

Cassels on IP: March 2026

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In this edition: A review of key developments in intellectual property law in 2025, clarification from the Federal Court on assessing patentable subject matter, Cassels lawyers recognized in Chambers Global Guide 2026, and more...

Canadian IP Law: A Year in Review

The Cassels IP team looks back on 2025 and the notable developments in intellectual property law, including trademarks, copyright, patents, and trade secrets.

[Canadian Trademark Law Year in Review 2025: Notable Decisions and Updates >](#)

2025 was a big year for trademark law in Canada. Amendments to the *Trademarks Act* and *Trademarks Regulations* came into force, trademark examination times were significantly reduced, and numerous new Federal Court and Federal Court of Appeal decisions on important trademark law principles were issued that provide additional clarity to brand owners on many aspects of trademark protection and maintenance.

[A Year in Canadian Copyright Law: Notable Decisions and Updates From 2025 >](#)

Key decisions in copyright law in 2025 considered important issues, including the appropriate Canadian jurisdiction for hearing actions for copyright infringement against foreign generative AI companies, the potential tenability of a “misuse of copyright” defence, strategies and remedies for the online enforcement of copyright, and the substantive and evidentiary requirements for proving copyright infringement. These decisions provide practical takeaways for businesses and individuals who want to ensure their intellectual property assets are adequately protected.

[Canadian Patent Law in Review 2025: Notable Decisions and Updates >](#)

The Cassels IP team reviewed some of the key decisions and updates in patent law from 2025, including guidance from the Federal Court of Appeal on double patenting, several decisions clarifying the due care standard for reinstating patents that expired from unpaid fees, Canada's first decision finding common design infringement, and the Patent Appeal Board's first decision on the question of whether AI systems

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can be inventors on patent applications.

[Canadian Trade Secrets: Year in Review 2025 >](#)

2025 was a busy year for trade secret litigation in Canada. Cases from across the country involved various kinds of trade secrets, including algorithms, software, data processing, strategy, pricing and sales information, medical devices, and biotechnology processes. These cases offer helpful guidance to businesses and individuals on how to protect their valuable confidential information and trade secrets and how to address a breach of the same.

Hot Off the Press

[Navigating Patentable Subject Matter Eligibility in Canada: *Dusome* Joins the Fold >](#)

A recent decision from the Federal Court weighed in on Canada's ongoing struggle to define patentable subject matter under section 2 of the *Patent Act*. In this article, members of the Cassels patent team discuss key takeaways from the decision, including how it reinforces that purposive construction remains the governing framework for assessing patentable subject matter and how it underscores the ongoing tension between the Patent Office and the Federal Courts when it comes to the test to be applied to computer-implemented inventions.

[More Time on the Clock for TikTok: Federal Court of Canada Sets Aside Government Ordered Shutdown of TikTok's Canadian Operations >](#)

The Federal Court recently set aside a 2024 order from the Canadian federal government requiring TikTok to wind down its Canadian operations. The decision, which was made on consent of both TikTok Canada and the federal government, potentially sets the stage for a more collaborative approach between the government and the social media giant.

[Intellectual Property Ontario \(IPON\) Launches New Subsidized IP Insurance Program >](#)

IP insurance is now being offered to Ontario businesses by Intellectual Property Ontario, a provincial agency that supports Ontario-based innovators with the goal of strengthening Ontario's research and commercialization outcomes. This new IP insurance program will assist Ontario businesses with providing comfort to their prospective investors and downstream technology licensees, joint venture partners, and endline users.

Cassels Wins

[Cassels Recognized Among the World's Best in Chambers Global 2026 >](#)

Cassels has once again been ranked in [Chambers Global: The World's Leading Lawyers for Business](#), a leading international guide to lawyers and law firms with global expertise throughout the world. Cassels was specifically recognized for its expertise in [Intellectual Property](#) and [Intellectual Property: Litigation](#), among other areas.

In addition to ranking law firms, the guide also ranks individual practitioners. We are proud that the following Cassels lawyers were ranked in the 2026 edition of Chambers Global: [Casey Chisick](#) (Intellectual Property), [Mark Davis](#) (Intellectual Property: Litigation) and [Andrew Skodyn](#) (Intellectual Property: Litigation).

