Cassels

Cassels on IP: October 2026

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Cassels on IP – a round-up of recent items of interest along with new and timely updates – is brought to you by our Intellectual Property Group and is edited by Kassandra Shortt, Andrew Skodyn, Claire Stempien, and Steven Henderson.

In This Issue:

- Hot Off the Press
- Recent Work
- Cassels Wins
- In Case You Missed It
- Where We're Going and Where We've Been

Hot Off the Press

Fast-Tracking Your Patent Application in Canada: CIPO Expands the Key Technology Expedited Program

For innovators engaged in the critical minerals supply chain, obtaining patent protection may soon become significantly faster. On September 2, 2026, the Canadian Intellectual Property Office (CIPO) launched the Key Technology Expedited Program (KTEP), a pilot program that provides accelerated patent examination for technologies supporting Canada's critical minerals supply chain, including innovations for processing, extracting, or refining certain critical minerals. Approved applications can receive a first office action within seven months, offering a substantial improvement over the typical examination timeline. The program reflects the federal government's broader efforts to support the critical minerals industry and demonstrates CIPO's continued commitment to reducing barriers to innovation and commercialization in key strategic

industries.

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A Court Order Is Not a Suggestion: Federal Court Finds Counterfeiter in Contempt

On October 8, 2026, the Federal Court released its decision in Louis Vuitton Malletier SA v. Wang, finding the defendant guilty of contempt for breaching a permanent injunction that prohibited trademark infringement, passing off, and depreciation of goodwill. Despite having knowledge of the injunction, the defendant continued to advertise and sell counterfeit Louis Vuitton products. The decision highlights the Court's willingness to invoke its contempt powers to enforce intellectual property injunctions where defendants resume the very conduct previously prohibited by the Court.

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What's the Misuse? Defence of Copyright Misuse Survives Further Motion to Strike in Millennium Funding v. Bell Canada

On July 10, 2026, the Federal Court released its decision in *Millennium Funding, Inc. v. Bell Canada*. Building on the Federal Court of Appeal's 2025 recognition of the novel defence of "copyright misuse" as potentially viable in Canadian copyright infringement proceedings, the motion judge largely dismissed the plaintiffs' motion to strike the defendant's Amended Statement of Defence and Counterclaim that pled such a defence, clearing the way for it to be considered on its merits in the proceeding.

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Recent Work

Cassels Represents Clients in Groundbreaking Copyright and AI Lawsuits

Casey Chisick, Eric Mayzel, Andrew Skodyn, Katherine (Katie) Graham and Mimoza (Mimi) Gjelaj are representing SOCAN in its claim against the artificial intelligence company Suno, Inc. This claim is the first of its kind in Canada, with SOCAN alleging that Suno infringed the performing rights in SOCAN's expansive repertoire of musical works by training its generative AI models on vast quantities of protected musical works from SOCAN's repertoire without obtaining the necessary licenses or consent. SOCAN argues that Suno's platform produces musical outputs that are identical or substantially similar to original songs created by human authors, therefore devaluing the work of the original creators. SOCAN is seeking permanent injunctions to stop the unauthorized use of its repertoire, as well as financial damages and any and all profits generated from the alleged infringement.

Casey Chisick, Eric Mayzel, Claire Stempien and Steven Henderson represented Music Publishers Canada in successfully obtaining leave to intervene, and subsequently filing its intervener submissions, in *CIPPIC v. Sahni* – one of the first legal proceedings in Canada addressing the intersection between generative AI and copyright law. The proceeding stems from a legal challenge to the registration of an image that was co-authored by an AI tool. Music Publishers Canada is arguing before the Court in support of human-centric authorship standards and submits that Canadian courts should adopt a flexible, case-by-case approach that evaluates the specific skill and judgment contributed by the human author. Through participating as an intervener, Music Publishers Canada aims to ensure that the interests of the music publishing industry are represented as the development of Canadian AI law and policy continues.

Cassels Secures IP Litigation Victories

In *Martinizing International, LLC v. C&D Makridis Holdings Ltd*, Mark Davis and Steven Kennedy successfully represented the applicant, Martinizing International LLC, in obtaining judgment against the respondent for trademark infringement and passing off. This significant Federal Court ruling creates useful precedent for brand owners pursuing evasive trademark infringers. The respondent had been using the trademark MARTINIZING without authorization for its dry-cleaning business, which the applicant argued infringed its registered rights, constituted passing off, and depreciated its goodwill. After the respondent failed to participate in the proceedings, the Court granted declaratory relief and a permanent injunction and ordered the respondent to remove all confusing designations and destroy or deliver up physical materials. The Court also awarded significant damages, totalling $185,473.86 CAD plus interest. The damages were awarded based on an initial franchise fee, two years of estimated royalties and brand development fees, and annual system fees.

