

May 24, 2002

David Tobin
Commissioner of Patents, Registrar
of Trade-marks and Chief Executive Officer
Canadian Intellectual Property Office
50 Victoria Street
Place du Portage, Phase 1
Hull, Québec
K1A 0C9

Dear Mr. Tobin,

RE: Possible Future Positioning of CIPO as an ISA/IPEA

I write on behalf of the National Intellectual Property Section of the Canadian Bar Association (CBA Section) in response to your letter dated March 11, 2002, which proposes that Canadian Intellectual Property Office (CIPO) become an International Searching Authority (ISA) and an International Preliminary Examining Authority (IPEA). The CBA Section's Patents Committee has reviewed the letter on behalf of the Section. We regret that no representative of the CBA Section was able to attend the information session held by CIPO on these topics on April 9, 2002, given time constraints and insufficient notice of the session. However, we remain very interested in the issue and offer the following comments.

We support improving the international stature of CIPO. We also support measures to improve the timing and quality of services offered by CIPO. However, we believe that CIPO's proposal to become an ISA and an IPEA should not increase CIPO's workload so as to negatively affect the timeliness for providing other services. We also believe that there should not be fee increases for existing services as a consequence of this new initiative.

In addition, the proposal that Canadian applicants will have access only to CIPO as ISA/IPEA is of concern. The proposal differentiates between Canadian and non-Canadian applicants, and may prejudice Canadian applicants with respect to the cost, quality and timing of such services. While CIPO may be looking to Canadian applicants to guarantee use of CIPO as ISA/IPEA, we suggest that CIPO not make use of its proposed new services mandatory. Rather, we believe that CIPO should develop a demand for such services by demonstrating that it can favourably compete in the quality, timing and cost of the provision of ISA/IPEA services.

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Thank you for the opportunity to provide the comments of the CBA's National Intellectual Property Section. Please feel free to contact me should you require further elaboration on our views.

Yours truly,

Gunars A. Gaikis
Chair - Patents Committee
National Intellectual Property Section