

# The IPIGRAM (27 October 2014)

## Feature Posts

**October 29, 2014**  
**From Basement to Boardroom: IP Strategy for Early-Stage Companies**  
A Toronto Intellectual Property Group event. [Click](#) for details.

**October 30, 2014**  
**Trademark Licensing 101: Fundamentals for Brand Monetization and Protection**  
A LES Toronto Chapter event. [Click](#) for details.

**November 21, 2014**  
**2014 Third Annual Patent Colloquium**  
[Click](#) for details.

**13th Annual Oxford International Intellectual Property Law Moot**  
**Written submissions due December 12, 2014**  
Participation in the oral rounds by invitation on the basis of two written submissions prepared by teams wishing to compete. Osgoode students interested in participating should contact IP Osgoode by October 31. [Click](#) for details.

**Intellectual Property Journal Call for Submissions**  
Submissions are welcomed to be considered for inclusion in the Intellectual Property Journal (IPJ). [Click](#) for details

CIPO has officially begun the consultation period for its [Trade-marks Regulations 2014](#). These regulations require an update to coincide with the recent amendments to the Trade-Marks Act. According to CIPO's [press release](#), "The proposed regulatory amendments to the Trade-marks Regulations are required to enable Canada to accede to the Singapore Treaty on the Law of Trademarks, the Protocol relating to the Madrid Agreement concerning the International Registration of Marks and the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks."

### **Promises That Can Kill: An Update**

October 26, 2014 by [David Heller](#)

Under the *Patent Act*, an invention must be useful to be patentable. While in Canada the inventor does not need to describe the utility of the invention in the patent, where the patent makes a promise of utility, utility is measured against that promise. If the inventor does not make an explicit promise of a specific result, the threshold to find utility will be low; a "mere scintilla" of utility will suffice. Under the "promise doctrine", a patent which would otherwise be valid can be invalid if it promises more than the invention delivers. As a result, discerning whether the specification has a promise of a specific result can have significant impact on the validity of a patent. The recent Federal Court of Appeal decision of *Apotex Inc v Sanofi-Aventis Canada Inc* ("*Sanofi*"), for which the Supreme Court has granted leave to appeal, advocates for a degree of constraint when determining whether a patent contains a promise.

[Read more](#)

*David Heller is a Partner at the Toronto office of Ridout & Maybee LLP, where he specializes in the areas of pharmaceuticals, biotechnology, and chemistry. David has been recognized as a leading IP lawyer in the Chambers Global Guide 2014, 2013, and 2012 rankings.*

### **Users' Rights and Realities: CCH, Fair Dealing, and the Experiences at Canadian Cultural Institutions**

October 26, 2014 by [Joseph Turcotte](#)

Recent research is shining a new light onto the Supreme Court of Canada's (SCC) decision that is said to have "reconceptualized" [fair dealing as an integral part of copyright law in Canada](#) ([Craig, p. 449](#)). During a 29 September 2014 lecture in the [IPOsgoode Speaks Series](#), Dr. Emily Hudson, the Career Development Fellow in Intellectual Property Law at the [Oxford Intellectual Property Research Centre](#) at the University of Oxford, questioned the prevailing legal and academic perceptions of the [CCH Canadian Ltd. v. Law Society of Upper Canada \(2004 SCC 13\)](#) judgment in a research presentation entitled: "[Copyright Exceptions as Users' Rights? An Empirical Critique](#)".

[Read more](#)

*Joseph F. Turcotte is an IPilogue Editor and a PhD Candidate in the Communication & Culture Program (Politics & Policy) at York University.*

### **How Many Spins of "Summer of '69" Earns Bryan Adams a Real Six String?**

October 26, 2014 by [Jordan Fine](#)

This past spring, the Copyright Board of Canada [issued its decision](#) certifying Re:Sound's Tariff 8 and setting the royalties collected for webcasting in Canada. Many parties of interest were incensed by the proposed rates, which are difficult to understand without the context of the entire royalty system in Canada.

[Read more](#)

*Jordan Fine is an IPilogue Editor and a JD Candidate at Osgoode Hall Law School.*

## Recent Posts

### **The Legality of "Player" Generated Content**

October 26, 2014 by [Sabrina Ding](#)

With the rising popularity of video and computer games, a new form of user generated content ("UGC") and a whole new set of intellectual property issues is emerging. Science fiction web series such as [Red vs. Blue](#) use copyrighted graphics and characters from the popular Xbox video game [Halo](#) to create new comedic content parodying first person shooter games. The web series has [attracted nearly one million viewers, sold out the Lincoln Centre, and enabled its creators Rooster Teeth Productions to earn a living solely based on it](#) [1]. In light of such success, are parties like Rooster Teeth Productions legally allowed to use copyrighted content without providing compensation to video gaming companies? Should video game UGC be protected in any way?

[Read more](#)

*Sabrina Ding is an IPilogue Editor and a J.D. candidate at Osgoode Hall Law School.*

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