Intellectual property tools: A Canadian overview

McGill Workshop
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Building a prosperous and innovative Canada
WHO WE ARE

- CIPO is part of Innovation, Science and Economic Development Canada.
- It is a special operating agency responsible for the administration and processing of the greater part of IP in Canada.

- Examine and grant IP rights
- Provide a quasi-judicial function for trademarks and patents
- Raise awareness for the effective use of IP
- Share IP information to support innovation
- Represent CIPO internationally to support businesses operating globally

Focus on the needs of high-growth small and medium-sized enterprises (SMEs), key sectors and markets, and underrepresented groups, such as Indigenous and women entrepreneurs

Building and street
Ottawa Convention Centre, Ottawa, Ontario
(Source: Brand Canada)
WHAT IS IP?

Intellectual property (IP) is a creation of the mind.

**TRADEMARK**
A “sign” used to differentiate your products and services from those of others.

**PATENT**
For new, useful inventions that are not obvious.

**INDUSTRIAL DESIGN**
Unique appearance of a product—its shape, configuration, pattern, ornament or any combination of these features.

**COPYRIGHT**
For original works.

**TRADE SECRET**
Confidential and valuable business information.
TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS

Traditional knowledge (TK)
TK generally refers to know-how, skills, innovations and practices developed by Indigenous peoples related to biodiversity, agriculture, health and craftsmanship.

Traditional cultural expressions (TCEs)
TCEs generally refer to tangible and intangible forms in which TK and culture are expressed and may include oral stories, artwork, handicrafts, dances, fabric, songs or ceremonies.
HOW CAN I BENEFIT FROM KNOWLEDGE OF TK, TCEs AND IP?

Having knowledge of TK, TCEs and the IP system can provide **greater options to preserve and promote** Indigenous knowledge and culture.

**Preservation**
- Preserve TK and TCEs.
- Protect yourself from the risk of cultural misappropriation and misuse.
- Help protect and access your TK.

**Commercialization opportunities**
- Take advantage of the increased demand in the marketplace for more natural and authentic products.
- Benefit from the increasing popularity of Indigenous traditions, practices, symbols, designs and textiles.
- License your traditional knowledge to others to create new products (i.e. pharmaceutical products, sporting equipment, clothing designs, etc.).
A trademark is a “sign” that differentiates your products and services from others.

A trademark automatically provides rights if it is being used, but it can also be registered.

It gives you the right to exclude others from using your trademark.

Protection lasts 10 years and is renewable every 10 years.

**Manitobah Mukluks**

- Métis entrepreneur Sean McCormick grew his company from a small trading post to a fast-growing footwear brand.
- The company has filed registered trademarks and generates more than $25 million in annual sales.
A geographical indication (GI) is used on a product that has a specific geographical origin and possesses qualities, a reputation or other characteristics attributable to that origin. A request must be submitted to CIPO to have a GI entered on the list of protected GIs in Canada.

GIs can identify wines, spirits, agricultural products or food of a category set out in the schedule (not all are included).

A GI has to be applied for by a responsible authority.

Maïs sucré de Neuville

- Neuville is a village on the north shore of the Saint Lawrence River, just west of Quebec City.
- Particular geographical factors influence the ability to produce this quality sweet corn.

A certification mark is used to distinguish goods and services based on:
- the character or quality
- the working conditions under which the goods or services are produced or performed
- the class of persons producing or performing the goods or services
- the area where the goods are produced or the services performed

Registration can be done only by an entity not engaged in the manufacture, sale, leasing or hiring of services.

The registered owner controls the licensing and “use” of the mark.

Inuit Art Foundation

- The Igloo Tag Trademark was established to help protect Inuit artists from copycats by certifying items as being authentic.
- It was officially transferred to the Inuit Art Foundation in 2017.
A patent protects a **new, useful** invention that is **not obvious**.

It gives you the right to exclude others from making, using or selling the invention.

It is valid for up to 20 years from the filing date.

The application process includes **full disclosure** and an examination before the patent is granted.

There is a 12-month grace period.

