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Extension of Intellectual Property Timelines

March 18, 2020

The COVID-19 outbreak continues to cause disruption for Canadian businesses, including many for whom intellectual property is among their most valuable assets. Among the concerns that have arisen is the ability to meet deadlines related to outstanding applications to register trademarks, patents, and industrial designs. Those concerns have been exacerbated by understandable interruptions of service within the Canadian Intellectual Property Office (CIPO) and the Federal Court.

On March 17, 2020, both CIPO and the Federal Court took decisive action to alleviate those concerns, at least for now. Here are the details.

Extension of CIPO Deadlines

CIPO has announced that all deadlines that would otherwise fall during the period beginning March 16, 2020 and ending March 31, 2020 have been extended to April 1, 2020. The original March 17, 2020 notice from CIPO indicated that the extended deadline was to be March 31, 2020. However, CIPO has since clarified that all deadlines that would otherwise fall between March 16, 2020 and March 31, 2020, inclusive, are now moved to April 1, 2020.

This automatic extension applies to all deadlines fixed under the *Patent Act*, the *Trademarks Act*, and the *Industrial Design Act* for CIPO-related business that is required to be completed by the end of one of those days. CIPO also confirmed that, if the "unforeseen circumstances" that led to these extensions continue past March 31, the Commissioner of Patents, the Registrar of Trademarks, and the Minister of Innovation, Science, and Economic Development (in relation to industrial designs) may decide to extend the deadlines again.

Click here for the full text of the CIPO announcement.

Because the CIPO announcement is not entirely clear on the treatment of foreign priority applications, we suggest filing those applications within the usual six-month window.

CIPO itself remains open for business, although its regional offices in Toronto, Vancouver, Edmonton, and Montréal are not accepting correspondence at this time. Parties with business before CIPO have been encouraged to use CIPO's online resources and electronic filing mechanisms, which will continue to be available throughout this period and beyond.

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Suspension of Federal Court Hearings and Deadlines

The Federal Court has issued a practice direction and order that affects all matters that are currently before the Court, including those related to Intellectual Property. The order adjourns indefinitely all hearings, including telephone attendances, that were previously scheduled to be heard between March 13, 2020 and April 17, 2020. It also suspends for the same period all timelines set under orders and directions of the court made prior to March 18, 2020, including case management timetables, as well as timelines established by the *Federal Courts Rules*. The Federal Court may still agree to hear urgent or exceptional matters, but only on a case-by-case basis.

Click here for the full text of the Federal Court Practice Direction and Order.

Importantly, the suspension does not affect deadlines set by statutes other than the *Federal Courts Act*. For example, there has been no extension to statutory limitation periods that might affect the entitlement of a rightsholder to enforce its intellectual property rights.

Cassels is Open for Business

The Cassels Intellectual Property Group is continuing to monitor the COVID-19 situation with an eye to protecting your valuable copyrights, trademarks, patents, and industrial designs. We are all available to answer questions and respond to developments as they arise.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.