

Document Retention and Disposal

Submission to the
Canadian Intellectual Property Office

November 5, 2010



INTELLECTUAL PROPERTY INSTITUTE OF CANADA
INSTITUT DE LA PROPRIÉTÉ INTELLECTUELLE DU CANADA

Draft Practice Notice: Document Retention and Disposal

The Intellectual Property Institute of Canada (IPIC) is the professional association of patent agents, trade-mark agents and lawyers practicing in all areas of intellectual property law. Our membership totals over 1,700 individuals, consisting of practitioners in law firms and agencies of all sizes, sole practitioners, in-house corporate intellectual property professionals, government personnel, and academics. Our members' clients include virtually all Canadian businesses, universities and other institutions that have an interest in intellectual property (e.g. patents, trade-marks, copyrights and industrial designs) in Canada or elsewhere, and also foreign companies who hold intellectual property rights in Canada.

We have had the opportunity to review the Draft Practice Notice from the Canadian Intellectual Property Office (CIPO) regarding document retention and disposal. Please find below our comments on this proposal. These comments were prepared by the IPIC members of the Joint Liaison Committee - Trade-marks and were reviewed, edited and approved by IPIC Council.

We have considered the obligation imposed by Parliament on the Registrar of Trade-marks under subsection 29(1) of the *Trade-marks Act*. That subsection is set out below.

“29. Inspection – (1) Subject to subsection (2), the registers, the documents on which the entries therein are based, all applications, including those abandoned, the indexes, the list of trade-mark agents and the list of geographical indications kept pursuant to subsection 11.12(1) shall be open to public inspection during business hours, and the Registrar shall, on request and on payment of the prescribed fee, furnish a copy certified by the registrar of any entry in the registers, indexes or lists, or of any of those documents or applications.”

Parliament imposed upon the Registrar the positive obligation to keep all documents on which the register entries are based. It went so far as to include **abandoned** applications in that category. We do not believe that this obligation can be abrogated or amended without legislative change. The issue of records retention should be dealt with in the context of any future amendments to the *Trade-marks Act*.

IPIC supports modern-day solutions to this issue of records retention and is happy to work with CIPO in reviewing options such as electronic scanning and storage.

Thank you again for the opportunity to comment on the Draft Practice Notice titled Document Retention and Disposal. We would be pleased to discuss our comments with CIPO at any time.

If we may be of further assistance, please do not hesitate to contact our executive director, Michel Gérin, at 613-234-0516 or mgerin@ipic.ca.