Canada’s Accession to the Hague Agreement

Hague Seminar
July 19, 2018

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Manager, Policy
Copyright and Industrial Design Branch
Canadian Intellectual Property Office

Building a prosperous and innovative Canada
Outline

• Canada’s Innovation and Skills Plan
  • The Intellectual Property Strategy
• The Canadian Intellectual Property Office (CIPO)
• Industrial Design in Canada
• Changes to the Industrial Design Regime
  • Industrial Design Act
  • Industrial Design Regulations
  • Industrial Design Office Practice Manual
  • Enhanced E-Services
• Designating Canada: What You Should Know
• Next Steps
Innovation and intellectual property are key government priorities

“We know IP is a critical ingredient in helping Canadian businesses reach commercial success. Canada's IP Strategy will make sure Canadians know the value of their intellectual property and how to leverage it to innovate, increase profits and create middle-class jobs.”

Minister Bains, Innovation Science and Economic Development
(April 26, 2018)
The Innovation and Skills Plan (2017) advances an agenda to make Canada a global centre for innovation.

- Focuses on people and addresses the changing nature of the economy to ensure it works for all Canadians.
- Agenda to build Canada as a world-leading innovation economy that will create jobs and grow the middle class.
The Innovation and Skills Plan

The Intellectual Property Strategy

- **Investment of $85.3 million** over five years to help Canadian businesses, creators, entrepreneurs and innovators understand, protect and access IP.
- Supports access to the best possible IP resources through:
  - IP awareness, education and advice;
  - strategic IP tools for growth; and,
  - IP legislation.
Harmonizing Canada’s IP System with International Standards

- Joining five key international IP treaties – the Hague Agreement, the Madrid Protocol, the Singapore Treaty, the Nice Agreement for Trademarks, and the Patent Law Treaty – is an essential step.
- Helping Canadian businesses looking to enter or expand their presence in international markets:
  - Faster, simpler, and cost-effective way to acquire protection in multiple countries.
CIPO: Helping Make Canada a Global Centre of Innovation

60% more likely to be high-growth SMEs

4x more likely to export

IP-intensive industries contribute $332B to Canada’s GDP and 2 million jobs in Canada

1,000+ employees make up CIPO’s highly skilled workforce

Source: Industry Canada, Survey on financing and growth of SMEs, 2014

Source: CIPO Human Resources Plan, March 2017

Our ISO certification positions Canada as a global leader in the delivery of high-quality patents.

Canadian Patents

2nd worldwide for technological and economic value


Building a prosperous and innovative Canada
CIPO: Five Strategic Priorities

- **Advance innovation**
  Develop a national IP strategy through international collaboration and evidence-based policies

- **Deliver quality and timely IP rights**
  Provide IP rights and services that respond to client and marketplace needs

- **Build IP awareness and education**
  Deliver IP education and awareness products and services

- **Offer a modern service experience**
  Modernize and digitize our services

- **Foster an agile and high-performing organization**
  Attract and retain an engaged and highly skilled workforce

- **CIPO’s five-Year Business Strategy 2017-2022**
Industrial Design in Canada: Applications


- U.S.: 54%
- Canada: 14%
- E.U.: 20%
- Japan: 3%
- China: 2%
- Others: 7%

Number of applications received (2004–2018)

- 2004: 3000
- 2005: 3500
- 2006: 4000
- 2007: 4500
- 2008: 5000
- 2009: 5500
- 2010: 6000
- 2011: 6500
- 2012: 7000
- 2013: 7500
- 2014: 8000
- 2015: 8500
- 2016: 9000
- 2017: 9500
- 2018: 10000

Fiscal Year
Industrial Design in Canada: Top Filers

Top 5 Filers 2017-18

- GM Global Technology Operations
- Dyson Technology
- Kronoplus
- Volvo Lastvagnar
- Google
## Industrial Design in Canada: Top Filers

### Top 10 Filers 2017-18

<table>
<thead>
<tr>
<th>Applicant</th>
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<tbody>
<tr>
<td>GM Global Technology Operations LLC</td>
<td>192</td>
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<tr>
<td>Dyson Technology Limited</td>
<td>134</td>
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<td>Kronoplus Limited</td>
<td>98</td>
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<tr>
<td>Volvo Lastvagnar AB</td>
<td>84</td>
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<tr>
<td>Google LLC</td>
<td>62</td>
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<tr>
<td>Delta Faucet Company</td>
<td>59</td>
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<tr>
<td>Spectrum Brands, Inc.</td>
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<tr>
<td>Ford Global Technologies, LLC</td>
<td>58</td>
</tr>
<tr>
<td>The Procter &amp; Gamble Company</td>
<td>48</td>
</tr>
<tr>
<td>Gamblit Gaming, LLC</td>
<td>46</td>
</tr>
<tr>
<td>Honda Motor Co., LTD</td>
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Industrial Design in Canada: Top Filers

Top 5 Filers
2013-18

Number of Applications

Nike Apple Microsoft Procter & Gamble Harry Winston

0 100 200 300 400 500
## Industrial Design in Canada: Top Filers

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<td>Apple Inc.</td>
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<td>Microsoft Corporation</td>
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Changes to the Industrial Design Regime

- Canada is poised to accede to the Hague Agreement and significantly modernize Canada’s industrial design regime with a coming into force date of November 5, 2018.

