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## Two Big Bills

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After years of failing to catch up with other developed countries in bringing its copyright and trademark laws into the 21<sup>st</sup> century, 2014 will be remembered as the year of big IP reforms in Canada. Bill C-31 is one of the two major bills that will, once it comes into force, bring major changes to Canadian trademark law. In broad strokes, the following are some of the upcoming changes:

- No requirement to identify filing grounds
- Shortening the renewal period from 15 to 10 years
- No requirement for use before registration (the most fiercely criticized provision)
- Introduction of Nice Classification and fees per class (preparations for joining Madrid)
- Allowing divisional applications
- Bringing priority claim in line with other countries (priority application will not have to be filed in the country of origin, as it is now the case)
- Introducing lack of distinctiveness refusal at the examination stage
- No requirement to file assignment documents
- No prohibition against assignment of associated marks
- Extension of protection to non-traditional trademarks (scents, tastes, textures etc.) beyond sound marks, distinguishing guises and holograms
- Cancellation of registrations by Court for registrations that unreasonably limit the development of art or industry
- Registrar of Trade-marks will have the power to correct errors in registered marks

Bill C-31 received Royal Assent in June 2014. The coming into force date is not known yet, but it seems likely that the changes will not be introduced before 2016.

The other major development on the counterfeiting front comes in the form of Bill C-8 (originally Bill C-56), known as *Combating Counterfeit Products Act* (CCPA).

This bill is aimed at combating copyright and trademark infringement, the long-awaited and long-overdue change for owners of copyrights and trademarks in Canada. It provides brand owners with expanded rights to sue infringers for damages, provides for new criminal offences for infringing copies, trademark counterfeits and for the possession or export of infringing goods, creates new border enforcement regime by instituting a Request for Assistance (RFA) procedure etc.

This bill received Royal Assent on December 9, 2014. Some provisions came into force immediately, while provisions related to border enforcement measures came into force on January 1, 2015.



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New border enforcement regime will enable rights holders to take action against counterfeit goods before such goods enter the Canadian market. The RFA procedure allows owners of Canadian copyrights (registering a copyright is recommended) and trademark registrations to request assistance from the Canada Border Services Agency to detain the suspected pirated goods at the Canadian border.

Further information regarding the Request for Assistance process will be available upon request.

*The above article is for general information purposes only and does not constitute legal advice. Marina Stipanac is a Registered Trade-mark Agent in our Business Law Group. She can be reached at [mstipanac@perlaw.ca](mailto:mstipanac@perlaw.ca) or 613.566-2280*