



**Chambre de commerce
du Montréal métropolitain**
Board of Trade of Metropolitan Montreal

[Home](#)
[Print this article](#) [Print the bulletin](#) [Contact us](#) [Français](#)

Electronic bulletin

Volume 3 > no 7 > May 2005

La cité

... people
... ideas
... trends



Editorial **Trends** **International trade** **Business information** **Extra Trend Chart** **Business immigration**



The WTC Montréal receives support from:



Canada

Affiliated with the World Trade Centers Association (WTCA)



> >> International trade

Intellectual property at the international level: A powerful but complex tool that has become indispensable

It's not enough to come up with the idea of the century. You must also ensure that its use and marketing will not violate the intellectual property rights of another company. The best example of this made headlines recently when the Canadian firm Research in Motion, based in Waterloo, Ontario, was forced to pay US\$450 million in an out-of-court settlement with the American firm NTP Inc. following a dispute regarding the intellectual property for the popular wireless device BlackBerry.

You must not infringe on someone else's patents

Research in Motion owned a portfolio of patents related to BlackBerry, but it was nevertheless accused of infringing on sixteen U.S. patents. It was extremely lucky to fare as well as it did, since it maintained the right to continue marketing the product.

"Just because you have a patent doesn't mean you are not violating the rights of somebody else," affirms Jean-Sébastien Brière, attorney and patent and trademark agent with Smart & Biggar, a firm specialized in intellectual property and technology law.

International patents

In a global economy, where, more often than not, competitiveness is linked directly to innovation, intellectual property is a key component of the business strategies of many companies.

"It's far more important than before," affirms Brière. "A well-written patent providing the appropriate coverage is a strategic business tool guaranteeing that, for a certain period of time, the patent holder can exclusively exploit the product or invention that has been patented."

But how can you protect your invention at the international level?

The first thing to understand is that there is no such thing as an international patent. Patents are issued only on a national basis. Still, there are mechanisms that facilitate or accelerate the process of obtaining patents in countries where you wish to protect your invention.

Under the Patent Cooperation Treaty, commonly referred to as the PCT, you can simultaneously apply for patent protection for an invention in several countries by filing a single international application. The application then becomes the subject of an international search on the patentability of the invention in question and a report is presented to the applicant.

"Such a report has great credibility," notes Brière. "When it is positive, that is an indication that things look good or, at the very least, that they don't look bad. The other advantage to proceeding in this way is that, while protecting their innovation, applicants have

thirty months to develop a strategy, find the necessary funding, and decide in exactly which countries they wish to obtain patents.”

China: progress made

Do these rules apply to China as well? Many people still have their doubts about this.

“For a long time, China operated outside international trade agreements; in fact it has a long history of producing knock-offs,” admits Caroline Bérubé, attorney and partner at Trust Law Firm in Guangzhou (formerly Canton). “People are still apprehensive, but the situation has improved enormously, and China is respecting international practices more and more, because the pressure is intense. Moreover, China is one of the hundreds of countries that have signed the PCT and is also one of the 77 members of the Madrid system for the international registration of marks.”

According to Bérubé, business people who use a patent in China should still take the necessary steps to protect it. “First of all, of course, you must ensure you are the owner of a registered patent. Next, when you sign a subcontract with a supplier, it is very important to include clauses to protect confidentiality and intellectual property (marks, patents, designs, logos, business names, etc.) to ensure that specific manufacturing processes or moulds are not used by others. The supplier then becomes responsible, in a way, for protecting the patent.”

The expertise of the Board of Trade’s team at the World Trade Centre Montréal

The gradual standardization of practices with regard to intellectual property at the international level makes it more important than ever to have a clear understanding of the strategic value of patents.

“People are not always aware of the value a patent can generate,” notes Brière. “It has also become a major criterion in the decision by venture capital firms to support a project and in that of foreign companies to acquire technologies developed here.”

In this regard, the experts at the Board of Trade’s WTC Montréal offer regular training workshops, in Montreal and outside the country, to business people looking to maximize the potential of intellectual property in today’s economy.

“The workshops organized by the WTC Montréal team of the Board of Trade provide excellent opportunities to educate business people about the sound management of intellectual property,” concludes Brière.



Calendar of activities >>>

> [Advantages of being a member](#)

Our services

[International trade](#)
[Business information](#)
[Networking Activities](#)

Visit our Web site at
www.btm.qc.ca

