

NEW INCREASE IN FEES FOR THE REGISTRATION AND GRANTING OF INTELLECTUAL PROPERTY RIGHTS IN CANADA

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Canada has always charged fees for the registration or granting of intellectual property rights throughout its history. The current patent fees were last changed in 1989, trade-mark and industrial design fees in 1985 and copyright fees in 1997.

A new fees structure was proposed in the 2003-03-08 issue of the Canada Gazette Part I and should come into force on 2004-01-01.

Most of the fees have been increased (in some cases, they have more than doubled) and communications through electronic means are favoured.

Subject to final approval by the Governor in Council, the following are the salient points:

With respect to **trade-marks**

- Filing fees will be increased from \$150 to \$400 and the final fee for issuance remains unchanged at \$200;
- It will cost \$400 (as opposed to \$300) to renew a registration;
- An application to amend the register (change of name, legal form, particulars of a defined standard, application for registration of a licence or lien, etc.) will cost \$50 for each trade-mark, registered or not (as opposed to \$25);
- A fee of \$100 (as opposed to \$50) for each mark, registered or not, will be charged for a request to recognize a transfer of ownership;
- A fee of \$125 (as opposed to \$50) for an application for an extension of time;

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- Requesting the issuance of a cancellation notice will entail a fee of \$400 (as opposed to \$150) and the production of a statement of opposition, \$750 (as opposed to \$250).

An on-line application for the registration or renewal of a trade-mark will result in a saving of \$50. Renewals, however, will only be possible where there are no concomitant modifications (for example a change of name or address).

Even if the absence of fees by class renders Canadian trade-mark registration quite affordable, it may be advantageous to proceed immediately to any modifications in order to avoid this increase in fees.

With respect to **industrial designs**, there will also be increases. The fee for

- Examination of an application for registration of an industrial design will have a base fee of \$400 (increased from \$150) with a supplementary fee of \$10 per page of designs in excess of 10 pages;
- Maintenance of a registration of an industrial design (*i.e.* its renewal for an additional term of 5 years after the initial term of 5 years) will increase from \$215 to \$375;
- Delaying registration will result in a charge of \$100, the reinstatement of an abandoned application will cost \$200 and the fee for processing a request for accelerated examination of an application to register a design will be \$500 (these fees do not currently exist).

With respect to **copyrights**, there have been no noteworthy changes other than a discount of \$15 for an online application for copyright in a work (artistic, dramatic, literary or musical) or for copyright in subject matter other than a work (performer's performance, sound recording or communication signal).

With respect to **patents**, the list of modifications to fees is quite lengthy owing to the amendment of the patent rules. Amongst others:

- The fee for filing an application if the applicant is a large entity will be \$400 (rather than \$300 and if the applicant is a small entity it will be \$200 (rather than \$150);
- On requesting the advance of an application for examination: \$500 (rather than \$100);
- On filing an amendment: \$400 (rather than \$200);
- For each page of specification and drawings in excess of 100 pages: \$10 (rather than \$4);
- On filing of an application to reissue a patent: \$1600 (rather than \$800);

- On requesting registration of a document (change of name, assignment, licence, etc.): \$100 per patent (without a sliding scale for costs, which is presently the case).

It is important to note that this is merely a draft on the setting of fees. However as this draft has already been the subject of numerous previous consultations and several adjustments have already been made to these proposals, it is therefore foreseeable that these fees will come into force, as is, on 2004-01-01. It may be economically advantageous to proceed with the registration and maintenance of intellectual property rights before the coming into force of these new fees so as to avoid the effect of these increases.

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