

## IP monitor

### A Proposal: Will you be my.....*Patent Rules*?

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#### August 2017 Patents

After much anticipation, the Canadian Intellectual Property Office (CIPO) released a draft proposal of the new *Patent Rules* August 1<sup>st</sup>, 2017. With these proposed rules, the Government of Canada seeks to modernize its intellectual property (IP) framework, which will allow Canada to join five international IP treaties, including the *Patent Law Treaty (PLT)*.

With this release of the proposed *Patent Rules*, CIPO has kicked off a five-week consultation period during which it will receive feedback from stakeholders regarding these proposed changes to the *Patent Rules*. The released draft of the *Patent Rules* is therefore for consultation purposes and is subject to change before implementation.

CIPO has taken this opportunity to completely reorganize the *Patent Rules*, renumbering the vast majority of its sections and making a number of changes which will have a significant impact on Canadian patent practice, both for Applicants and Canadian patent practitioners.

With these new *Patent Rules*, CIPO seeks, among other things, to reduce the time required to obtain a Canadian patent and to bring Canadian administrative requirements more in line with those of other jurisdictions.

Among the many changes made in the new *Patent Rules*, some of the more significant ones propose to:

- effectively eliminate late national phase entry after 30 months from PCT filing;
- reduce the time period for requesting examination from five years to three years from the filing date;
- reduce the time period for responding to office actions and paying the final fee from six to four months;
- reduce the time period for late payment of maintenance fees;
- introduce a new late period after the expiry of certain deadlines during which the overdue action can be undertaken with the payment of a late fee, to avoid abandonment;
- introduce a new abandonment period (following expiry of the late period) during which the abandoned application/patent can be reinstated, however, in some cases, the requirements for reinstatement are stringent and require a higher burden of proof than was previously required; and

- codify third party intervening rights during the above-noted abandonment periods.

More details with respect to these changes are outlined [here](#). You will find more information and the complete set of newly proposed *Patent Rules* at the following websites:

[http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h\\_wr04277.html](http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/h_wr04277.html)

<http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr04281.html>

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