[Six Cassels Partners Recognized by WTR1000 2026 >](#)

Cassels is proud to announce that six members of the firm's [Intellectual Property](#) Group have been recognized by the World Trademark Review (WTR) in its latest ranking of leading Canadian trademark professionals. Partners [Mark Davis](#), [Steven Kennedy](#), [Karen MacDonald](#), [Jennifer McKenzie](#), [Stephen Selznick](#), and [Andrew Skodyn](#) were all identified as leading individuals. The Cassels IP litigation team also moved into the gold tier for the first time.

[Cassels Lawyers Recognized in the 2026 Edition of the Lexpert 500 >](#)

We are proud to note that [Casey Chisick](#) and [Mark Davis](#) have been included in the 2026 edition of the Lexpert 500, a guide to the leading 500 cross-border lawyers in Canada.

[Proud to be Ranked Among the Best Law Firms in the Country by The Legal500 Canada 2026 >](#)

Cassels is proud to be ranked among the best law firms in the country in the latest edition of The Legal500 Canada. Cassels was noted for its expertise in Intellectual Property and Media & Entertainment. Several members of the Cassels IP team were also individually recognized: [Casey Chisick](#) as a Hall of Fame Member (Media & Entertainment) and Leading Individual (Intellectual Property), [Karen MacDonald](#) and [Andrew Skodyn](#) as Leading Individuals (Intellectual Property), and [Jessica Zagar](#) as a Next Generation Partner (Intellectual Property).

[Cassels Lawyers Recognized in Lexpert Special Edition on Litigation 2025 >](#)

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Lexpert Special Edition: Litigation profiles Lexpert-ranked lawyers in several areas of business-related litigation. We are proud of [Casey Chisick](#), [Mark Davis](#), and [Andrew Skodyn](#) who are ranked in this special edition.

[Cassels Recognized as One of Canada's Best Law Firms by The Globe and Mail for 2026 >](#)

Cassels is proud to announce that we have been named one of Canada's best law firms by The Globe and Mail. Cassels has been recognized as a leader in the practice areas of Intellectual Property and Media, Entertainment & Sport, among others.

[Cassels Proud to be Ranked Among the Best by ManagingIP for 2025 >](#)

Cassels is proud to be ranked among the best in the country by ManagingIP. Our [Intellectual Property Group](#) has been recognized as a leader for Trademark Disputes and Trademark Prosecution work and is ranked Tier 1 for Copyright. Several members of the Cassels IP team are also currently ranked by ManagingIP in their individual capacities as leaders in their field:

- [Casey Chisick](#) | Copyright Star
- [Mark Davis](#) | Patent Star & Trademark Star
- [Sean Jackson](#) | Rising Star
- [Steven Kennedy](#) | Notable Practitioner
- [Karen MacDonald](#) | Trademark Star & Top 250 Women in IP
- [Eric Mayzel](#) | Notable Practitioner
- [Chandimal Nicholas](#) | Transactions Star
- [Stephen Selznick](#) | Copyright Star
- [Andrew Skodyn](#) | Patent Star & Trademark Star
- [Jessica Zagar](#) | Copyright Star

Additionally, Cassels was shortlisted for Firm of the Year for both Copyright and Trademark Disputes at the [ManagingIP Americas Awards](#), with partners [Casey Chisick](#) (Copyright), [Mark Davis](#) (Trademark Disputes) and [Steven Kennedy](#) (Trademark Prosecution) all shortlisted for Practitioner of the Year.

Recent Work

The Cassels IP team recently secured important IP litigation and dispute resolution victories:

- In *Paris Croissant Co, Ltd v Paris Baguette Patisserie Inc.*, [Mark Davis](#), [Steven Kennedy](#), and

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[Steven Henderson](#) successfully represented the Plaintiff, Paris Croissant Co., Ltd., in obtaining default judgment against the Defendant for trademark infringement and passing off. The Defendant had been operating a bakery-café in Quebec called PARIS BAGUETTE PATISSERIE, which the Plaintiff—the franchisor of the popular chain of PARIS BAGUETTE bakery-café across Canada and the world—argued infringed its family of registered and common law PARIS BAGUETTE trademarks and trade names. After the Defendant failed to file a defence, the Federal Court granted a motion brought by the Plaintiff for default judgment in full and ordered the Defendant, among other things, to cease all use of trademarks or trade names that are confusingly similar to PARIS BAGUETTE and to withdraw its own trademark application for PARIS BAGUETTE.