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**Asham Curling Supplies**

- Métis entrepreneur Arnold Asham built his namesake company on innovations in the curling industry.
- The company has filed numerous applications to protect its innovative curling shoes and brooms.

Arnold Asham
CA2326254 C
granted 2002/04/14

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**If an invention simply replicates traditional knowledge, it does not meet the requirement of novelty.**
Plant breeders’ rights protect the propagating materials of **new plant varieties**.

They give you the right to exclude others from using a protected plant variety.

Registration is with the Canadian Food Inspection Agency, not CIPO.

Protection lasts up to 25 years for trees and vines and up to 20 years for other plant varieties.

There is a 12-month grace period for selling the variety.

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**White Flint Corn**

- In the 1990s, the Indian Agriculture Program of Ontario (IAPO) researched White Flint corn, renowned for its flour and high protein content.
- The IAPO’s goals were to develop new varieties of corn that could be registered in Canada and other countries, and to market them in North America and Europe.

Image source: [http://indianag.on.ca/](http://indianag.on.ca/)
Copyright protects creative, original works in various forms: literary, dramatic, musical and artistic (e.g. book, play, music composition).

It gives you the exclusive rights to reproduce the work and to publish it, translate it, perform it, etc.

Related rights, such as the rights of music performers, are also protected.

Protection is automatic at creation.

In Canada, protection generally lasts for the life of creator + 50 years.

Protections under the Copyright Act

They have been widely used by Indigenous artists, performers, composers and writers:

- Pacific coast wood carvings, including marks and totem poles
- Haida silver jewelry
- songs and sound recordings
- Inuit sculptures

Indigenous singer
Dawson City Music Festival, Dawson City, Yukon
(Source: Brand Canada)
An industrial design is a product with a **unique appearance**—its shape, configuration, pattern or ornament, or any combination of these features.

It gives you the right to exclude others from making, using or selling the product.

Protection lasts 5 to 15 years (renewable).

The design must be registered.

There is a 12-month grace period.

**West Baffin Eskimo Cooperative Ltd.**

- The company filed more than 50 industrial designs in the late 1960s.
- These covered fabrics using traditional images of animals and Inuit people.
A trade secret is confidential and valuable business information. Its value is tied to your ability to keep it secret and the inability of others to replicate it. No registration or formal rights exist. Protection lasts as long as confidentiality is maintained. Never disclose the information without patenting or a non-disclosure agreement! (Consider costs and benefits)

Unaaq Fisheries

- It is owned by the Inuit people of Northern Quebec and Baffin Island.
- It regularly transfers proprietary technologies to other communities using its own experience in the commercial fishing industry.
- The techniques it develops are protected as trade secrets.

Laws on confidential information can be used by Indigenous peoples and local communities to protect their confidential TK and TCEs.
**IP AWARENESS AND EDUCATION PROGRAM**

Focus on inclusive growth by targeting efforts to reach high-growth sectors, technology clusters, high-potential SMEs, key markets, women entrepreneurs and Indigenous people

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**Access IP resources**

Tools and information to better acquire, manage and leverage your IP assets

- IP Toolkit
- IP roadmaps
- IP strategy assessment tool
- Doing business abroad guides
- Tech transfer toolkit (coming soon)

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**Attend IP learning events**

Suite of seminars and training services for businesses

- Seminars and webinars
- E-learning modules
- IP boot camps
- Search-a-thons
- Case studies
- Success stories
- Custom training programs

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**Talk with an IP expert**

Connect with IP experts to answer your questions

- Contact the Client Service Centre for general IP information and guidance on the application process
- Connect with an IP advisor to receive help with understanding the value of your IP and guidance as you develop your IP strategy
Contact CIPO

**Canada.ca/IP-for-Business**
Client Service Centre
Phone: 1-866-997-1936

In-person meetings by appointment
Canadian Intellectual Property Office
Place du Portage I
50 Victoria St., room C229
Gatineau, QC K1A 0C9

IP Advisor, Quebec Region
Xavier Genest – Xavier.genest2@canada.ca

Find more programs and support for Canadian businesses and innovators at innovation.canada.ca.

**Other CIPO events:** Search “CIPO calendar of events”

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