



22nd Annual Advanced Patent Law Institute

Patent Litigation Around the World: Canada, China and Germany

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CANADA

The Numbers

Number of trial courts:	1 Federal +all provincial superior courts
Number of annual patent infringement litigation filings:	73
Percentage of cases that go to trial:	6%
Average time to trial:	24-36 months
Patentee win rate:	47%
Validity win rate:	40%
Statute of limitations:	6 years from the date of infringement

Introduction

- > First patent granted in Canada in 1791
- > Patent Act originally enacted in the 1820s
- > Foreigners were permitted to obtain patents beginning in 1872

Filing Suit

- > Provincial or federal court
- > Majority are filed in federal court
- > The Federal Court of Canada does not have any specific geographic location
- > No jurisdictional differences between the courts
- > Decisions of the Federal Court are binding in every province and territory in Canada

Filing Suit (cont'd)

- > Statement of Claim to institute action
- > Statement of Defence admitting or contesting allegations and setting forth counterclaims
- > Plaintiff may file a Reply
- > Discovery begins after the close of pleadings

Pre-Suit Activity

- > Anton Piller Order – search and preservation

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First appeared as part of the conference materials for the
22nd Annual Advanced Patent Law Institute session

"Patent Litigation Around the World: Canada, China, and Germany"