. CanLII seeks the following relief and orders against each of the Caseway Defendants:

- (a) declarations that each of the Defendants have breached the Terms of Use;
- (b) declarations that each of the Caseway Defendants are liable to CanLII for conversion;
- (c) declarations that each of the Caseway Defendants have been unjustly enriched;
- (d) with regard to each of the Caseway Defendants' infringement of CanLII's copyright:
  - (i) a declaration that copyright subsists in the Copied Works and that such copyright is valid and owned by CanLII;
  - (ii) declarations that each of the Caseway Defendants have infringed CanLII's copyright in the Copied Works;
  - (iii) interlocutory, interim and permanent injunctions restraining the Caseway Defendants, by themselves or their respective employees, agents or otherwise, from directly or indirectly copying, producing, or reproducing, in whole or in part, the Copied Works, including the Infringing Works;

- (iv) further and alternatively, interlocutory, interim and permanent injunctions restraining each of the Caseway Defendants, by themselves or their respective employees, agents or otherwise, from directly or indirectly infringing CanLII's copyright in any works or other subject matters in which CanLII now, or in the future, may own copyright or may have an interest in copyright by license or otherwise;
  - (v) further and alternatively, an order requiring each of the Caseway Defendants to immediately cease the use of the Copied Works, including the Infringing Works, for any and all purposes;
  - (vi) further and alternatively, as CanLII may elect, an accounting of each of the Caseway Defendants' profits as a result of their wrongful conduct, and judgment for the amount found due on the taking of that accounting;
  - (vii) further and alternatively, as CanLII may elect, restitutionary relief, including equitable damages and compensation;
  - (viii) further and alternatively, as CanLII may elect, statutory damages pursuant to the *Copyright Act*; and
- (e) with regard to all of the claims made in this Notice of Civil Claim, orders that each of the Caseway Defendants shall pay to CanLII:
- (i) general damages or alternatively an accounting and disgorgement, as CanLII may elect;
  - (ii) punitive damages and exemplary damages;
  - (iii) costs, including special costs;
  - (iv) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and

(v) such further and other relief that this Honourable Court considers just.

### **PART 3: LEGAL BASIS**

#### **A. Breach of Contract**

50. Each of the Defendants agreed, accepted and are bound to the Terms of Use.

51. The Defendants, and each of them, have breached the Terms of Use, including the Bulk Download Prohibition and the Misrepresentation Prohibition.

52. The wrongful conduct by each of the Defendants is a flagrant breach of the Terms of Use, which has caused loss, damage and expense to CanLII, including, but not limited to, investigation costs, loss of goodwill and reputational harm.

#### **B. Copyright Infringement**

53. By reason of the Caseway Defendants' wrongful taking of the Copied Works, and the Caseway Defendants' publication and distribution of the Infringing Works, and pursuant to s. 27 of the *Copyright Act*, each of the Caseway Defendants have infringed CanLII's copyright in the Copied Works.

54. Further and alternatively, by virtue of s. 38 of the *Copyright Act*, each copy of each Infringing Work and each copy of any other work that infringes the Copied Works, or any part thereof, is the property of CanLII and has been misappropriated or wrongfully converted by each of the Caseway Defendants, or their respective directors, partners, officers, employees, agents and representatives, for use by each of the Caseway Defendants.

55. CanLII is entitled to an accounting and disgorgement of each of the Caseway Defendants' respective profits resulting from their wrongful conduct or, alternatively, equitable and statutory damages pursuant to the *Copyright Act*, as CanLII may elect.

56. To the extent that CanLII elects statutory damages under the *Copyright Act*, this Court should exercise its discretion to order the statutory maximum in respect of each of the Copied Works and the Infringing Works on account of, among other things, the Defendants' bad faith in

covertly scraping the CanLII Works from the CanLII Website, failure to comply with the Demand and subsequent incorporation of Caseway AI to attempt to avoid detection or otherwise move the Caseway Platforms' assets to a different jurisdiction.

### **C. Conversion**

57. Further and alternatively, the Caseway Defendants, and each of them, knowingly and wrongfully misappropriated, used, received and detained the Copied Works without lawful justification, for the Caseway Defendants' own benefit, and such wrongful conduct amounts to conversion.

58. CanLII is entitled to disgorgement and an accounting of each of the Caseway Defendants' profits as a result of their wrongful conduct, and judgment for the amount found due on the taking of that accounting. Alternatively, CanLII is entitled to damages, including in respect of the value of the Copied Works and the cost incurred by CanLII to produce the Copied Works.

### **D. Unjust Enrichment**

59. Further and alternatively, by reason of the wrongful conduct described in this Notice of Civil Claim, each of the Caseway Defendants have been unjustly enriched and CanLII has suffered a corresponding deprivation, without any juristic reason.

### **E. Punitive Damages**

60. Each of the Caseway Defendants' conduct was high handed, reprehensible and deserving of rebuke.

61. The Defendants, or some of them, obtained the Copied Works by way of covert means and in flagrant breach of the Terms of Use.

62. Despite receipt of the Demand, the Defendants, or some of them, refused to return or otherwise delete the Copied Works, and instead have incorporated a new entity, Caseway AI, in bad faith to continue to publish and distribute the Infringing Works, without CanLII's authorization or consent.

63. CanLII is entitled to punitive damages as a result.

Plaintiff's address for service: **BORDEN LADNER GERVAIS LLP**  
1200 Waterfront Centre  
200 Burrard Street  
P.O. Box 48600  
Vancouver, British Columbia V7X 1T2  
Attention: Shelby D. Liesch

Fax number address for service (if any): None

E-mail address for service (if any): [sliesch@blg.com](mailto:sliesch@blg.com)

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street  
Vancouver, British Columbia

Date: November 4, 2024



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Signature of Shelby D. Liesch  
Borden Ladner Gervais LLP  
 Plaintiff  lawyer for Plaintiff,  
Canadian Legal Information Institute

Rule 7-1 (1) of the *Supreme Court Civil Rules* states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (ii) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record

## APPENDIX

### Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The Plaintiff brings claims in breach of contract, copyright infringement under the *Copyright Act*, R.S.C. 1985, c. C-42, conversion and unjust enrichment on account of the Defendants' wrongful conduct.

### Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

### Part 3: THIS CLAIM INVOLVES

- a class action

- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

*Copyright Act*, R.S.C. 1985, c. C-42

*Court Order Interest Act*, R.S.B.C. 1996, c. 79

*Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28

ENDORSEMENT ON ORIGINATING PROCESS FOR SERVICE EX JURIS

To the extent that Caseway AI Legal Limited is not ordinarily resident in British Columbia by reason of exercising its central management in British Columbia, the Plaintiff claims the right to serve this pleading on Caseway AI Legal Limited outside of British Columbia on the grounds that, among other things, this claim concerns restitutionary obligations that, to a substantial extent, arose in British Columbia, concerns a business carried on in British Columbia and is a claim for an injunction ordering a party to do or refrain from infringing the Plaintiff's copyright in British Columbia, pursuant to s. 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 and Rule 4-5(1) of the British Columbia *Supreme Court Civil Rules*, B.C. Reg. 168/2009.



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Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

Between

CANADIAN LEGAL INFORMATION INSTITUTE

Plaintiff

and

1345750 B.C. Ltd., CLEARWAY MANAGEMENT LTD.  
and ALISTAIR VIGIER doing business as CASEWAY AI, CASEWAY  
AI LEGAL LIMITED and JOHN DOE CORPORATION

Defendants

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**NOTICE OF CIVIL CLAIM**

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