In *Constellation Brands U.S. Operations, Inc. v. Vineyard House, LLC*, Mark Davis and Steven Henderson successfully represented the respondent, The Vineyard House, LLC, in obtaining the first ever decision by the Federal Court of Canada dismissing a motion to adduce new evidence under the newly amended section 56(5) of the *Trademarks Act* in its entirety. The applicant was appealing a decision of the Trademarks Opposition Board rejecting the applicant's opposition to two trademark applications filed by the

respondent. In commencing the appeal, the applicant also moved to adduce new affidavit evidence that it had not adduced before the Board. Under the newly amended section 56(5), the Court was required to conduct a full assessment of the proposed new evidence for relevance, materiality, circumstances surrounding the delay in adducing the evidence, and prejudice to the respondent. The Court accepted Cassels' argument, among others, that even under a lighter threshold for materiality under section 56(5), the entirety of the applicant's proposed evidence was not material and therefore could not be accepted.

Cassels Wins

Cassels Recognized Among the Country's Best in Chambers Canada 2027

Cassels is proud to share that more than 80 of its lawyers across 35+ areas of practice have been recognized as leaders in their field by Chambers Canada 2027. The Cassels IP team is particularly proud that it has been noted as a leader in Intellectual Property, Intellectual Property: Litigation, and Advertising & Marketing, as well as a Tier 1 firm for Media & Entertainment.

The Cassels IP team members recognized this year are:

- Casey Chisick (Entertainment | Intellectual Property)
- Mark Davis (Intellectual Property)
- Lindsay Dykstra (Media & Entertainment)
- Stephen Henderson (Entertainment)
- Eric Mayzel (Media & Entertainment)
- Jennifer McKenzie (Advertising & Marketing)
- Chandimal Nicholas (Advertising & Marketing)
- Andrew Skodyn (Intellectual Property: Litigation)
- Jessica Zagar (Media & Entertainment)

Cassels Lawyers Recognized Among the Best in the Country by Best Lawyers 2027

Cassels is proud to announce that 114 of our lawyers across 35+ practice areas have been named in the

2027 edition of *Best Lawyers in Canada*, the strongest showing ever for the firm.

The Cassels IP team members recognized this year are:

- Casey Chisick (Entertainment Law | Intellectual Property Law)
- Mark Davis (Intellectual Property Law)
- Stephen Henderson (Entertainment Law)
- Steven Kennedy (Intellectual Property Law)
- Karen MacDonald (Advertising and Marketing Law | Intellectual Property Law | Technology Law)
- Eric Mayzel (Entertainment Law | Franchise Law | Intellectual Property Law)
- Jennifer McKenzie (Advertising and Marketing Law | Intellectual Property Law)
- Mark Penner (Intellectual Property Law)
- Andrew Skodyn (Biotechnology and Life Sciences Practice | Corporate and Commercial Litigation | Intellectual Property Law | Technology Law)
- Jessica Zagar (Entertainment Law | Intellectual Property Law)

Cassels Lawyers Recognized Among the Best in the Country by Best Lawyers: Ones to Watch 2027

Cassels is excited to announce that 40 of our lawyers have been named to the 2027 edition of *Best Lawyers: Ones to Watch*. *Ones to Watch* recognizes practitioners for outstanding professional excellence early in their careers.

The Cassels IP team is especially proud to note that Lindsay E. Dykstra, Kassandra Shortt, Sam Sokoloff, Claire Stempien and Eleanor Wilson were all recognized in the area of Intellectual Property Law.

Cassels Proud to be Ranked Among the Best by Managing IP for 2026

We are excited to see multiple Cassels partners recognized as “IP Stars” in the 2026 edition of *Managing Intellectual Property*, one of the leading rankings of intellectual property lawyers globally. This years listees include: Casey Chisick (Copyright), Mark Davis (Patent | Trademark), Karen MacDonald (Trademark | Top 250 Women in IP), Jennifer McKenzie (Trademark), Chandimal Nicholas (Transactions), Stephen Selznick (Copyright), Andrew Skodyn (Patent | Trademark) and Jessica Zagar (Copyright). In addition, Steven Kennedy and Eric Mayzel have been named Notable Practitioners and Sean Jackson, Claire Stempien, and Eleanor Wilson have been named Rising Stars.

