



Rx IP - Feature Article

COVID-19 Update: CIPO, Federal Courts, Health Canada.

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This article was last updated on **June 1, 2020**.

In view of COVID-19, we have compiled a list of important updates as it relates to the pandemic and its impact on Life Sciences.

We will continue to update this page as new updates come in:

CIPO COVID-19 updates

- Patent, trademark and industrial design deadlines through Friday June 12, 2020 are now extended until **Monday June 15, 2020** (see [here](#), [our article here](#), and [FAQs regarding the initial extension](#)).
- The *Patent Act* was amended on March 25 to expand the powers of the Commissioner of Patents to authorize use of patented inventions in specified circumstances to respond to public health emergencies (see [our article here](#)).

How Canadian courts have changed operations due to COVID-19

- **The Federal Court of Canada** (see March 17 Practice Direction and Order, FAQs, superseded by April 4 Updated Practice Direction and Order, amended by April 29 Practice Direction and Order: Update #2 and May 29 Update #3) implemented a suspension period until April 17, extended to May 15, May 29, and now June 15. Many deadlines are suspended until June 29 and the Court will not hold in person hearings until July 13. A patent infringement trial that had commenced on March 9 but was adjourned in view of COVID-19 has been ordered to resume by Zoom starting May 25 (see [remote trial protocol here](#)). See also: General Policy Statement re: Virtual Hearings.
- **The Federal Court of Appeal** (see March 16, March 19, April 2, May 12 and May 28 notices) adjourned most hearings and suspended many deadlines until April 17, extended to May 15, May 29, and June 15. The Federal Court of Appeal in its April 15 notice provides procedures for cases that are selected to progress, for example, relating to hearings by teleconference or videoconference. As of May 12, there are twelve appeals scheduled to be heard remotely in May and the first week of June.
- Deadlines affecting intellectual property matters governed by statutes and regulations (other than the *Federal Courts Act* and the *Federal Courts Rules*), including statutory stays under the *Patented Medicines (Notice of Compliance) Regulations*, have **not** been extended by the Federal Court/Federal Court of Appeal's notices/Orders.

- The status of court suspensions across Canada is available here (message from the Chief Justice of Canada).
- An Action Committee on Court Operations in Response to COVID-19 has been established.

Health Canada's response to COVID-19

- The *Food and Drugs Act* was amended on March 25 to provide regulation-making power: (i) requiring the provision of information to the Minister of Health and (ii) considered necessary “for the purpose of preventing shortages of therapeutic products in Canada or alleviating those shortages or their effects, in order to protect human health” (see our article here).
- Health Canada has taken a number of steps to facilitate availability of COVID-19 health products, to publish information relating to COVID-19 clinical trial applications, approvals and shortages, and to provide guidance on the conduct of ongoing clinical trials in light of COVID-19 (see our articles here and here). Health Canada has also contacted Health Product Licence Holders to advise how they may be able to contribute (e.g., by identifying production capacity that could be used for manufacturing personal protective equipment) and issued requests for information for alternative suppliers of certain pharmaceuticals (see our article here).
- Health Canada and the Competition Bureau have taken action against manufacturers and retailers making impermissible COVID-19 related claims (see our article here).

Other COVID-19 regulatory developments

- There have been a number of pharmacy developments including broadening the scope of pharmacists’ practice in view of COVID-19 (see our article here).
- Reimbursement-related developments include interim funding measures by Cancer Care Ontario, guidance by the Ontario Ministry of Health recommending a maximum 30-day supply of medication, as well as amendments in Ontario to better align calculation of brand reference price with the rest of Canada (see our article here).

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