Bill C-43: How the New Omnibus Budget Bill May Affect Canadian Patent and Industrial Design Law

October 24, 2014

By Amrita V. Singh

On October 23, 2014, the Canadian Federal government introduced Bill C-43, an omnibus budget bill also known as the Economic Action Plan 2014 Act, No. 2. The Bill, which includes amendments to the Income Tax Act and Aeronautics Act, and the creation of the Canadian High Arctic Research Station, includes important changes to intellectual property law in Canada.

Earlier this year, the Minister of Foreign Affairs tabled five intellectual property treaties. Of these, three treaties were enacted in Bill C-31; the remaining two treaties are addressed in Bill C-43.

Of note, the Industrial Design Act will be made consistent with the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, and amendments made to the Patent Act to make it consistent with the provisions of the Patent Law Treaty. The summary of the Bill states:

> Division 1 of Part 4 amends the Industrial Design Act to make that Act consistent with the Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs and to give the Governor in Council the authority to make regulations for carrying it into effect. The amendments include provisions relating to the contents of an application for the registration of a design, requests for priority, and the term of an exclusive right for a design.

> It also amends the Patent Act to, among other things, make that Act consistent with the provisions of the Patent Law Treaty. The amendments include reducing the requirements for obtaining a filing date in relation to an application for a patent, requiring that an applicant be notified of a missed due date before an application is deemed to be abandoned, and providing that a patent may not be invalidated for non-compliance with certain requirements relating to the application on the basis of which the patent was granted.

The Bill also specifically addresses the issues of maintenance fees, specifying how late fees are to be handled, and how a filing date is to be applied to outstanding documents, applications deemed never filed, and additions to an application.

Interestingly, the much discussed proposed amendment to the Copyright Act to allow politicians and political parties to use news content without the consent of broadcasters was not included in Bill C-43. The proposed amendment had met notable resistance from broadcasters and the opposition political parties.

A more detailed analysis of Bill C-43’s effect on Canadian patent and industrial design law will follow in the coming days.