

Forthcoming national IP strategy needs incentives to spur Canadian growth

Liberals should heed the Finance Committee's recommendations for Budget 2018 to ensure Canada doesn't lag further behind its international counterparts in innovation.



Adam Kingsley

Intellectual property

It is well established, both in Canada and abroad, that all forms of intellectual property (patents, trademarks, copyright, industrial designs, trade secrets, etc.) are important to business scalability and sustainability. However, for many years Canada has been lagging behind other jurisdictions in taking advantage of this knowledge by failing to establish policy incentives for developing and commercializing our IP. Canada also lags behind its major trading partners in developing IP awareness and education programs for improving the IP savviness of business owners and future leaders. This has led to Canada's rank dropping for several years running in various important indicator areas of the Global Innovation Index.

It was, therefore, a breath of fresh air when the government announced the Innovation and Skills Plan as a part of Budget 2017. Specifically, the innovation portion of the plan called out the need for a national intellectual property strategy to ensure that our "intellectual property regime is modern and robust." With the government setting an aggressive one-year timeline to develop and announce the plan, we are likely just weeks away from seeing the fruits of its labour. The minister of innovation, science and economic development (ISED) spent a great deal of time this year consulting Canadians on their ideas to increase commercialization outcomes for Canadian businesses and support their growth through an IP strategy. I couldn't help but notice the

questions ISED focused on in consultations seemed to be largely centred around developing IP awareness, savviness, and where to go for IP advice. As I mentioned earlier, these are extremely important facets of an IP strategy, especially in a country where our businesses may not be prioritizing IP as an integral part of their business planning from start-up through to maturity. It, however, did leave me to wonder if we may still end up with a gap in setting policy incentives for our businesses to develop and commercialize IP domestically.

Then I read the 2018 federal budget recommendations of the House of Commons Standing Committee on Finance (FINA) in its report titled *Driving Inclusive Growth: Spurring Productivity and Competitiveness in Canada*. The committee made three important recommendations for policy incentives to support the development and commercialization of intellectual property in Canada: 1) a first-patent program; 2) a commercialization coupon; and 3) an innovation box tax incentive. Each of these recommendations on their own would have an impact, but their cumulative adoption would create meaningful change in the way businesses prioritize development and commercialization of their intellectual property assets. It is important for Canada to introduce financial incentives to drive desired behaviour, and in this case these three programs are complementary by driving smart IP commercialization decisions at all stages of basic research, startup and growth.

Their first policy incentive recommendation, the first-patent program, has existed in Quebec since July 2015. It offers eligible small-to medium-sized businesses a subsidy for expenses related to obtaining their first patent. The demand for this program has been so high that funds were exhausted in less than a year. Statistics from the U.S. show that patent allowances for start-ups have a significant economic impact—a 51 per cent increase in sales growth and a 36 per cent increase in employment growth. A first-patent program at the federal level would allow Canadian inventors, start-ups and small-and medium-sized enterprises (SMEs) that have developed innovative technology to seek patent protection where they might not have had the resources to do so. Support at this critical stage is essential to the success of these start-ups and SMEs.

The committee has also recommended the government make a "commercialization coupon" available to encourage researchers receiving federal grant funding to protect inventions developed in the course of research on the path to commercialization. This would be a one-time-only option in the span of a grant term which would provide additional funding for commercialization activities including filing for IP protection, conducting market studies or for business plan preparation. This coupon would facilitate commercialization activities following the completion of grant-funded projects.



When Innovation Minister Navdeep Bains announces details of the promised intellectual property strategy, it should include financial incentives to get Canadian businesses to develop and commercialize IP at home, writes Adam Kingsley. *The Hill Times* photograph by Andrew Meade

Finally, the committee recommended the introduction of a reduced tax rate for income derived from commercialization in Canada of a company's intellectual property. The expression "innovation box" comes from a checkbox on tax forms to identify revenues that would be eligible for the reduced innovation tax rate. This idea originates from several other jurisdictions, most notably Ireland and the United Kingdom. Similar plans have been adopted at the provincial level in Quebec (January 2017) and in Saskatchewan (June 2017), where taxes were lowered on income derived from commercializing intellectual property.

Although early, the data shows that claims for the U.K. "patent box" program are rapidly increasing. Interestingly, claims for existing research and development (R&D) tax credit programs are up by more than 22 per cent for SMEs and have more than doubled for first-time users of the R&D credit system since introduction of the patent box incentive. The potential downstream impact from these programs

in the U.K. may leave Canada lagging even further behind our major trading partners in the innovation economy if we don't step up with federal intellectual property policy incentives of our own.

The impending announcement of a first of its kind "National IP Strategy" from Innovation Minister Navdeep Bains, coupled with the Standing Committee on Finance's recommendations for creating policy incentives in Budget 2018 to encourage development and commercialization of intellectual property here at home, leave me hopeful for the future growth of Canada's innovative industries. I hope that the minister of finance agrees with the committee's recommendations and sets aside funding for these incentives. It may be just the catalyst Canada needs to ensure we meet our targets on growth and scalability of the innovation economy.

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