

IP monitor

What a Privilege for Innovation!

June 2016 Intellectual property

Privilege extended to communications between patent and trade-mark agents, and their clients

On June 24, 2016, amendments to the *Patent Act* and *Trade-marks Act* extending privilege to certain confidential communications between registered patent or trade-mark agents and their clients went into force. The protections will extend to existing communications that are not already part of a trial. These provisions were part of Bill C-59, as part of the 2015 budget.

Unlike “merely” confidential communications, privileged communications are generally protected from being compelled as evidence at trial. Such protections already existed in certain communications between lawyers and their clients, but did not extend to patent or trade-mark agents. This created situations of ambiguity where lawyers, who were also agents, communicate with their clients regarding patents or trade-marks. By now extending privilege to patent and trade-mark agents, these provisions provide recognition of the importance of intellectual property protection and, in particular, the need for frank and candid discussions between agents and their clients.

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

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