

Federal Court



Cour fédérale

Date: 20260715

Docket: T-4011-25

Citation: 2026 FC 951

Toronto, Ontario, July 15, 2026

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

REIZA RAYMAN

Plaintiff

and

RED CRAYON INC.

Defendant

REASONS AND JUDGMENT

I. Overview

[1] The Plaintiff, Dr. Reiza Rayman [Plaintiff], commenced an action against the Defendant, Scholars Learning Centre Inc. [Defendant], alleging infringement of his copyright in six different original works he had been contracted to create for the Defendant. When the Defendant failed to file a defence, the Plaintiff brought a motion for default judgment. The Plaintiff's motion was dismissed by Justice Ngo [Motion Judge] by Order dated April 22, 2026 [Order], as she found

evidentiary deficiencies in the Plaintiff's motion materials that prevented her from issuing the judgment sought. The Order was stated to be without prejudice to the Plaintiff bringing a motion on better evidence. This decision addresses the Plaintiff's renewed motion.

[2] For the reasons that follow, I find that the Plaintiff has addressed the evidentiary gaps identified in the Order and that the Plaintiff is entitled to default judgment.

II. Facts

[3] In support of this motion, the Plaintiff filed the following evidence: (i) the affidavit of the Plaintiff sworn May 20, 2026 [Rayman Affidavit]; and (ii) the affidavit of Mahsa Tabrizi, a law clerk with the Plaintiff's law firm sworn June 4, 2026 [Tabrizi Affidavit], which attaches documents including two affidavits of service from the process server who served the Plaintiff's statement of claim on the Defendant, sworn October 23, 2025, and May 12, 2026 [Second Affidavit of Service].

[4] These affidavits provide the basis for the recitation of facts in the paragraphs that follow.

A. *The parties*

[5] The Plaintiff is a Clinical Associate, Division of Cardiac Surgery, at the London Health Sciences Centre in London, Ontario. He has doctorate degrees in medicine and philosophy in robotic telesurgery.

[6] The Defendant is a for-profit after school supplementary education franchise. It provides in person and online tutoring and educational services for elementary and middle school children. Originally named Scholars Learning Centre Inc., the Defendant underwent a corporate name change to Red Crayon Inc., in 2024.

[7] The Plaintiff entered into a consulting agreement with the Defendant on May 21, 2021 [Consulting Agreement], by which the Plaintiff agreed to assume the role of Director of Science, Technology, Engineering and Mathematics [STEM]. His stated responsibilities in this role were to: (i) develop a new and engaging STEM curriculum incorporating research-based teaching methods; (ii) develop, enhance and design courses that examine the intersection of STEM and other disciplines; (iii) promote STEM literacy to the Defendant's students, educators and beyond, through course development, creative interdisciplinary programming and robust STEM education research; (iv) build collaborative relationships with colleagues and external collaborators; (v) participate in the administration of the STEM curriculum by attending meetings, providing updates and engaging in the Defendant's sponsored events; and (vi) brainstorm, explore, plan, implement and support programming that brings together a diverse audience around topics of shared interest in STEM and the arts, humanities and/or social sciences.

[8] The relevant terms of the Consulting Agreement for the purpose of this motion include:

- (i) The Defendant agreed to engage the Plaintiff as the Director of STEM commencing May 1, 2021, for an indefinite period of time or until termination of the agreement;
- (ii) The Plaintiff agreed to develop a new STEM curriculum incorporating research-based teaching methods;

- (iii) The Defendant agreed to pay the Plaintiff a fee for his services in the amount of \$50,000.00 per annum, payable in monthly or semi-monthly installments upon invoicing;
- (iv) The Plaintiff was expressly stated to be an independent contractor and not an employee or partner, joint venturer or agent of the Defendant; and
- (v) The Consulting Agreement states that the agreement does not transfer either party's intellectual property rights to the other party.

B. *The development and use of the works*

[9] Immediately after signing the Consulting Agreement, the Plaintiff focused his development work for the Defendant's STEM Program on LEGO education kits [LEGO Kits] used by the Defendant's franchisees.