- In *Governing Council of the University of Toronto et al v Easy Group Inc et al*, [2025 FC 1728](#), [Jessica Zagar](#) and [Eleanor Wilson](#) secured a win for the plaintiffs/respondents, the University of Toronto and three of its professors, on an appeal of an interlocutory decision in a copyright infringement case. The appeal concerned an order of the Motions Judge on the defendants' motion to compel that the plaintiffs were not required to, among other things, match, element-by-element, the portions of the allegedly infringed works with portions of the allegedly infringing documents. The Motions Judge had agreed with Cassels' argument that these types of questions are improper for discovery because they ask for a position on a legal issue or argument. On appeal, Cassels was again successful with the Federal Court upholding the decision and finding that, although the questions at issue appeared factual, their purpose was to determine the plaintiffs' legal theory of infringement and so were inherently legal in nature and improper for discovery. The Federal Court also rejected the defendants' argument that the Motions Judge erred by failing to consider their fair dealing defence as such defence had been referred to elsewhere in the decision and, in any event, relevance to the fair dealing defence was not raised by the defendants on the motion.
- Canada has just come off another impressive performance at the Winter Olympics, and the FIFA World Cup is scheduled to be hosted this summer. Many Cassels clients are Canadian and global sponsors of these events, so the Cassels intellectual property and marketing law teams have been hard at work enforcing those clients' sponsorship rights and helping clients stop unauthorized advertising that takes advantage of their trademarks and goodwill.

Recent Publications

[Cassels Contributes to WTR's Americas Trademark Prosecution Review 2026 >](#)

Cassels has contributed to the 2026 edition of WTR's Americas Trademark Prosecution Review.

The third edition of the *WTR Trademark Prosecution Review* takes a wide-ranging view of best strategies for

securing trademarks in the key regions of the Americas, the Asia-Pacific, and Europe, the Middle East and Africa. The review combines on-the-ground knowledge and analytic insight to offer an unparalleled deep dive into the prosecution landscape in specific key markets.

Co-authors [Jennifer McKenzie](#), [Steven Kennedy](#), and [Rounaq Khoja](#) authored: “Canada – A Status Report on the Initiatives to Streamline Prosecution and Oppositions.” This chapter looks at how practitioners, brand owners, the courts, and the Canadian Intellectual Property Office have adapted to the significant changes to Canada’s trademark laws that were introduced in 2019.

In Case You Missed It

[Federal Court Outlines the Test for New Evidence on Appeal from the Trademarks Opposition Board](#) [>](#)

In April 2025, the *Trademarks Act* was amended to require parties to obtain leave before filing new evidence on appeal from a decision of the Trademarks Opposition Board. Questions about how the Federal Court would consider leave applications were partially answered in the Court’s recent decision, *Products Unlimited, Inc. v Five Seasons Comfort Limited*, [2026 FC 48](#) (*Products Unlimited*). This decision, which will provide a roadmap for future requests for leave to file new evidence on appeals from Board decisions, highlights the importance of tendering relevant and material evidence before the Board and the risks faced by trademark litigants who do not put their best evidence forward at first instance.

[Federal Courts Publish the 2024-2025 Global Review of the Federal Courts Rules](#) [>](#)

In December 2025, the Federal Courts Global Review Sub Committee released its Final Report on the [2024-2025 Global Review of the Federal Courts Rules](#), which summarizes findings from the first comprehensive review of the *Rules* in more than ten years. The Report emphasizes the need for targeted modernization of the *Rules*, particularly in the areas of electronic service and filing and digitization, procedural efficiency, and the removal of outdated practices and technology, while maintaining flexibility and access-to-justice.

[CIPO Relaxes Policy on IP Applications Incorporating the 11-Point Maple Leaf](#) [>](#)

On November 12, 2025, the Canadian Intellectual Property Office updated its policy regarding use of trademarks and industrial designs that incorporate the 11-point maple leaf, making it more streamlined and straightforward for intellectual property applicants to incorporate the iconic symbol found in Canada’s national flag.

