Toward a More Inclusive IP Regime for Canada

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Objectives of the Presentation

- Provide a brief overview of the Canada's intellectual property (IP) regime

- Present recent IP initiatives and other relevant initiatives of the Government of Canada

Canada's IP Regime

- Statutes:
  - In Canada, intellectual property is mostly protected by specific intellectual property laws, such as the *Patent Act*, the *Copyright Act* and the *Trademarks Act*.

- Governance:
  - Innovation, Science and Economic Development Canada: overall responsibility
  - Canadian Heritage: shares responsibility for copyright
  - Canadian Intellectual Property Office (CIPO): responsible for most of the administration and processing
  - Global Affairs Canada: manage negotiation of international treaties
  - Trade secrets are primarily a matter of common law (except for Quebec) under the provinces and territories

- Enforcement:
  - IP rights can be enforced through private civil actions, criminal actions by a government authority and border measures

Recent Developments

- Domestic:
  - Canada's IP Strategy
  - Parliamentary Review of the *Copyright Act*

- International:
  - Canada's Progressive Trade Agenda (e.g., CUSMA, CPTPP, Mercosur)
  - Continued Presence at WIPO and other multilateral forum (e.g, WTO, CBD)

Indigenous and IP Initiatives

- IP Strategy announced in 2018 committed $1M over five years to Indigenous initiatives

- Objective is to contribute to a more inclusive IP system:
  - Support Indigenous IP awareness and capacity building
  - Enable Indigenous participation in the development and implementation of IP law, policy and programs as they related to the protection of traditional knowledge (TK) and traditional cultural expressions (TCEs) – both domestically and internationally

- Aligned with Government-wide commitment to reconciliation and inclusive economic growth

1. Data Collection

- **Data collection** on the use of IP protections, services and resources by Indigenous businesses and entrepreneurs

- The aim is to collect data on the use of IP protections, services and resources by Indigenous businesses and entrepreneurs

2. Education and Awareness Raising

- Under the leadership of the Canadian Intellectual Property Office and in partnership with Indigenous organizations, business and academia, development of targeted **education materials and programs**
  - Seminar with key national organizations (Indigenous financial institutions, business associations)
  - Case studies

3. Grant Program

- **Grants** to enable capacity building and the participation of Indigenous representatives in the development and implementation of policy and programs at both the domestic and international level

- Key objectives are:
  - Increased dialogue on the reconciliation between Indigenous peoples and the IP system
  - Demonstrate commitment to and support for work to advance Indigenous issues in international fora, including United Nations bodies, such as the World Intellectual Property Organization (WIPO)
  - Increased use of the IP system by Indigenous peoples

4. Domestic and International Engagement

- Canada will be seeking to work more closely with Indigenous peoples moving forward:
    - on the development of domestic IP, starting with a number of multi-stakeholder workshops in 2019-2020; and
    - in a number of international IP fora, notably the *WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*.

Other Relevant Initiatives

- **Indigenous Languages** *(Canadian Heritage)*

- **Science and Research**
  - Budget 2018 investments ($3.8M) in support of Canada Research Coordinating Committee (CRCC) priority to develop in partnership with First Nations, Métis and Inuit communities, an interdisciplinary research and research training model that contributes to reconciliation
    - 14 regional engagement events
    - 116 Connection Grants awarded
    - National Dialogue event in March 2019
  - Polar Knowledge Canada initiatives
  - Crown-Indigenous Relations and Northern Affairs Canada programs

Other Relevant Initiatives

- **Environmental Protection**
  - Environmental Assessments Bills (C-68 and C-69):
    - Require transparency about how Indigenous knowledge is used in impact assessments, as well as regional and strategic assessments. Assessment reports would need to describe how Indigenous knowledge was taken into account
    - Provide strong protection for the confidentiality of Indigenous knowledge

Conclusion

- Reconciling the current IP system with the protection of TK and TCEs is a complex and controversial area of the law both domestically and internationally

- IP offers both opportunities and creates challenges for the protection of TK and TCEs

- The Government and Indigenous people in Canada need to work together to consider how to address these opportunities and challenges, starting with the initiatives under the IP Strategy

For more information:

URL: http://www.ic.gc.ca/eic/site/108.nsf/eng/00004.html
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