Our Intellectual Property Group has also been recognized by *Managing IP* as a leader for Trademark

Disputes, Trademark Prosecution, IP Transactions, and Patent Disputes, and is ranked Tier 1 for Copyright.

Casey Chisick Included on Billboard Canada's Power Players List 2026

Cassels is excited to announce that IP partner Casey Chisick has been included on *Billboard Canada*'s 2026 Power Players list. Casey is included as one of just five Legal Power Players in the country.

Billboard Canada's 2026 Power Players recognizes Casey for his decades at the forefront of Canadian copyright law, stating: "As artificial intelligence rapidly reshapes the economics and ownership structures of music, Casey Chisick has become one of the key legal figures helping define how the industry responds."

Karen MacDonald Recognized Among Leading Global IP Practitioners

Cassels is pleased to congratulate Karen MacDonald on two recent international recognitions celebrating her leadership in intellectual property law.

Karen has once again been named to *Managing Intellectual Property*'s Top 250 Women in IP, a global list recognizing exceptional women practitioners in private practice. She has also been named to *World Trademark Review*'s WTR Global Leaders, which brings together leading trademark professionals from around the world.

Cassels Partners Recognized by Lexpert Special Edition: Health Sciences 2026

Cassels IP partners Casey Chisick, Mark Davis, Karen MacDonald, Jennifer McKenzie and Andrew Skodyn have been recognized among the best in the country by *Lexpert*'s Special Edition on Health Sciences. This publication profiles *Lexpert*-ranked lawyers and covers trends in the fast-growing life sciences and health care industries.

Cassels Partners Recognized by Lexpert Special Edition: Technology 2026

Multiple Cassels IP partners have been recognized among the best in the country by *Lexpert*'s Special Edition on Technology, including Casey Chisick, Mark Davis, Hashim Ghazi, Karen MacDonald, Jennifer

McKenzie and Andrew Skodyn. The *Lexpert Special Edition: Technology* profiles *Lexpert*-ranked lawyers and covers trends in the fast-growing areas of information Technology, Data Privacy & Cybersecurity, Intellectual Property, Litigation - Intellectual Property, Telecommunication, and Technology Transactions.

Cassels Partners Named to IAM'S Patent1000 2026

We are proud to share that Intellectual Property partners Mark Davis, Mark Penner and Andrew Skodyn have been ranked by *IAM* on its Patent1000 list for 2026. In addition, the firm's Intellectual Property Group is recognized for patent litigation.

The Patent1000 focuses exclusively on patent practice and has firmly established itself as the definitive 'go-to' resource for those seeking world-class patent expertise.

In Case You Missed It

Hitting Rewind for Streaming Services: Canada Confirms Plan to End Base Contribution Requirement on Foreign Streamers

On July 17, 2026, the Canadian government confirmed that it intends to eliminate the base financial contribution requirement on foreign online streaming services that the Canadian Radio?television and Telecommunications Commission (CRTC) announced back in 2024. The elimination of the contribution requirement is a sudden reversal of one of the CRTC's more controversial efforts to modernize its regulation of the Canadian broadcasting industry after the coming into force of the *Online Streaming Act* in 2023.

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The More Things Change, The More They Stay The Same: The Supreme Court Determines the Patentability of Methods of Medical Treatment

On July 17, 2026, the Supreme Court of Canada released its decision in *Pharmascience Inc. v. Janssen*

Inc., dismissing Pharmascience's appeal and holding that a patent that claims new injectable products and new dosing regimens for a drug that treats schizophrenia does not claim an unpatentable method of medical treatment (MOMT). This decision provides long-awaited guidance on how dosing-regimen claims should be evaluated in Canada, while reaffirming the prohibition against patenting MOMT.

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New USPTO Patent Rule Takes Effect July 20: What Canadian Patent Applicants and Owners Need to Know

On July 20, 2026, a significant change to the USPTO patent practice took effect, requiring Canadian patent applicants and patent owners to use a US registered patent practitioner for many patent matters before the USPTO. This article provides an overview of the new requirements and what they mean for Canadian patent applicants and owners.

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Federal Court Introduces Guidelines for Summary Judgment and Summary Trial Motions in Intellectual Property Proceedings

On June 22, 2026, the Federal Court issued amendments to its *Case and Trial Management Guidelines for Complex Proceedings, Proceedings under the PM(NOC) Regulations, and Appeals under Subsection 56(1) of the Trademarks Act*. The new Summary Proceedings Guidelines formalize the Court's expectations regarding the timing and management of summary proceedings and provide practical guidance concerning suitable issues for summary determination.

