



November 20, 2013

Via email: denis.martel@ic.gc.ca

Denis Martel
Director, Patent Policy
Marketplace Framework Policy Branch
Industry Canada
235 Queen Street
Ottawa, ON K1A 0H5

Dear Mr. Martel:

Re: CBA Response to Agent-Client Privilege Discussion Paper

Thank you for your email of November 8 seeking the input of the Canadian Bar Association on the creation of a statutory privilege for patent and trademark agents. The CBA is a voluntary association of 37, 500 Canadian lawyers, judges, notaries, law teachers and students. The Association's primary objectives include improvement in the law and in the administration of justice.

The CBA provided comments in the 2003 government consultation on the same core issues raised in the current consultation. At that time, we recommended that a statutory privilege not be granted to patent and trademark agents (www.cba.org/CBA/submissions/pdf/04-07-eng.pdf).

The CBA acknowledges the arguments presented in the November 8, 2013 Industry Canada Discussion Paper, "Patent and Trade-mark Agent-Client Privilege", and the possibility that circumstances and the law have changed since we last commented on these issues. The relationship between patent agents and lawyers, and the overlap in the services offered to the public, are of significant interest to the CBA and its members. Solicitor-client privilege is now established as a substantive right of quasi-constitutional importance. Any decisions that might have an impact on that right should follow very careful consideration and broad consultation.

We are unable to provide meaningful input by the deadline of November 20. We would appreciate the opportunity to consider the issues with appropriate care and urge the government to do likewise. In our view, the government should not move to change the status quo without full and open consultation on all the implications.

Thank you again for seeking the input of the Canadian Bar Association.

Yours truly,

(original signed by Fred Headon)

Fred Headon