

Improving Canada's Intellectual Property Rights System

Background

The Canadian Chamber of Commerce remains very concerned about intellectual property protection and enforcement in Canada. The Canadian Chamber is also concerned about the significant delays that have occurred in implementing remedial legislation. However, the business community also realizes that governing with a minority parliament does present challenges. Through 2010 and beyond, the Canadian Chamber, and its affiliate the Canadian Intellectual Property Council, looks forward to working with Parliamentarians to improve our IP system. With the *Copyright Modernization Act*, the government has taken the first step towards updating Canada's copyright laws. The objectives of the bill strike an acceptable balance between various interests and while there are areas where greater clarity is desirable, they provide a solid foundation for future economic growth and job creation in Canada. The Canadian Chamber looks forward to working with the government to get a copyright bill passed quickly.

While the theft and misappropriation of intellectual property (IP) can lack, for some, the same social stigma as other criminal offences, this illegal activity remains a significant drain on the economy, deceives the public and is harmful in many ways including through the loss of jobs, a reduction in tax revenues for governments and, last but not least, serious consumer health and safety risks due to the poor, inconsistent and often hazardous quality of fake products. Virtually no industry is immune from this illegal activity. In addition, the misuse of a rights holders intellectual property rights not only erodes the value of intellectual property but also discourages investment in innovation and creation. In the rapidly changing global economy that focuses on global trade and digitization, protecting intellectual property is critical to ensuring a competitive Canada.

The Canadian Chamber also looks forward to working with the government towards the conclusion of the Anti-Counterfeiting Trade Agreement that advances Canadian interests.

Reform of our IP related statutes such as the Copyright Act and Trade-marks Act, as well as the IP related provisions of other statutes such as the Criminal Code is urgently needed so that rights holders and the authorities have the tools that they need to efficiently and effectively stop the flow of counterfeit goods and protect IP in Canada. Canada's IP environment must be brought to up the standard of our international trading partners. On a positive note, the government did take a step forward by allowing for the proceeds of crime from copyright crimes to be confiscated.

Recommendations

That the federal government:

1. Make counterfeiting and piracy a government wide priority and act on appropriate legislative reforms now.
2. Provide resources for the necessary reforms and their implementation. This would enable authorities to search and seize suspected counterfeit goods at Canada's major ports and gateways.
3. Strengthen existing statutes, such as the *Criminal Code*, *Copyright Act* and *Trade-marks Act*, either individually or through a dedicated anti-counterfeiting statute. Initiatives that should be taken in relation to this are:
 - Enacting the long anticipated amendments included in the *Copyright Modernization Act*;
 - Amending the Criminal Code to properly define "counterfeiting" as a special criminal offence, thereby making it a criminal offence to manufacture, reproduce, distribute and/or import or offer for sale counterfeit products for commercial purposes;
 - Amending the Federal Court Act to provide for expedited civil proceedings for cases involving counterfeit products and other IP infringement;

- Ratifying the two outstanding WIPO treaties that specifically deal with enforcement of intellectual property rights over the internet;
- Enacting amendments to the Customs Act to allow for search and seizure of counterfeit and pirated goods and provide customs and law enforcement agencies with the ability to share information with rights holders and licensees;
- Creating a government task force or central resource to oversee the advancement of IP in Canada.