

## INTELLECTUAL PROPERTY

# Fee increases will be welcome if CIPO's performance improves

## CIPO FEES

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If the fee increases are predicated on CIPO delivering improved client-driven service, then supposedly CIPO will be, among other things, attending to its duties in a more timely fashion.

For example, at present, a newly filed trademark application is not examined for registrability for at least 18 months after the date of filing. Much of this examination is done in piecemeal fashion in spite of CIPO's directive that examiners are not to engage in piecemeal examination.

In the very best case scenario, a trademark registration will issue approximately two years after the date of filing.

Compare this to many other jurisdictions where registration often results in six to ten months after the date of filing, sometimes less, and without piecemeal examination.

In the case of patents, an application will not be examined until a request for examination is filed. An applicant has up to five years from the date of filing to request such an examination. With the current

backlog, applications are typically not examined until about two to three years after the date of the examination request (although CIPO has shown some improvement in this area over the last year).

An issued patent is valid for a period of 20 years after the date of its filing in Canada. Conceivably, more than half of the patent's lifetime can be wasted sitting idle at CIPO (although in such an instance, some of the blame will lie with the applicant).

There is no obligation on CIPO to complete examination within a specific time-frame (compared to jurisdictions like

the United States that require that an application be examined within 18 months from the date of filing and provide

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patent-term adjustments to compensate for delays in examination).

The present backlog and to-

date efficiency of CIPO, in this author's opinion, bear directly on the justification for increased fees. If the fee increases are to be justified, CIPO's performance in respect of patent and trademark application processing must show noticeable improvement (a difficult task given the limited availability of people qualified to act as patent and trademark examiners).

The increased fees will be welcomed by many if CIPO's future administrative performance outweighs the burden of the fee increases. However, this is something that will be determined primarily by the pas-

sage of time. Lawyers, agents and applicants must be vigilant in assessing CIPO's performance in light of these fee increases.

If these increases do not result in the alleged improved service, lawyers and agents must join together to challenge either the increase in fees or CIPO's handling of these additional fees.

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*The views expressed herein are those of the author only.*

## CIRA 'reverse look-up' service is useful to IP lawyers

By Tapas Pain

This is further to an article I wrote recently for this newspaper (see "Lack of 'reverse look-up' hurts domain name ADR," *The Lawyers Weekly*, Sept. 5, 2003, p. 13).

The Canadian Internet Registration Authority (CIRA™) subsequently contacted me

regarding the issue of "reverse look-up" information. I was very pleased to learn that CIRA has in fact taken steps to make rule 3.7(b) of its domain name dispute policy applicable and practical — it's just not widely advertised.

The CIRA website ([www.cira.ca](http://www.cira.ca)) provides a mechanism for third parties to discover

what other .ca domain names an alleged cybersquatter has registered. When you visit CIRA's website, follow the links for Official Documents, CIRA Policies, Rules, Procedures and Agreements, and then Registration Information Access Rules and Procedures. The request form is straightforward and very easy to use, but initially difficult to find on the website.

CIRA says that a number of lawyers and agents have recently successfully used this mechanism. CIRA now also sees that awareness of this service is generally low and should be increased, perhaps by a cross-reference amendment in the dispute rules or policy, and/or a corresponding press release.

Although this service is perhaps not as easily accessible as the once-available online reverse look-up feature provided by Network Solutions™,

CIRA should be commended for providing a moderated solution that very effectively balances the privacy concerns of domain name registrants with the need for lawyers and agents to access this type of information.

Because requests are made directly to CIRA, all requests can be screened to minimize the risk of making information available to individuals with ulterior motives. In this respect, it is arguably superior to the service once provided by Network Solutions.

CIRA has answered my call, and silenced this critic (and many others). For this, I thank them.

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