

TPP IP Chapter Summary Released – Are More IP Changes Coming?

Oct 6, 2015

Authors: [Scott MacKendrick](#) and [Melanie Szweras](#) and [Amrita V. Singh](#)

On Monday October 5, 2015, the Canadian Federal government announced that Canada had concluded negotiations and become one of the founding members of the *Trans-Pacific Partnership (TPP)*, a trade agreement between 12 Pacific Rim countries, including the United States of America, Japan, Mexico, Australia, New Zealand and Peru.

The *TPP*, which must be ratified by all 12 member countries to come into effect, has the potential for wide-spread consequences across Canadian industry. While text of the *TPP* has yet to be published, the government released a [technical summary on intellectual property](#) which describes some of the proposed consequences for intellectual property laws in Canada and the *TPP* member countries, including:

Copyright

- Changes to copyright enforcement to reflect “or” build upon Canada’s obligations under the World Intellectual Property Organization (WIPO) Internet Treaties;
- Reflects Canada’s “Notice-and-Notice” ISP infringement notification regime;

Patents

- In line with Canada’s agreement with the European Union, the *Comprehensive Economic and Trade Agreement* ([see here for more detailed discussion](#) of CETA), preserves Canada’s ability to meet its obligations regarding patent term restoration for regulatory approval delays, while maintaining its two-year export exception and cap on additional protection;
- Reflects Canada’s patent linkage (*Patented Medicines (Notice of Compliance) Regulations*), clinical trial data protection, and early working exemption regimes;

Trademarks

- Changes to rules regarding opposition to and cancellation of future geographical indications;

Industrial Design

- Changes, if any, in line with Canada’s existing regime, and consistent with the Hague Agreement; and

Enforcement

- Requiring *TPP* member countries to implement border enforcement measures to prevent and detain counterfeit or pirated goods (similar to those under the *Combating Counterfeit Products Act*; [see here for more detailed discussion](#) of the *CCPA*).

It will be interesting to see the specific *TPP* trade agreement language in the coming days to determine whether such rumoured issues as copyright term extension, clinical trial data protection extension, and a counterfeit goods-in-transit prohibition, are also addressed.