

Why you need an intellectual property strategy

Numerous reports have clearly demonstrated that businesses with Intellectual Property (IP), on average, have measurably higher revenue and growth rates. Yet, according to the World Intellectual Property Office, Canada, in 2016, ranked only 9th, 10th, and 17th when compared to the rest of the world in patent, industrial design, and trademark applications, respectively. In other words, Canadian businesses are not protecting their IP. Surveys have shown that Canadian businesses often have little knowledge about the IP system and have a hard time identifying the types of IP as well as knowing what can be protected as IP.

IP typically includes patents, trademarks, registered designs and copyright; each of which protects a particular type of property such as branding, creative expressions, ideas, and designs. Any business that sells goods and services in Canada, almost necessarily, will have some type of IP. For example, most business will have some sort of word or logo that could be registered as a trademark. Registering a trademark has the advantage of providing protection across Canada, even if it is only used in a local area. Trademarks can be used to inhibit competition from misleading customers and misappropriating a company's reputation.

Patents provide businesses with an exclusive right to make and use an invention. Even simple inventions, for example, an

improved leaf guard for eavestroughs or a cup for toddlers having a one-way valve to prevent spills are patentable. Industrial designs provide similar protection as patents, but protect the look of the invention as opposed to the technical features. Registering a patent or industrial design can be a crucial step in a company's long-term success as they can be enforced to prevent a competitor from entering the market.

Other types of Intellectual Property may not require registration, e.g. copyright, or have no formal registration procedure, e.g. trade secrets. Copyright is used by authors to protect their work, such as a book, movie, or music. Trade secrets may be, for example, a recipe, formula, algorithm, supplier and customer data or secret industrial process or method. Nonetheless, though registration is not required to protect these types of IP, proper steps need to be taken to ensure that they are protected so that any accompanying rights can be enforced in Court.

The Canadian Government has recognized the importance of IP as well as the deficiency of IP filings and reacted by introducing a National IP strategy. The strategy proposes spending \$85M on IP education and legal clinics, creating strategic IP tools, and drafting new IP legislation over the next five years to help entrepreneurs, businesses, and innovators.

Therefore, any business of any size should have a properly developed IP policy, best drafted in conjunction with a practitioner who specializes in IP. For some businesses, the policy or strategy may be to do nothing, but this decision should be arrived at following careful consideration of all the options and not simply by failing to take action.

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