

Cassels on IP: April 2022

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In this edition: INTA on the horizon, the latest in the “Room Full of Spoons” saga, team news, and a focus on IP strategy.

Team News

Cassels IP Group Welcomes New Members to the Team >

Cassels is excited to have recently welcomed several new members to its Intellectual Property Group, including Mark Davis, Jennifer McKenzie, Sebastian D. Beck-Watt, and Kassandra Shortt. The addition of these talented practitioners further enhances our offerings in all areas of intellectual property law, and we are thrilled with their decision to join us!

On The Horizon: INTA

Between Two INTA Meetings – Developments in Canadian Trademark Prosecution Practice Over the Last Three Years >

At the 141st annual meeting of INTA in Boston in May 2019, the talk among Canadian trademark practitioners was the amendments to the *Trademarks Act*, which were coming into force on June 17, 2019 (CIF). Among the notable amendments was Canada’s adoption of the Nice classification system and Canada becoming a contracting party to the Madrid Protocol. As many trademark practitioners (happily) prepare to reconvene in Washington, DC in May 2022 for the INTA annual meeting, we look back on the past three years and update some developments.

Cassels Team Going to INTA >

Our team is excited to be attending INTA’s 2022 Annual Meeting Live+ taking place April 30 – May 4 and we can’t wait to see you there! Members of our team will also be presenting at this year’s conference.

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Canadian Trademarks Office Rolls Out Automated Analysis to Expedite Examination >

The Canadian Trademarks Office recently announced the roll-out of the automated analysis of goods, services, and Nice classification information in national unexamined trademark applications to help decrease the wait times in examination and registration in Canada.

Hot Off the Press

Stick a Fork in It: Federal Court Ends Latest Chapter in “Room Full of Spoons” Saga >

On April 20, 2022, the Federal Court released its decision in *Wiseau Studio, LLC v. Harper*, 2022 FC 568. In its decision, the Court struck the latest action in Tommy Wiseau’s *Room Full of Spoons* litigation saga on the basis of cause of action estoppel. This decision adds to a particularly tough month for Wiseau from a legal perspective: it arrived just six days after the Supreme Court of Canada dismissed his application for leave to appeal from a rare order for security for judgment.

Cassels Wins

Supreme Court of British Columbia Dismisses First Anti-SLAPP Motion Brought Against Breach of Confidence and Copyright Infringement Claims >

The Supreme Court of British Columbia recently released its decision in *Proctorio, Incorporated v. Linkletter* dismissing an “anti-SLAPP” application by the defendant. The decision represents the first time that the Court has considered an anti-SLAPP application in the context of breach of confidence and copyright infringement claims.

Casey Chisick named Canada’s Practitioner of the Year for Copyright at the 2022 Managing IP Awards >

Managing Intellectual Property, one of the world’s leading trade publications for intellectual property lawyers, recognized Casey Chisick as Canada’s Practitioner of the Year for Copyright.

Five Cassels Partners Recognized by WTR1000 2022 >

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Mark Davis, Alison Hayman, Steven Kennedy, Jennifer McKenzie, and Stephen Selznick were all identified as leading individuals by World Trademark Review in its latest ranking of leading Canadian trademark professionals.

Focus on IP Strategy

Recent Developments in Intellectual Property: New Initiatives for IP Strategy and Management >

New initiatives have recently been introduced at the provincial, national, and international levels highlighting the importance of intellectual property strategy to the growth and success of Canadian businesses.

A Look at New IP Programs with *Law Times* >

Our team discussed new IP programs with *Law Times* in 'New Intellectual Property Programs Help Businesses Implement IP Strategies,' noting that it is important for each business to have the right IP strategy.

Federal Court Enforces Arbitration Agreement and Stays IP Infringement Action >

In *General Entertainment and Music Inc. v. Gold Line Telemanagement Inc.*, the Federal Court found that parties face a high bar to escape an arbitration clause.

A Few More Things...

Stay Tuned! >

The latest from our Intellectual Property Group: where we've been and where we'll be next. Find us at INTA and also presenting webinars, from the Copyright Society to IPIC and The Forum.

Did You Know?

Both registered and unregistered trademarks are protected under Canadian law. However, there are numerous benefits to registration. For example, registered trademarks have greater protections: they are national in scope and are subject to enforcement for infringement and depreciation of goodwill under the

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Trademarks Act. They also provide an additional ground of opposition—confusion with a registered mark—and serve as evidence that a trademark is “recognized” and thus exempt from the mandated use of French under the Charter of the French Language.

Owners of unregistered trademarks can enforce their legal rights under the law of passing off. However, they do not benefit from all the same protections. For example, an unregistered mark does not enjoy national protection; it’s only protected in the geographic area in which it has acquired a reputation. But never fear—it’s often possible to register an unregistered trademark. For more information, contact any member of our Intellectual Property team.

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