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Canadian Intellectual Property Office

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Office de la propriété intellectuelle du Canada



DOING BUSINESS ABROAD

# Protecting your IP in the European Union





This publication is also available online at [Canada.ca/intellectualproperty](http://Canada.ca/intellectualproperty)

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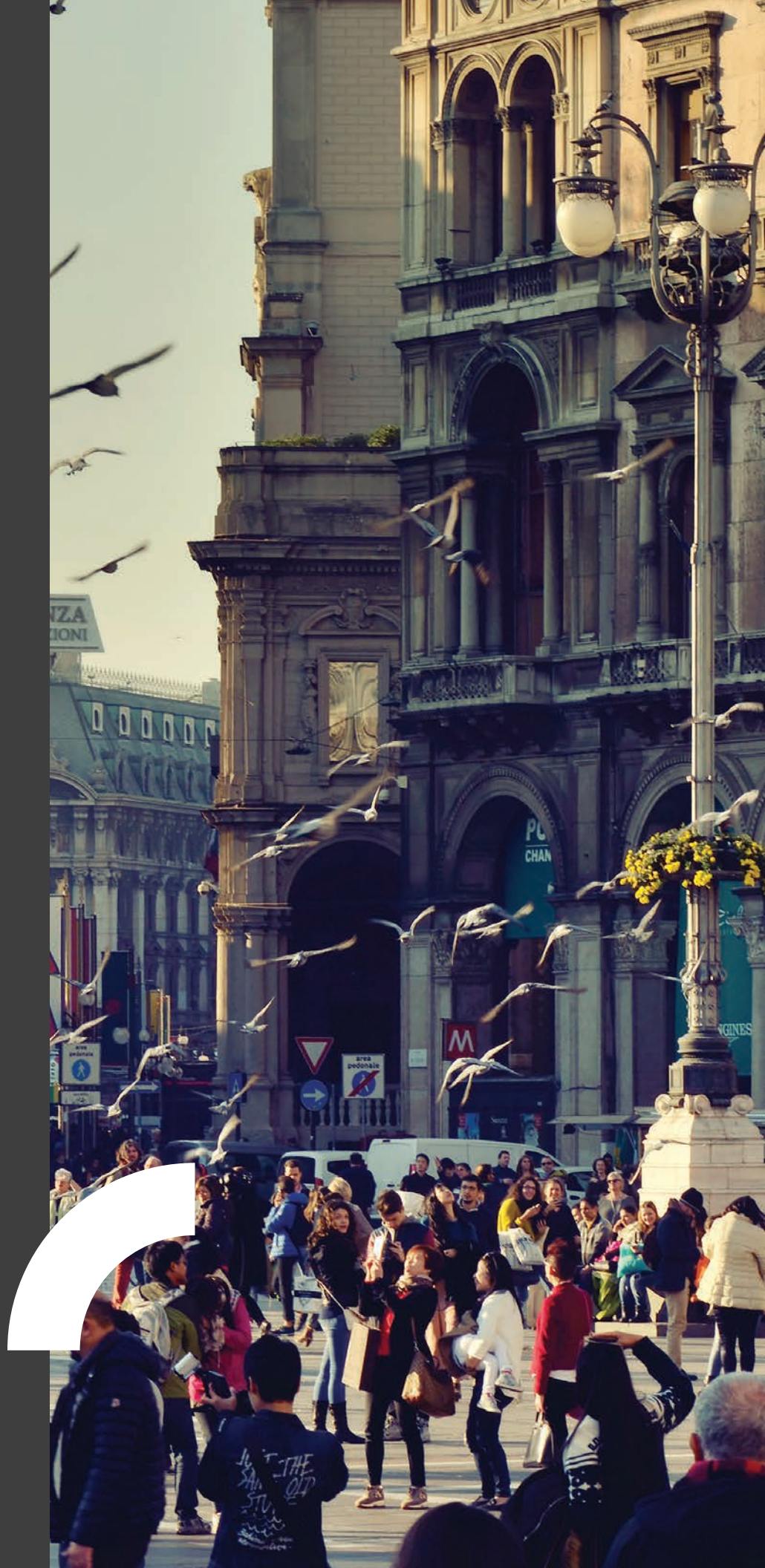
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DOING BUSINESS ABROAD

# Protecting your IP in the European Union

**Intellectual property (IP)** is a valuable asset that can support your business expansion abroad. A Canadian patent, trademark or industrial design does not secure your rights outside of Canada. You should consider obtaining IP protection in the countries where you plan on doing business, including selling products over the Internet and/or manufacturing products overseas.

Canada and the European Union (EU) are among the world's largest trading partners. More than CAD\$85 billion in goods and services are exchanged between them annually. It is important to know how to recognize, register and enforce your IP rights in the EU.

In the EU, you can apply for EU-wide patent, design, plant variety and trademark protection. You can also apply for IP protection on a national basis in each individual country of interest.







# Where is IP registered?

**The European Union Intellectual Property Office (EUIPO)** is the agency responsible for registering EU-wide trademarks and designs. The granting of EU patents is administered by the European Patent Office (EPO).

