

July 17, 2017

Mr. Denis Martel
Director of Patent Policy
Strategy and Innovation Policy Sector
Innovation Science and Economic Development Canada
235 Queen Street
Ottawa, Ontario K1A 0H5

RE: Canada's New Intellectual Property Strategy

Dear Mr. Martel,

On behalf of the member companies of BIOTECanada, I am pleased to submit to Innovation Science and Economic Development Canada the industry's perspectives and recommendations in the context of Canada's new intellectual property strategy. The Canadian biotechnology industry greatly appreciates this opportunity to contribute to ISED's consultations on this important matter.

BIOTECanada is the national trade association representing Canada's biotechnology industry. The over two hundred-member companies of BIOTECanada are reflective of the broad and diverse Canadian biotech ecosystem which stretches across the country and includes: world-class universities and research institutes; SME's; entrepreneurs; and, large multinational players all of which are supported by a highly skilled and educated workforce. All told, the Canadian biotechnology ecosystem is an economic strength that positions Canada well to successfully compete in the emerging global bio-economy.

With the world's population rapidly approaching the nine billion-person mark there is a social imperative to develop solutions that will address the challenges associated with feeding and caring for a growing population and a planet impacted by this rapid and significant population increase and its corresponding economic growth. In meeting this social imperative there is a significant economic opportunity for Canada's biotechnology sector and the solutions it represents. Importantly for Canada, the biotechnology sector is developing innovation that will not only directly address some of these challenges but will also support the transformation of cornerstone industries such as mining, forestry, oil & gas, manufacturing, and agriculture which must all remain competitive in the global bio-economy.

However, other nations are moving quickly to capitalize on the enormous economic potential of biotechnology innovation and are putting in place policy measures and regulatory systems to support the attraction of investment to and growth of their domestic biotech sectors. Correspondingly, Canada must keep pace.

For his reason, the industry welcomed the 2017 federal Budget's initiative to develop a new intellectual property strategy to ensure Canada's intellectual property regime is modern and robust and supports Canadian innovations in the 21st century. Importantly, this strategy will ensure Canada's IP regime supports commercializing Canadian innovation and creativity, fosters an ecosystem that supports businesses to grow to scale, and ensures that firms have the awareness and incentive to strategically use IP to grow and compete.

Further to the budget announcement, Innovation, Science and Economic Development Canada announced a consultation process to identify for an IP strategy which includes identifying measures that would increase commercialization outcomes for Canadian businesses and support their growth. It is in this context that BIOTECanada offers the industry's perspectives.

The risk profile and timelines associated with developing a new biologic therapy or industrial, environmental and agricultural biotechnology innovation are complex and lengthy, often more so than other sectors. Accordingly, the associated costs of filing patents and maintaining IP over a longer period of time before becoming commercial viable can be significant. In light of the government's stated goal of increasing commercialization outcomes and recognizing the unique nature of the industry's intellectual property asset and its need to attract significant investment for commercialization purposes, the industry recommends the government include two measures in its IP strategy, namely:

Recommendation #1: Expand IRAP and/or SR&ED funding to include patent fees

Smaller innovative non-commercial companies actively build patent portfolios to support their valuation and attract investment. Patent fees to secure and protect these core innovation assets are a vital part of a company's business, IRAP and SR&ED provide important support to grow a small company but do not provide funding, or allow for intellectual property fees that protect a company's core innovation in patents. BIOTECCanada recommends that the IRAP funding and SR&ED be expanded to include financial support for patent fees. To encourage rapid growth of early start-up companies, a "first to file" funding for Canadian companies to help offset costs of filing their first Canadian patent would also help Canadian companies file patents as soon as possible to secure their intellectual property.

Recommendation #2: Establish an Innovation/Knowledge Development Box

Additionally, a number of jurisdictions have established specific tax measures to support a company's early stage growth by providing reduced tax rates on revenues earned from commercial activity relating to a company's intellectual property. The 'Knowledge Development Box' (Ireland) or 'Innovation Box' (Netherlands) provide good models for Canada. A similar initiative would complement Canada's strong biotechnology research and development capacity and increase its competitiveness in attracting and retaining IP holdings by encouraging commercial development of the intellectual property in Canada. Such an initiative would significantly support early stage companies to establish and grow their companies in Canada.

The industry greatly appreciates the government's initiative to develop an intellectual property strategy that is modern, robust and helps support commercialization of innovation. In this context, the industry welcomes the opportunity to contribute to the consultation process and stands ready to work with the department on implementation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Andrew Casey', with a long horizontal flourish extending to the right.

Andrew Casey
President and CEO