



## Artificial Intelligence (AI)

Bereskin & Parr helps companies that are developing AI-based technology protect, license and enforce their intellectual property. There are many developing patent, trade secret, and copyright law aspects specific to AI technology, a very exciting new frontier. Our AI practice group provides legal, as well as patent and trademark agency services to companies that are developing core AI technology as well as those using AI technology to improve existing and create new products.

The AI practice group team includes lawyers and patent agents with applied mathematical, computer and electrical engineering educational backgrounds and industry experience particularly suited to AI technologies. Our team has the educational backgrounds and interest to stay on top of and leverage these developments for our clients.

While the legal issues associated with AI technology are complex and will continually evolve, it is important for companies that are building and selling AI-based products to put in place a proactive and complete strategy for IP protection and risk evaluation. Such a strategy should include not only measures to secure patent, trade secret, copyright and design protection where available but also measures to monitor third party IP rights and assess associated risks.

**PATENTS:** Patents protect the functionality of inventions which are new, non-obvious, useful and which consist of patent eligible subject matter and can be strategically used to achieve or maintain position in the marketplace, increase share value and/or secure investment depending on business needs. Patentable subject matter in the U.S., Canada and elsewhere covers AI related innovations that are “sufficiently technological”, that is, necessarily rooted in computer technology and seen to provide a “technical solution” to a “technical problem” in the realm of computing. Showcasing and describing technical details of an AI invention and its practical application may increase the chances of meeting these subject matter requirements.

**TRADE SECRETS:** Trade secrets can provide another avenue of protection for various aspects of AI technology. Trade secrets include any valuable business information that derives its value from the secrecy. Unlike patents, no application or registration is required to obtain trade secret protection, however an innovator must take reasonable steps to establish and maintain secrecy. In turn, the covered information may be protected for an unlimited period of time as long as it is kept secret and has commercial value. Trade secret law may be particularly applicable to various aspects of AI technology, including: formulae, compilations of information, programs, commercial methods, techniques, processes, designs, patterns, and codes which are not generally known or reasonably ascertainable by others.

**COPYRIGHT:** Copyright is relevant to AI in a number of ways, and AI presents many unique challenges to copyright protection and clearance. Copyright can protect software, including its source and object code, graphical user interface, user documentation and product guides. Copyright can also protect databases, and possibly even data, which are instrumental to AI. AI being used in the creation of works challenges the legal understanding and pushes the limits of ‘authorship’ and ‘originality’, which are central to copyright. AI also presents unique challenging copyright clearance issues, for example, text and data mining and open-source software clearance may be essential to IP risk mitigation.

**INDUSTRIAL DESIGNS:** Industrial designs protect novel and non-functional, esthetic aspects of products. Industrial design protection is evolving in Canada, the U.S. and elsewhere to more comprehensively protect the appearance of AI-based technology products, from the novel shape of physical devices (e.g. household robotic devices) to the unique and dynamic visual effects of computer-generated animated graphical designs.

**TRADEMARKS:** Branding is another important factor for the market success of new AI based products and services. Our trademark specialists can provide opinions on the availability and registrability of marks in Canada, the U.S. and elsewhere. They can also provide assistance in the event of contention providing trademark infringement and counterfeiting litigation and settlement services. They can also advise on other trademark, confidentiality and unfair competition issues that arise in



cyberspace and e-commerce such as linking, framing, metatagging and cyberstuffing.

**REGULATORY, ADVERTISING & MARKETING:** Regulation of AI-based products and services will evolve as the technology becomes a larger part of the marketplace and consumer's lives. Our team is committed to keeping clients abreast of regulatory changes that affect the way innovators build, market and advertise their products and services in Canada.

**LICENSING & TRANSACTIONS:** Securing and commercialization of intellectual property rights involves dealings with collaborators, business partners, employees, independent contractors, suppliers, investors, buyers and sellers. Well-drafted agreements protect intellectual property assets, ensure a successful business relationship, and can avoid costly litigation. Our team has deep experience and specialized technical backgrounds to handle licensing and transaction matters for various players in various fields including computer science, electronics, entertainment and new media.

## Recent Articles

[Fast-Tracking Your Green Technology at the Canadian Patent Office Has Never Been Better](#)

October 13, 2020

[Advising AI Start-Ups](#)

October 7, 2020

[Focusing on Value: Viewing AI Through an IP Lens](#)

October 5, 2020

[Patentability of Computer-Implemented Inventions in Canada - The Amazon Saga Continues](#)

October 1, 2020

[High Court Holds that AI Machines Cannot Be Inventors, Further Paving Way for Legislative Phase of the DABUS saga](#)

October 1, 2020

[AI in Focus: BlueDot and the Response to COVID-19](#)

July 30, 2020



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