

Goodmans^{LLP} Update

The Federal Government Continues to Implement its IP Strategy

Just over 15 months ago, on April 26, 2018, the federal government unveiled what it billed as Canada's first comprehensive Intellectual Property Strategy (the "IP Strategy"), designed to help Canadians understand, protect and access intellectual property (see our previous Goodmans Updates [here](#) and [here](#)). On August 1, 2019, federal Innovation Minister Navdeep Bains announced the implementation of part of the IP Strategy as follows:

1. Funding for cleantech IP via the Innovation Asset Collective (or "IAC");
2. A tool called "ExploreIP" to assist Canadians in accessing publicly owned IP; and
3. Funding for IP legal clinics at four Canadian law schools.

Cleantech IP

The IP Strategy called for the establishment of a pilot project named the "Patent Collective" to assist small- and medium-sized enterprises ("SMEs") with their patent and other IP needs. The Patent Collective program was said to have two overarching purposes: (i) to help SMEs operating in a specific technological area grow by supporting their patent and other IP needs, and (ii) to provide the government with insight into the IP issues faced by those SMEs. In the IP Strategy, the government announced funding of \$30M CAD over four years to support the Patent Collective, and an RFP process to select a non-profit third party to structure and administer the pilot program.

On August 1, 2019, the government announced that the RFP process had culminated in the selection of the IAC to structure and administer the Patent Collective program. The Patent Collective will focus on "the data-driven clean technology sector". According to the *Globe and Mail*, the IAC intends to, among other things, buy and hold patents "related to data and clean technology". Members of the IAC can then license these patents on a perpetual basis, to protect against patent infringement lawsuits. Members will not have to share ownership of their own patents to join the IAC.

While the *Globe* reported that IP infringement lawsuits are "a common hazard in the sector", there are few recent reported patent infringement actions, or decisions, in Canada relating to cleantech patents. In addition, while the IAC is potentially a boon to SMEs in the cleantech sector, SMEs in any other area of the Canadian economy with IP needs (e.g., the software industry) are seemingly left out for now.

Publicly Owned IP

The IP Strategy called for an IP marketplace consisting of an IP-specific portal to assist Canadians in finding and identifying IP owned by government and academia to license and/or commercialize.

On August 1, 2019, the government announced the launch of "ExploreIP: Canada's IP Marketplace". ExploreIP is a website run by the government listing more than 2,500 patents owned by federal government departments and corporations, hospitals and universities. The patents are searchable by licensing option, technology field, and organization.

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All patents issued in Canada are currently publicly available and searchable on the website of the Canadian Intellectual Property Office (“CIPO”). Therefore, the value added by ExploreIP appears to be that it allows interested parties to restrict their patent searching to patents available for licence (although over 600 patents currently listed on ExploreIP are indicated as not being available for licence, calling into question the value of listing them on the website). Simply adding a “license” feature to the CIPO online database might have provided a more valuable tool, which would allow both public and private entities to indicate if they are open to licensing their patents.

IP Legal Clinics

The IP Strategy called for funding for the creation of IP legal clinics at Canadian universities, with the objective of furthering law students’ IP education and inexpensively helping SMEs with their IP needs.

On August 1, 2019, the government announced that the law schools at the University of Ottawa, the University of Windsor, York University and the Université de Montréal would be the initial law schools to share \$200,000 annually to each develop or expand IP legal clinics. The fact that the western-most university selected is located in southern Ontario may raise some eyebrows.

For further information concerning this development, please contact any member of our [Intellectual Property Group](#).