[10] LEGO Kits come with blocks, motors, gears and electronics with access to associated instructional lesson plans on the LEGO website. The Plaintiff found the LEGO website cumbersome to navigate and the lesson plans ill-suited for a one-hour after-school program taught by franchisees without a background in science. He therefore independently developed five Quick Reference Guides [QRG] intended to be used in conjunction with the LEGO Kits, to assist the Defendant's franchisees and tutors in using LEGO Kits more effectively. The QRGs are titled:

1. LEGO Education SPIKE Essential Quick Reference Guide [Work 1];
2. LEGO WeDo 2.0 [Work 2];
3. LEGO Spike Prime [Work 3];
4. LEGO BricQ Motion Essential [Work 4];

5. LEGO BricQ Motion Prime [Work 5]; and
6. STEM Connect Program [Work 6] [collectively, the Works].

[11] Works 1 through 5 incorporate selected links to various supplementary support materials and informational links (including from the LEGO website) which “allows a tutor to quickly identify the relevant unit and lesson plans, efficiently access instructional materials, and begin delivering lessons.” According to the Rayman Affidavit, the Works include sequencing of simpler lessons earlier within the QRGs, with the later sequencing or omission of more complex lessons allowing for their use in one-hour or multiple one-hour sessions.

[12] The Plaintiff developed Work 6 as a Scholars STEM camp curriculum guide. It includes original text, instructional materials and student activities developed for a STEM Camp. Work 6 also supports a student visit to a television broadcast centre, as part of the curriculum. There are three versions of Work 6 for three different age ranges.

[13] According to the Rayman Affidavit, the Plaintiff independently developed the substance and content of the Works using his STEM background and experience. The Defendant’s role was limited to formatting that content.

[14] The Defendant operates an online database (through Google Drive), marketed as “Scholars IQ” [Scholars IQ], which is used to deliver its education programs, including the Works. Franchisees and tutors access course curricula and instructional materials for the purpose of viewing and downloading them, to assist in delivering lessons to their students.

C. *The breakdown of the parties' relationship*

[15] The Defendant stopped paying the Plaintiff's invoices in November 2023 and has failed to respond to emails sent by the Plaintiff as well as a demand letter sent by the Plaintiff's counsel. Despite these communications, the Defendant continues to publish, display and make the Works available in association with its business.

[16] The Plaintiff served the Defendant with a statement of claim issued October 15, 2025 [Statement of Claim], alleging that the Defendant has infringed his copyright in the Works. The Defendant has not filed a statement of defence nor sought an extension of time to do so.

[17] As of the date of the Rayman Affidavit, the Plaintiff claims that the Defendant owes him a total of \$75,000.06.

D. *The Order*

[18] The Motion Judge found two deficiencies in the Plaintiff's evidence which prevented her from granting default judgment. She was not satisfied that the Plaintiff met the service requirement of Rule 130(1)(a)(ii) of the *Federal Courts Rules*, SOR/98-106 [*Federal Courts Rules*], and she found that there was insufficient evidence to explain how the Works were being accessed and infringed.

[19] The Order allowed the Plaintiff to refile the motion on better evidence, which the Plaintiff has now done.

III. Analysis

[20] On a motion for default judgment, a plaintiff must not only establish that the defendant is in default but prove its claim (*Trimble Solutions Corporation v Quantum Dynamics Inc*, 2021 FC 63 at para 35 [*Trimble*]).

[21] The allegations in the statement of claim are deemed denied and a plaintiff must provide “sufficiently clear, convincing, and cogent evidence” to establish its claim on the civil standard of a balance of probabilities (*McDowell v A Drip of Honey*, 2024 FC 453 at para 22, *Trimble* at paras 36-37).

[22] As the Motion Judge did, the Court must scrutinize a plaintiff’s evidence with care (*Trimble* at para 36).

A. *The Defendant is in default*

[23] The Motion Judge was not satisfied that the Statement of Claim was properly served on the corporate Defendant. In particular, she held that the Plaintiff “has not explained how a front desk employee” is a “person apparently in charge” as contemplated by Rule 130(1)(a)(ii) of the *Federal Courts Rules*.

[24] The Plaintiff’s evidence addresses this evidentiary gap. The process server who served the Defendant with the Statement of Claim on October 22, 2025, has provided the Second Affidavit of Service, which clarifies that: the address he effected service at is not the Defendant’s

“residence” but is the company’s registered corporate address and headquarters; he asked the main receptionist if she would accept legal documents for the corporation, which she agreed to do.

[25] A corporate profile report [Corporate Profile Report] for the Defendant attached as Exhibit E to the Tabrizi Affidavit confirms the address of service to be the Defendant’s registered address.

[26] Based on this evidence and the evidence showing that the Defendant has failed to respond to the Statement of Claim within the time provided under Rule 204 of the *Federal Courts Rules*, I am satisfied the Defendant is in default.

