

April, 17th 2020

#Intellectual Property update in Canada

The Canadian Intellectual Property Office (“**CIPO**”), has decided to extend the deadlines for monitoring trademark and design registration procedures due to the COVID-19 pandemic.

By decision dated March 30, 2020, the Canadian trademarks Registrar has, under the relevant legislative provisions, extend **most** deadlines set in the Patents Act, the Industrial Design Act, the Trademarks Act, Trademarks Regulations or by the Registrar in a proceeding before the Trademarks Opposition Board (“**TMOB**”) that fell between March 16th and April 30th, 2020. These deadlines now fall on May 1, 2020. CIPO advises that this period could be extended.

Patents: There are exceptions under certain sections of the Patent Act where the extensions of delay do not apply. Owing to the complexity of certain cases, it is best to consult with a patent agent to ensure if a particular case is covered by the extensions of delay or not.


Trademarks: This decision affects all trademark examination reports, opposition proceedings, Section 45 cancellation proceedings and objection proceedings.

The Registrar is committed to ensuring that parties before the TMOB are able to obtain extensions of their deadlines effected by COVID-19.

For deadlines falling after May 1st, the Registrar will consider the disruption caused by COVID-19 a sufficient circumstance to obtain an extension of time upon request. The Registrar may also use its discretion to extend deadlines on its own initiative if it is in the interests of justice to do so.

Since CIPO is still open for business, if trademark rights holders can act before May 1st, 2020, they are strongly encouraged to do so.

Industrial Designs (Design patents): The May 1st, 2020 extension applies to most industrial Design deadlines, including responses to examiner’s reports. There are some exceptions under certain sections of the Industrial Design Act where the extensions of delay **do not apply**. Owing to the complexity of certain cases, it is best to consult with an industrial design agent or attorney to ensure if a particular case is covered by the extensions of delay or not.

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- The limitation set out in subsection 20(2) and 20(5) of the Industrial Design Regulations requiring a divisional application to be filed while the original application is pending and no later than two years after its filing date is not subject to an extension under the Industrial Design Act. Note: The time period to file a divisional after the expiry of two years from the filing date, as prescribed in paragraph 20(6)(c) of the Regulations, is extended under subsection 21(1) of the Act. CIPO also considers that the time period to add an indication that an application is a divisional application, as prescribed under subsection 20(3) and paragraph 25(2)(e) of the Regulations, is extended.
 - The outer limit of 30 months for a delay of registration, as prescribed by section 24 of the Regulations, may not be extended.
 - It remains unclear if the extension applied to the 12-month grace period to file an Industrial Design application after the design was disclosed publicly. CIPO remains open to the public and is receiving industrial design applications electronically, in person, by fax and by mail. CIPO strongly encourages owners of Industrial Designs who wish to file applications to do so prior to the end of their 12-month grace period.

DS LAWYERS CANADA assures you of its fully availability to respond to all intellectual property matters in Canada that could present a risk to your rights, whether they are trademarks (words, logos, slogans etc.), copyright, industrial designs, patents, company or business names, or domain names.

For further information, please contact:



Nathaly J. Vermette
Attorney
nvermette@dsavocats.ca