



16 October 2019

(19-6742)

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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

Original: English/French

**NOTIFICATION OF LAWS AND REGULATIONS  
UNDER ARTICLE 63.2 OF THE TRIPS AGREEMENT**

CANADA: A SECOND ACT TO IMPLEMENT CERTAIN PROVISIONS OF THE BUDGET TABLED IN  
PARLIAMENT ON FEBRUARY 27, 2018 AND OTHER MEASURES

<b>Notifying Member</b>	CANADA
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**Details of the notified legal text**

<b>Title</b>	A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures
<b>Subject matter</b>	Copyright and related rights; Trademarks; Patents (including plant variety protection)
<b>Nature of notification</b>	[ ] Main dedicated intellectual property law or regulation [X] Other law or regulation
<b>Link to legal text*</b>	<a href="https://members.wto.org/crnattachments/2019/IP/CAN/19_5640_00_e.pdf">https://members.wto.org/crnattachments/2019/IP/CAN/19_5640_00_e.pdf</a> <a href="https://members.wto.org/crnattachments/2019/IP/CAN/19_5640_00_f.pdf">https://members.wto.org/crnattachments/2019/IP/CAN/19_5640_00_f.pdf</a>
<b>Notification status</b>	[ ] First notification [X] Amendment or revision to notified legal text [ ] Replacement or consolidation of notified legal text(s)
<b>Previous notification(s) referred to</b>	<a href="#">IP/N/1/CAN/20</a> , <a href="#">IP/N/1/CAN/T/5</a> ; <a href="#">IP/N/1/CAN/C/7</a> , <a href="#">IP/N/1/CAN/17</a> ; <a href="#">IP/N/1/CAN/C/6</a> , <a href="#">IP/N/1/CAN/15</a> ; <a href="#">IP/N/1/CAN/C/4</a> , <a href="#">IP/N/1/CAN/8</a> ; <a href="#">IP/N/1/CAN/21</a> , <a href="#">IP/N/1/CAN/P/14</a>

**Brief description of the notified legal text**

**Bill C-86** enacts the *College of Patent Agents and Trade-mark Agents Act*. That Act establishes the College of Patent Agents and Trade-mark Agents, which is to be responsible for the regulation of patent agents and trade-mark agents in the public interest.

*The College of Patent Agents and Trade-mark Agents Act*, among other things,

- requires that individuals obtain a licence in order to act as patent agents or trade-mark agents and that licensees comply with a code of professional conduct;
- authorizes the College's Investigations Committee to receive complaints and conduct investigations into whether a licensee has committed professional misconduct or was incompetent;
- authorizes the College's Discipline Committee to impose disciplinary measures if it decides that a licensee has committed professional misconduct or was incompetent; and

- creates new offences of claiming to be a patent agent or trade-mark agent and unauthorized representation before the Patent Office or the Office of the Registrar of Trade-marks.

**Bill C-86** amends the *Trade-marks Act* to, among other things:

- Add bad faith as a ground of opposition to the registration of a trademark and for the invalidation of a trade-mark registration;
- Prevent the owner of a registered trade-mark from obtaining relief for certain acts during the first three years after the trademark is registered unless the trademark was in use in Canada during that period or special circumstances exist that excuse the absence of use;
- Clarify that certain prohibitions of the Act do not apply with respect to a badge, crest, emblem or mark that was the subject of a public notice of adoption and use as an official mark if the entity that made the request for the public notice is not a public authority or no longer exists; and
- Modernize the conduct of various proceedings before the Registrar of Trade-marks, including by providing the Registrar with additional powers in such proceedings.

Bill C-86 also makes certain housekeeping amendments to provisions of the Trade-marks Act that are enacted by the Economic Action Plan 2014 Act, No. 1 and the Combating Counterfeit Products Act.

**Bill C-86** amends the *Patent Act* in order to:

- Provide a regulation-making authority for the establishment of requirements for written demands relating to patents;
- Codify the research exemption in Canadian law, which specifies that an act committed for the purpose of experimentation relating to the subject matter of a patent is not an infringement of the patent;
- Specify that licensing commitments that bind the owner of a standard essential patent bind any subsequent owners;
- Expand the rights of a person in respect of a claim in a patent who meets the requirements to be considered a prior user;
- Ensure that patent prosecution histories may be admissible into evidence for certain purposes; and
- Clarify when a late fee must be paid in respect of divisional applications as well as when the confidentiality period begins in the case where a request for priority is deemed never to have been made.

**Bill C-86** amends the *Copyright Act* to, among other things:

- Specify that certain information is not permitted to be included within a notice under Canada's notice and notice regime for Internet service provider liability, and to provide for a regulation-making power to prohibit further types of information from being included within such a notice.

Bill C-86 also amends the Copyright Act in order to modernize the legislative framework relating to the Copyright Board so as to improve the timeliness and clarity of its proceedings and decision-making processes.

**(See also "Other information" below)**

<b>Language(s) of notified legal text</b>	English, French
<b>Entry into force</b>	13 December 2018; Bill C-86 received Royal Assent on 13 December 2018.
<b>Other date</b>	

#### Notification details

<b>Submission date of notification</b>	27 September 2019
<b>Other information</b>	<p><b>Bill C-86</b> enacts the <i>College of Patent Agents and Trade-mark Agents Act</i></p> <p>Bill C-86 (see Subdivision D of Division 7 of Part 4):  <a href="https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent">https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent</a></p> <p><i>College of Patent Agents and Trade-mark Agents Act</i>:  <a href="https://laws-lois.justice.gc.ca/eng/acts/C-33.7/FullText.html">https://laws-lois.justice.gc.ca/eng/acts/C-33.7/FullText.html</a></p> <p><b>Bill C-86</b> amends the <i>Trade-marks Act</i></p> <p>Bill C-86 (see subsection B of Division 7 of Part 4):  <a href="https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent">https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent</a></p> <p><i>Trade-marks Act</i> (as amended):  <a href="https://laws-lois.justice.gc.ca/eng/acts/t-13/FullText.html">https://laws-lois.justice.gc.ca/eng/acts/t-13/FullText.html</a></p> <p><b>Bill C-86</b> amends the <i>Patent Act</i></p> <p>Bill C-86 (see Subdivision A of Division 7 of Part 4):  <a href="https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent">https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent</a></p> <p><i>Patent Act</i> (as amended):  <a href="https://laws-lois.justice.gc.ca/eng/acts/p-4/FullText.html">https://laws-lois.justice.gc.ca/eng/acts/p-4/FullText.html</a></p> <p><b>Bill C-86</b> amends the <i>Copyright Act</i></p> <p>Bill C-86 (see Subsection C of Division 7 of Part 4):  <a href="https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent">https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent</a></p> <p><i>Copyright Act</i> (as amended):  <a href="https://laws-lois.justice.gc.ca/eng/acts/c-42/FullText.html">https://laws-lois.justice.gc.ca/eng/acts/c-42/FullText.html</a></p>

<p><b>Agency or authority responsible</b></p>	<p><b>Innovation, Science and Economic Development Canada Patent Policy Directorate</b></p> <p>235 Queen Street Ottawa Ontario K1A 0H5 Canada Telephone: 343-291-3783</p> <p><b>Innovation, Science and Economic Development Canada Copyright and Trademark Policy Directorate</b></p> <p>235 Queen Street Ottawa Ontario K1A 0H5 Canada Telephone: 343-291-3163</p>
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\* Links are provided to texts of laws and regulations notified under the TRIPS Agreement in the form supplied by the Member concerned; the WTO Secretariat does not endorse or revise their content.