B. *The Works have been infringed*

[27] The Motion Judge did not raise any issue with the Plaintiff’s evidence going to the subsistence of copyright in the Works, nor the Plaintiff’s ownership of the copyright in the Works. She did, however, identify problems with the Plaintiff’s evidence of infringement, each of which I find has been clarified or corrected.

[28] The Motion Judge found that the Plaintiff had not explained how the Defendant’s clients and students can access the curricula via Scholars IQ and how the Works are still being accessed. She also found that there was insufficient information for the Court to understand the link between Scholars IQ and various hyperlinks with the allegations of infringement. Finally, the Motion Judge had evidentiary concerns related to the hyperlinks, which were not accessible and

not properly entered into evidence, and she raised an issue with the quality of the screenshot of Scholars IQ in relation to Work 6.

[29] The Plaintiff's new evidence addresses these concerns. The Rayman Affidavit explains that Scholars IQ acts as an online repository of education documents and materials. Franchisees and tutors are given login credentials and can access, view and print materials for teaching sessions. Screenshots of the online database illustrating the structure of the platform and how users access the system are included as exhibits to the Rayman Affidavit. The evidence of infringement includes screenshots of Works 1 through 6, as they appear in the database, and the Plaintiff's personal observations that the Works remain accessible to students and instructors in Scholars IQ.

[30] The Plaintiff's evidence also clarifies what the hyperlinks contained within Works 1 through 5, lead to. The Plaintiff did not develop the instructional materials accessible through the embedded hyperlinks contained within Works 1 through 5; rather, the hyperlinks direct users to instructional materials and resources hosted on the LEGO website. No claim to copyright in these links is being made; rather, the Plaintiff's claim in respect of Works 1 through 5 is as a compilation including the selection of the hyperlinks (citing *CCH Canadian Ltd v Law Society of Upper Canada*, 2004 SCC 13 at para 33).

[31] Based on the evidence in the Rayman Affidavit, I find that the Plaintiff has provided sufficient evidence demonstrating copyright infringement with respect to Works 1 through 5 and Work 6. The Consulting Agreement does not grant the Defendant any licence or assignment to

use the Works; its right to use and continue to display the Works was contingent on the payment of a fee for service. When the Defendant stopped paying this fee in November 2023, it was no longer entitled to use the Works; yet, according to screenshots of the Scholars IQ website, as of April and May 2026, they remain available for use by the Defendant's franchisees and clients.

C. *Remedies*

[32] Subsection 34(1) the *Copyright Act*, RSC 1985, c C-42 [*Copyright Act*] provides that, where copyright has been infringed, the owner of the copyright is entitled to "all remedies by way of injunction, damages, accounts, delivery up and otherwise that are or may be conferred by law for the infringement of a right." The Plaintiff seeks all of the available remedies and has elected statutory damages in the maximum amount calculable under section 38.1 of the *Copyright Act*, as well as punitive damages, interest and costs.

[33] The declaratory relief sought is in accordance with my findings and shall issue.

[34] A permanent injunction and delivery up order are necessary in order to prevent the Defendant from continuing to infringe the Works. However, I have deleted a proposed paragraph from the draft Order as it relates to the injunction sought, which sought to include "any works which come into existence after the commencement of this proceeding," which is not appropriate as there is no foundation for this term.

[35] In terms of damages, paragraph 38.1(1)(a) of the *Copyright Act* dictates that an award of statutory damages be no less than \$500.00 and no more than \$20,000.00, for each copyright-

protected work infringed for commercial purposes. The Plaintiff requests the maximum award of \$20,000.00 in statutory damages for each of the infringed Works, for a total damage award of \$120,000.00.

[36] In exercising my discretion with respect to the quantum of statutory damages to be awarded, paragraphs 38.1(5)(a), (b) and (c) of the *Copyright Act* require that I consider any bad faith actions on the part of the Defendant, the conduct of the parties before and during the proceedings, and the need to deter other infringements of the Works. I find that all of these factors weigh in favour of a higher award of damages. I consider the Defendant to be acting in bad faith by continuing to provide access to the Works and listing the Plaintiff as its Director of STEM on its website after having received the Statement of Claim. There is clearly a need for specific deterrence in this case to stop the Defendant from continuing to exploit the Works. The Defendant's failure to respond to the requests of the Plaintiff for payment of his invoices, to the demand letter and its disregard of Court processes are also aggravating factors (*Louis Vuitton Malletier SA v 486353 BC Ltd*, 2008 BCSC 799 (CanLII) at para 76).

