



THE HILL TIMES

TWENTY-SEVENTH YEAR, NO. 1350

CANADA'S POLITICS AND GOVERNMENT NEWSPAPER

WEDNESDAY, JUNE 22, 2016 \$5.00

OPINION INTELLECTUAL PROPERTY

Innovation: A step in the right direction, with another one to come

If the government wants to encourage entrepreneurs, it should see that innovation professionals are regulated like others.



PETER WILCOX

On June 24, an important element toward the goal of fostering innovation

in Canada will come into force.

New provisions in the Patent Act and Trade-marks Act will protect confidential communications between clients and their patent and trademark agents made for the purpose of seeking or giving advice with respect to any matter relating to the protection of an invention or trademark, respectively.

Such communications with agents (whether or not they are also lawyers) will be protected from disclosure in court and administrative proceedings by a privilege akin to solicitor-client privilege.

These enactments bring Canada's laws into line with other jurisdictions that have seen the need for privilege in order to promote full and frank communications between clients and their patent and trademark agents.

Privilege in these communications ensures that the best advice is received in

connection with establishing these valuable legal rights. The amendment also closes a gap where communications protected as privileged in other jurisdictions may have been susceptible to discovery through Canadian proceedings. This was a particular problem for clients having worldwide patent and trademark portfolios.

This is a very positive step for Canadian businesses and universities, as well as for innovation in Canada.

Another relatively simple but important legislative step should now be taken to help foster a culture of innovation in Canada.

If the government wants to encourage entrepreneurs to grow, innovate, and export, it must see that its innovation professionals are regulated like the other professionals it hires (lawyers, engineers, architects, and actuaries, for instance).

However, the current regulatory framework for patent and trademark agents is not complete, likely because patent and trademark agents are among the rare professions under federal jurisdiction. Fortunately, examples of professionally regulated professions abound in Canada and the solution is for Parliament to adopt legislation to empower the profession to complete the regulatory framework (code of ethics, discipline process, etc.) to better protect the public interest.

The creation of such a regulatory body would be another positive step for innovation, at no cost to government. In this

regard, the Intellectual Property Institute of Canada welcomes the current consultation by the government on a governance framework.

IPIC has been supporting innovation since 1926 and we look forward to continue doing so with Parliamentarians and officials.

Peter Wilcox is president of the Intellectual Property Institute of Canada.

The Hill Times

Reprinted with permission from Hill Times Publishing