

IP monitor

IP and the Great White North – a national IP strategy for Canada

May 2018 Intellectual property

The Government of Canada has [released](#) the details of a new national IP strategy for Canada.

The government recognizes that “intellectual property is a key component of an innovation economy,” and is investing \$85.3 million over five years to help Canadian entrepreneurs better understand and protect intellectual property.

The strategy, designed to help Canadians “maximize the value of their creations,” focuses on three key areas.

Legislation

The government intends to amend key IP laws to remove barriers to innovation, including closing “any loopholes that allow those seeking to use IP in bad faith to stall innovation for their own gain.” Although no timeline is set out for the changes, new legislation will include:

- Minimum requirements for patent demand letters that will mandate specific basic information (e.g., patent number and product or activities) be included, to discourage deceptive or vague letters, and to reduce costs in assessing the merits of the allegations.
- Explicit exclusion of demands for settlement from the copyright “Notice and Notice” regime, which is intended to protect consumers while ensuring the regime discourages infringement.
- Reinforcement of “use” in the trademark regime, by introducing bad-faith trademark opposition and invalidation grounds and a requirement of “use” in order to enforce a trademark within the first three years after registration.
- Amendments affirming there is no infringement when conducting experiments that relate to the subject matter of a patent.
- Clarification that, when a patent owner voluntarily makes a licensing commitment to incentivize a standard-setting organization to incorporate its patented technology as part of a standard, prospective licensees will be able to rely on that commitment even if the patent changes owners.

- Extension of the current right of IP licensees to continue to use the IP if the debtor in bankruptcy restructuring disclaims the licence liquidation proceedings.
- Creation of a College of Patent and Trademark Agents independent body to regulate agents.

Literacy and advice

The government will provide programs to help improve IP literacy, including seminars, training and information resources through the Canadian Intellectual Property Office, conduct an IP awareness and use survey, and support Indigenous participation in national and international discussions about IP and its interaction with traditional knowledge and cultural expression. The government will also create a dedicated team of IP advisors to support training for federal employees who deal with IP governance.

Tools

The government will also provide tools to Canadian businesses, including expedited IP dispute resolution, a patent collective, a standards-setting strategy for innovative companies and an IP marketplace, which is intended to improve the way that companies find existing IP.

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For more information, please contact your IP professional at Norton Rose Fulbright Canada LLP.

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