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Memorandum

**To** Rose-Marie Perry, Q.C.

**Date** December 1, 2003

**Re** Industrial Design Focus Day

**From** S. Fred Barbieri

**File** AIPPI

As you requested, on November 6, 2003, I attended the Industrial Design Focus Day presentation (the "Meeting") at the Canadian Intellectual Property Office (CIPO).

Enclosed are a copy of the slides presented at the Meeting. Also enclosed is a copy of a chart showing changes to the Industrial Design Tariff of Fees.

Dough Kuntze, CID, presented the slides at the Meeting and led the informal discussion. The presentation started with a general description of CIPO. In particular, Mr. Kuntze stressed that CIPO operates on a full cost-recovery basis.

With respect to intellectual property, CIPO is currently focussing its attention towards two goals: i.) Improve the turn-around times for the issuances of intellectual property; and ii.) Build up an international capacity.

Problems in the past with respect to the Industrial Design Division include the fact that there has been much turn-over at the position of Director, industrial designs are the smallest of CIPO's "product lines", and that the Industrial Design Act is outdated and not a Parliamentary priority. The expenses exceed the revenues in the Copyright & Industrial Design Branch.

A chart was presented to show that the number of industrial design applications filed in Canada appear to be levelling off at the 3000 to 3500 range (although slowly increasing). The turn-around times for examination and registration of industrial designs appear to be fairly constant at about 8-10 months and 12-15 months, respectively.

The Industrial Design Division wishes to "reinvent" the processing of applications within the bounds of the existing legislation, while at the same time improving their financial bottom line. A review of the Industrial Design Division was performed and sparked changes to the office practices and procedures which were explained at the Meeting for stakeholder "feedback". The highlights to the changes are shown on page 21 of the slides. When a final plan is devised, an office change notice will be issued.

CIPO believes it can achieve faster turn-around times and profitability with changes to its examination procedures and policies.

- CIPO will implement a preliminary examination for formalities, whereby CIPO will not perform a search on an industrial design application unless the description, title and drawings clearly define the design.

- CIPO wishes to create a searchable database (as in trade-marks and patents) to be able to search industrial designs. CIPO is seeking opinions regarding what search parameters stakeholders want.
- CIPO will allow greater flexibility with respect to titles (within reason).
- CIPO would like to eliminate environmental views completely from an industrial design (The current practice is to allow environmental views, as dashed lines, only on the final drawing).
- CIPO does not want to allow kits: the fully assembled article must be shown, i.e., no separate pieces, and the word kit should not be in the title.
- Finally, CIPO wants to place an onus on the applicant to declare whether or not the design has been published. In particular, CIPO is considering searching Canadian registrations to satisfy s. 6(1) of the Industrial Design Act and will seek a declaration from the applicant for s. 6(3) of the Act. Thus, CIPO is taking the position that “publication” in s.6(3) of the Act means “publication by the applicant”.

NOTE: With respect to industrial designs, CIPO is currently focussing its attention to achieving the first goal (turn-around times). The goal is to achieve an average turn-around time of six months from application to registration, as well as bringing the current inventory of unexamined applications to zero. Once this goal is achieved, then CIPO will turn its attention to the second goal (international capacity) for industrial designs.

A committee will be formed to discuss these issues further (likely an IPIC committee). Finally, electronic filing is not currently a priority for CIPO with respect to industrial designs.

The Industrial Design Tariff of Fees chart was presented as “self-explanatory”. The chart lists 12 Items, the current service for which fees are charged or will be charged, the current fee up to December 31, 2003, and the new fee in force starting January 1, 2004. It was suggested that CIPO increase its fees more regularly with smaller amounts to avoid the current problem of having a large increase in fees after not having increased its fees for years.

End of report.