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Not So Fast – CRTC Canadian Programming Expenditure Policy for Online Streaming Services Set for Review Immediately Following Announcement

This article discusses the Government of Canada's direction to the CRTC to review portions of a recent CRTC policy that would require certain foreign online streaming services to contribute 15% of their online

revenues from Canadian broadcasting activities to Canadian programming. In issuing the direction, the Government cited industry participant and consumer cost concerns, as well as a new commitment by the Government to provide $600 million annually in federal funding to the Canadian broadcasting and production industries. The CRTC's recent broadcasting regulatory policies have brought forth strong positions from foreign service providers and Canadian broadcasters, who either see the policies as a form of digital or streaming media tax, or a positive step towards championing Canadian storytelling.

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Where We're Going

- Karen MacDonald and Jennifer McKenzie will be attending the International Wine Law Association's AIDV Conference in Stellenbosch, South Africa from October 16-18.
- Kassandra Shortt will be speaking on "Intellectual Property and Responsible Innovation Governance" at the Brazil-Canada Chamber of Commerce PowerTech Roundtable on October 21.
- Andrew Skodyn is moderating "Monitoring and Measuring the Success of an IP Strategy" as part of IPIC's IP Strategy webinar series in November.

Where We've Been

- Cassels lawyers hosted clients and friends during the Intellectual Property Owners Association's Annual Meeting, which took place in Toronto from September 27-29. Casey Chisick, Karen MacDonald, Mark Davis, Eric Mayzel, Kassandra Shortt, Sean Jackson, Eleanor Wilson, Mark Penner and Mimoza (Mimi) Gjelaj attended, and Karen MacDonald and Mimi Gjelaj participated in a panel discussion on Counterfeits, Designs, and Customs Enforcement in Canada, Asia, and the US.
- Eric Mayzel presented on AI, Music & Government Advocacy at the NXTGen Data and Tech Summit , presented by Music Publishers Canada, on Friday, September 25, 2026, at the Allied Music Centre in Toronto.
- Cassels is pleased to have been a Gold Sponsor of the IPIC Centennial Conference, which took place in Ottawa from September 16-18. Mark Davis attended the IPIC Annual General Meeting.
- Lindsay Dykstra attended the Access Canada Summit in Toronto from September 14-16.
- Casey Chisick and Eric Mayzel attended the 2026 Copyright + Technology Conference, an annual conference presented by the Copyright Society and Giant Steps Media Technology Strategy, on September 14, 2023, at Fordham University in New York.
- Eric Mayzel presented at the Osgoode Hall Law School Intellectual Property Law & Technology

Intensive Program on “Copyright Collective Administration & Reform” on September 9, 2026.

- Mark Davis has been reappointed as a director of the Intellectual Property Institute of Canada.
- Steven Henderson and Dakota Bundy have both been elected to the executive committee of the Ontario Bar Association’s Information Technology and Intellectual Property Law section, where they will serve for the section’s 2026-2027 programming year.
- Kassandra Shortt moderated the webinar “IP litigation in the AI Era”, which was part of the Intellectual Property Institute of Canada’s AI & IP law webinar series, on June 16 and the webinar “Trends in Contempt Proceedings and Intellectual Property Litigation” hosted by the Intellectual Property Institute of Canada, on July 9.
- Chandimal Nicholas, Kassandra Shortt, Dakota Bundy and Raysa Marcondes attended the BIO International Convention in San Diego, June 22-25.
- Casey Chisick and Katie Graham attended the Copyright Society’s Annual Meeting in Louisville from June 14-16. Cassels was a Platinum sponsor of this conference.
- Jessica Zagar presented at the webinar “Copyright & AI: Navigating the Creative Frontier”, which was part of IPIC’s AI & IP law webinar series that took place on June 11.
- Mark Davis spoke at a LexisNexis webinar on June 8 entitled “Whose Invention Is It Anyway? The Impact of Generative AI on Patent Practice”.
- Stephen Selznick presented to the commissioner and deputy commissioner of the United States Patent and Trademark Office and the USPTO Trademark Examiners on name, image, voice and likeness, trademarks for athletes and celebrities, in Washington DC on June 3-4.

Work With Us

Companies ranging from startups to multinational organizations turn to Cassels to protect and maximize the value of their intellectual property. With one of Canada's largest and most experienced Intellectual Property teams, we are trusted not only for our deep technical and legal expertise, but for helping clients navigate evolving business, regulatory, and commercial landscapes. From copyrights, trademarks, and patents to commercialization and portfolio management, we provide practical, strategic guidance tailored to our clients' objectives.

Learn more about our Intellectual Property Group.

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