Applications for trademarks and designs can be filed electronically at [euipo.europa.eu](http://euipo.europa.eu), and patent applications can be filed at [epo.org](http://epo.org).

If you do not wish to apply for IP protection across the EU, national applications for relevant IP may be filed at each EU country's national IP office.

Both the EU and national IP office websites have online searchable databases. A good first step is to search existing IP to check whether your anticipated IP use may conflict with or infringe on someone's prior rights.

It is important to determine your IP strategy and consider whether to file applications for EU-wide coverage or file only in the national markets of interest.

## Trademarks

- In the EU, as in Canada, a trademark is a combination of letters, words, symbols, sounds and/or designs that distinguish your company's goods and services from those of others in the marketplace.
- There are two primary paths to trademark registration:
  - (1) a European Union trademark (EUTM) provides protection in all member states of the Union
  - (2) a national level trademark provides users with protection through the individual IP office of the EU country in which they apply

What you choose depends on the needs of your business.

- The term of an EUTM is 10 years and may be renewed every 10 years.
- **For additional information** on trademarks and applying for trademark registration, visit [euipo.europa.eu](http://euipo.europa.eu).

## Patents

- In the EU, applications can be filed for a national patent and/or a European patent designating individual European countries. A European patent application does not result in a single patent. If the patent is granted, the application becomes a package of national patents.
- Inventors will soon be able to apply for a “Unitary Patent”, which will be effective in nearly all EU countries. The Unitary Patent will ensure uniform protection for an invention across the EU and is expected to reduce costs and administrative burden.
- European patents are granted for inventions that are new, involve an inventive step and are industrially applicable.
- The maximum term of a European patent is 20 years from the filing date of its application.
- The EU restricts some types of subject matter from being patented. For example, the EU does not recognize some inventions based on ethical or social grounds, including processes for cloning human beings and use of human embryos for industrial or commercial purposes.
- The Patent Prosecution Highway (PPH) may be used by Canadian applicants to speed up the examination process for corresponding patent applications filed at the EPO.
- The Patent Cooperation Treaty (PCT) makes it possible to secure the rights to an invention

in a large number of countries by filing a single “international” application instead of several separate applications. However, the granting of a patent remains the responsibility of the European country in which it was granted.

- **For additional information** on patents and applying for patent protection in the EU, visit [epo.org](http://epo.org) or the websites of each European country of interest.

## Designs

- In general, design refers to the appearance of a product in particular, the lines, contours, colours, shape texture and/or materials of the product.
- Applications for designs can also be filed at the national or EU-wide level. A single application for a registered Community design (RCD) at the **EUIPO** provides protection throughout the EU.
- An RCD is valid for five years and can be renewed up to four times for a total of 25 years.
- **For additional information**, please visit [euipo.europa.eu](http://euipo.europa.eu).

## Copyright

- In the EU, as in Canada, copyright protects original works such as literary, dramatic, musical and artistic works.
- Copyright is automatic and requires no formal registration. Copyright protection begins upon creation of the work.
- Copyright protection in the EU usually lasts for 70 years after the death of the author of the work. If the work originates outside the EU and the author is not an EU national, the term of protection granted in the EU is, at minimum, 50 years after the death of the author of the work.









# IP enforcement

**The European Union’s Directive on the enforcement of IP rights** requires all EU countries to apply appropriate remedies and penalties against parties engaged in counterfeiting and piracy.

Under the Directive, all EU countries have similar measures available for IP rights holders to defend their IP rights. IP rights can be defended by asking customs to seize goods suspected of infringing any IP. In order to do so, an “application for action” must be filed with the relevant customs department. Depending on your particular rights, the application for action can be national or EU-wide.

Legal proceedings can also be started to enforce your IP rights. Mediation and arbitration, which are generally more informal, less adversarial, cheaper and settlement-focused, can be used as alternatives to going to court.







# Tips: Important notes

- IP rights are important—take the time to identify your IP to determine what can be registered, patented and/or enforced.
- Align your IP strategy with your business strategy. Identify business goals, protectable IP, regional requirements, potential partners and capacity to expand into your target markets.
- Routinely monitor the marketplace for any unauthorized use of your IP.
- Prior to proceeding with any of the enforcement methods outlined above, consider contacting a qualified legal representative to discuss options including a “cease and desist” letter.

## For additional help:

- For information about IP protection in the EU, please see the websites of the EUIPO at [euipo.europa.eu](http://euipo.europa.eu) and the EPO at [epo.org](http://epo.org)
- For material relating to the export of goods to the EU, please see the Canadian Trade Commissioner Service website at [tradecommissioner.gc.ca](http://tradecommissioner.gc.ca).
- Visit the Global Affairs Canada website at [international.gc.ca](http://international.gc.ca), for more information about doing business in the EU.
- For IP tools, resources and information for business, visit [Canada.ca/ip-for-business](http://Canada.ca/ip-for-business).
- For more information on going global with your IP, visit [Canada.ca/export-ip](http://Canada.ca/export-ip).
- Find more programs and support for Canadian businesses and innovators at [innovation.canada.ca](http://innovation.canada.ca).

\* The information provided above is meant as an educational resource only and should not be construed as legal advice.



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