[37] Although these factors support the Plaintiff's request for a damage award at the higher end of the range, I am not satisfied that a total award of \$120,000.00 is appropriate. The Plaintiff's actual damages of \$75,000.06, is a relevant consideration (*Yelda Haber Ve Görsel Yayıncılık AS v GLWiZ Inc*, 2025 FC 1107 at paras 299-301). It is important to note that this amount owing is for a number of services that the Plaintiff contracted to provide as the Director of STEM, not just the creation of the Works. Given that the damages to be awarded are for breach of copyright and not breach of contract, an award of \$120,000.00 would be

disproportionate to the infringement. I must also ensure, however, that the Defendant does not benefit from its infringement, particularly in light of the evidence that most of the franchisees using the LEGO Kits “regularly use” the Works in delivering lessons. Taking these factors into account together with the aggravating factors, I am awarding statutory damages of \$13,000.00 per work, for a total award of \$78,000.00.

[38] The Plaintiff’s claim for punitive damages is denied as it was a term of the Consulting Agreement that neither party would be liable for “indirect, special, incidental, punitive or consequential damages” arising out of any breach of the Consulting Agreement.

[39] Finally, the Plaintiff seeks an order pursuant to Rule 76 of the *Federal Courts Rules*, amending the style of cause to reflect the Defendant’s current corporate name, which is appropriate based on the contents of the Corporate Profile Report, which refers to the Defendant having changed its corporate name from Scholars Learning Centre Inc. to Red Crayon Inc. effective October 17, 2024.

IV. Costs

[40] The Plaintiff asks for costs in an amount of \$5,000.00. This is an appropriate amount, and a lump sum award will relieve the Plaintiff from having to take any further steps in this proceeding.

V. Conclusion

[41] Based on the evidence presented, I am satisfied that the Defendant is in default and has infringed the Plaintiff's copyright in the Works. The Plaintiff is therefore entitled to Default Judgment.

JUDGMENT in T-4011-25

THIS COURT’S JUDGMENT is that:

1. The style of cause is amended to reflect the Defendant’s registered corporate name, Red Crayon Inc.
2. A Declaration shall issue to the effect that:
 - a. Copyright subsists and the Plaintiff is the owner of the copyright in each of the following works:
 - i. LEGO Education SPIKE Essential Quick Reference Guide;
 - ii. LEGO WeDo 2.0;
 - iii. LEGO Spike Prime;
 - iv. LEGO BricQ Motion Essential;
 - v. LEGO BricQ Motion Prime; and
 - vi. STEM Connect Program [collectively, the Works]; and
 - b. The Defendant has infringed the Plaintiff’s copyright in the Works by producing, reproducing, displaying and distributing the Works or substantial parts thereof, via the internet and in physical print without the Plaintiff’s permission or consent, and/or by authorizing others to use the Works contrary to subsection 27(1) of the *Copyright Act*.
3. The Plaintiff is granted a permanent injunction restraining the Defendant and its servants, employees, agents and representatives, and all those under its control and anyone having knowledge of this Judgment from directly or indirectly from infringing the Plaintiff’s copyright in the Works by using, reproducing or displaying

- the Works, or any of them, or substantial parts thereof, or causing or authorizing any others to do so.
4. Within ten (10) days of the date of the service of this Judgment on the Defendant, the Defendant shall destroy, or deliver up under oath to the Plaintiff or its agent for destruction, any materials, including all signage, advertising or any other material whether in physical or electronic form, as may be in the Defendant's possession, power, custody or control, which are contrary to any injunction granted herein.
 5. The Plaintiff is awarded statutory damages for copyright infringement in the amount of \$13,000.00 per work in accordance with section 38.1 of the *Copyright Act*, for a total amount of \$78,000.00.
 6. Pre-judgment interest on the foregoing damages shall be calculated as of the date the Defendant was served with the Statement of Claim, namely October 22, 2025, at a rate of 5% per annum; and post-judgment interest on the foregoing damages and costs shall be calculated at a rate of 5% per annum.
 7. The Plaintiff shall have its costs fixed in the lump sum amount of \$5,000.00, payable forthwith.

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-4011-25

STYLE OF CAUSE: REIZA RAYMAN v RED CRAYON INC.

**MOTION IN WRITING CONSIDERED AT TORONTO, ONTARIO, PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES*, SOR/98-106**

REASONS AND JUDGMENT: WHYTE NOWAK J.

DATED: JULY 15, 2026

WRITTEN SUBMISSIONS BY:

John H. Simpson

FOR THE PLAINTIFF

SOLICITORS OF RECORD:

Shift Law P.C.
Barristers and Solicitors
Toronto, Ontario

FOR THE PLAINTIFF