- Membership in the Hague Agreement means key benefits for business:
  - One application, one payment, one currency, one place;
  - Simpler rights maintenance and management.

- Modernizing Canada’s industrial design regime also has key benefits for business:
  - Increased term of protection – from 10 to 15 years;
  - Less red tape;
  - Enhanced e-services.
Changes to the Industrial Design Regime

Industrial Design Act

- **The Act** was amended in December 2014: first substantive update of the Act since 2001.

- **Highlights include:**
  - Clarification that a certified copy of an entry in the Register of Industrial Designs is admissible evidence in any court.
  - Any error in the Register of Industrial Designs may be corrected within six months, if the mistake is obvious from documents in the Minister’s possession. Previously, corrections were limited to clerical errors.
  - Codification and modernization of the novelty test.
  - Mandatory publication of applications after 30 months.
  - Extended the maximum term of protection from 10 to 15 years.

Parking Meter by J.J Mackay Canada Limited (ID registration 164824)
Changes to the Industrial Design Regime
Industrial Design Regulations

- The final Regulations were published in the Canada Gazette, Part II, on June 27, 2018.
- Highlights include:
  - **Representation** – an applicant no longer needs to provide signed authorization to appoint an agent. The previous requirement to have a representative for service, in the case of foreign applicants, has been removed.
  - **Application requirements** have been simplified:
    - Prescribed application form no longer required.
    - Description is now optional because the application is deemed to relate to all four features of the design (shape, configuration, ornamentation and pattern) unless specified in a statement of limitation.
    - Designs no longer need to be shown applied to a finished article.
    - Applications are no longer limited to a single environmental view.
Changes to the Industrial Design Regime

**Industrial Design Regulations**

- **Filing date requirements** have also been simplified to align with international standards.
  - The title, description and complete mailing address are no longer required. To obtain a filing date, applicants need only to provide:
    - an indication that registration of a design is sought;
    - a means of identifying the applicant;
    - contact information; and,
    - a representation of the design.

- For more details, consult [the new Regulations](#).

Bicycle by PBSC Urban Solutions Inc.
(ID registration 128732)
Changes to the Industrial Design Regime
New Industrial Design Office Practice Manual

• Complete revamp of the Industrial Design Practice Manual (IDOP).

• Significantly expanded sections on the following:
  • drawing techniques;
  • jurisprudence;
  • use of colour;
  • computer-generated animated designs; and,
  • methods of disclaiming.

• New sections on Hague applications and transitional provisions.

• Public consultations closed June 29, 2018.

• Published on the new user-friendly interface, “Qweri”.

• Target publication later this summer.
Changes to the Industrial Design Regime
Enhanced E-Services

• **CIPO is working with stakeholders to improve e-services.**

• **Release 1 (November 5, 2018)**
  - Improved e-filing interface: many new functionalities, including the capability to submit images in colour, and allow for a greater number of file formats including PDF, JPEG, TIFF, GIF.
  - Simplified/streamlined portions of the e-filing application.

• **Release 2 (2019)**
  - New platform for electronic correspondence between CIPO and clients.
  - E-amendments: fully integrated online amendment form.
Canada’s Declarations

**Indirect Filing**
Article 4(1)(b): An international application may **not** be filed through the Canadian Intellectual Property Office.

**Individual Designation Fees**
Article 7(2): the international application fee is $400 CAD for each design. The renewal fee, for the first renewal is $350 CAD for each design, any subsequent renewals are free of charge.

**Maximum Duration of Protection**
Article 17(3)(c): begins on the date of international registration and ends on the later of 15 years from the date of international registration or 10 years from the date of registration in Canada.

**Refusal Period**
Rule 18(1)(b): the period of six months for the notification of refusal of the effects of an international registration referred to in Rule 18(1)(a) shall be replaced by a period of 12 months.
Designating Canada: What You Should Know

**Deferment of Publication**
Canada will allow for the maximum period of deferment under Hague, i.e. 30 months from the filing date or, if there is a priority request, from the earliest date of priority.

**Filing Date Requirements**
Simple filing date requirements that aligns with international standards.

**Application**
Simple application requirements. No patent claims or description of the design are required. No specific views of the design are required. No security clearance requirements.

Vehicle by Electramecanica Vehicles Corp.  
(ID registration 168377)
Designating Canada: What You Should Know

One Design per Application
An application must be limited to one design applied to a single finished article or set or variants applied to a single finished article or set.

In order to accommodate an international registration with multiple designs, CIPO will divide each design contained in the international registration into individual and separate “Hague Applications”.

Increased Term of Protection
The maximum term of exclusive right is increased from 10 years to 15 years.

Expedited Options
Prosecution of your application may be expedited by using our other services such as advanced search (free of charge) and advanced examination ($500 CAD).
Next Steps

- Final IDOP publication (summer 2018)
- Outreach with stakeholders (October 2018)
- Coming into force (November 5, 2018)
- Industrial Design Practice Committee stakeholder consultations (spring 2019)
- Release 2 implementation (2019)
Thank you!
Any questions?

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