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[The CRTC Releases Highly Anticipated Modernized Framework for Certification of “Canadian Content” >](#)

After years of debate in the Canadian film and television industry, Canada now finds itself on the verge of a significant update to the definition of what qualifies as “Canadian content” (CanCon) for Canadian Radio-television and Telecommunications Commission (CRTC) analog and digital/streaming broadcast content certification purposes. On November 18, 2025, the CRTC released [Broadcasting Regulatory Policy CRTC 2025-299](#) (the Policy), outlining the broad strokes of a significant update to the CRTC’s CanCon certification framework. The updated CanCon definition is a response to technological developments in the production of films and television content, updated methods of bringing that content to the public, the ever-growing importance of carving out consumer-facing shelf space for CanCon in a highly competitive analog and streaming environment, and the financial realities of CanCon producers.

A Few More Things

On the Horizon

- [Mark Davis](#) and [Andrew Skodyn](#) will be attending the ABA IPL Spring Meeting, taking place from April 15 to April 17, 2026 in Washington, DC. Mark is also the Vice-Chair of the International Copyright Laws committee.
- [Casey Chisick](#), [Karen MacDonald](#), [Steven Kennedy](#), [Stephen Selznick](#), [Jennifer McKenzie](#), [Mark Davis](#), and [Chandimal Nicholas](#) and will all be heading to the International Trademark Association’s Annual Meeting in London, England in May 2026, where they look forward to connecting with clients and trademark practitioner colleagues from around the world.
- [Steven Kennedy](#) will be attending DRI’s Business and Intellectual Property Litigation Super Conference, taking place from April 15 to 17, 2026 in Miami, Florida.

Where We’ve Been

- [Karen MacDonald](#) presented at IPIC’s Year-in-Review in IP Law 2026 webinar, providing the trademark law review that took place on February 18, 2026.
- [Mark Davis](#) was invited by the Canadian Intellectual Property Office to participate on the Director General’s Advisory Committee and provide input on Canada’s trademark practice. Mark attended the CIPO-DGAC meeting in Ottawa on February 11, 2026.
- [Stephen Selznick](#) and [Sean Jackson](#) both served as guest judges as part of the annual Fox Intellectual Property Moot, which took place on February 20 and 21, 2026. Members of the Cassels IP team, including [Chandimal Nicholas](#), [Kassandra Shortt](#), [Eric Mayzel](#), [Eleanor Wilson](#), [Steven](#)

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[Henderson](#), and [Katie Graham](#), once again acted as coaches for the team at Osgoode Hall Law School. A special congratulations to Osgoode's respondent team, who received an honourable mention for Best Responding Factum!

- [Eric Mayzel](#) and [Jessica Zagar](#) participated at the Law Society of Ontario's 30th Intellectual Property Law: The Year in Review event in Toronto on January 16, 2026. Eric Mayzel presented on the "Copyright Update" panel. Jessica Zagar co-chaired the event and moderated the "Judicial Panel – the Anatomy of Decision-Making" and the "Copyright Update" panel.
- [Casey Chisick](#), [Jessica Zagar](#), and [Eric Mayzel](#) attended the Copyright Society's Mid-Winter Meeting in Rancho Mirage, California, from January 24 to 26, 2026. Cassels was once again pleased to be a sponsor of this conference.
- [Mark Davis](#), [Karen MacDonald](#), [Stephen Selznick](#) and [Kassandra Shortt](#) participated in the Cassels Academy 2025 webinar on December 2, 2025, presenting on "Hot Topics in Intellectual Property."
- [Mark Davis](#) chaired the four-part IP Strategy webinar series "Being an Effective IP Strategist," hosted by IPIC. [Andrew Skodyn](#) moderated the session, "Monitoring & Measuring the Success of an IP Strategy" as part of the series on November 25, 2025.
- [Mark Davis](#) presented "Summary Judgment – When and How to Use it Effectively for Patent Matters" at the University of Toronto's Patent Colloquium on November 14, 2025, in Toronto.
- [Chandimal Nicholas](#) spoke at the 3rd Annual Advanced Summit on Food Law & Regulation Canada, which took place from November 12-13, 2025.
- [Karen MacDonald](#), [Mark Davis](#), and [Jennifer McKenzie](#) attended the INTA Leadership Meeting in Hollywood, Florida in November 2025.
- [Claire Stempien](#) hosted a webinar for law students in British Columbia titled "A Day in the Life of an IP Professional" as part of IPIC's Emerging Leader's Outreach Committee.

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