

SECTION: <b>CORPORATE COMMUNICATIONS</b>		14.17.0
SUBJECT: Intellectual Property		
EFFECTIVE: <b>September 18, 2002</b>	REPLACES:	PAGE: 1 of 5
APPROVED BY: AF096-2002	PROCEDURAL UPDATES: n/a	

## **POLICY STATEMENT:**

This policy establishes a framework guiding the protection and usage of Intellectual Property registered, under applicable law, by the Corporation of the City of Brampton.

## **PURPOSE:**

Registered Intellectual Property for the City's valuable assets is a reassuring title of ownership in the event of a legal dispute. Without a certificate from the Canadian Intellectual Property Office (Industry Canada), valuable intellectual assets are not considered to be official property of the Corporation of the City of Brampton and therefore can be disputed by a third party. One major implication of unprotected Corporate Property is that a third party can copy or imitate it for their own gain, potentially bringing hardship, lost revenue and embarrassment to the City.

This is the primary rationale for planning and implementing this policy.

## **SCOPE:**

Applications with respect to City of Brampton Intellectual Property shall be filed according to the provisions of these statutes and their associated regulations:

- Patents (as per Patent Act)
- Trade-Marks (as per Trade Marks Act)
- Copyright (as per Copyright Act)
- Industrial Designs (as per Industrial Design Act)
- Integrated Circuit Topographies (as per Integrated Circuit Topography Act)

## **RESPONSIBILITIES:**

According to the Canadian Intellectual Property Office, the following distinguishes the types of Intellectual Property. These criteria shall apply in this policy.

1. Patents represent new inventions (process, machine, manufacture, composition of matter), or any new and useful improvement of an existing invention.
2. A trade-mark is a word, symbol or design (or combination of these features), used to distinguish the wares or services of one person or organization from those of others in the marketplace;

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3. Copyrights provide protection for literary, artistic, dramatic or musical works (including computer programs), and three other subject-matter known as: performance, sound recording and communication signal;
4. Industrial designs are the visual features of shape, configuration, pattern or ornament (or any combination of these features), applied to a finished article of manufacture
5. Integrated circuit topographies refer to the three-dimensional configuration of the electronic circuits embodied in integrated circuit products or layout designs.

A City property should be considered eligible for certification under the appropriate legislation when one or more of the following criteria have been met:

1. The potential for city property to be targeted for 'infringement' by a third party is high (temptation to copy, imitate, for wares or services unrelated to the City of Brampton).
2. Probability for fraud by a third party is high.
3. Currently portrays identity/image of City wares or services.
4. High financial investment has been and/or will be made by the City to promote usage of property.
5. Is Symbolic: has sentimental or historic significance.
6. Is used to support revenue-generating services of the City.

The Corporation has the exclusive right to register Intellectual Property created by employees of the Corporation, who have created such Intellectual Property during or as part of their regular employment duties.

## **PROCEDURE:**

This section of the policy provides the following instructions for the protection and usage of the Corporation's Intellectual Property: (1) Internal Approval Requirements; (2) External Approval Requirements; (3) Use of Intellectual Property and (4) Infringement.

### Internal Approval Requirements

Each department in the City of Brampton shall administer the following steps.

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1. **Identification:** Department Head identifies Intellectual Property within mandated service areas.
2. **Verification:** Department Head applies eligibility criteria herein, in consultation with the Commissioner of Economic Development and Communications and external agent, as required.
3. **Approval:** Commissioner of Economic Development and Communications and Department Head jointly recommends to Senior Management Team (SMT), and thereafter to City Council, registration of the Intellectual Property.
4. **Implementation:** Upon Council approval the application process for certifying the property is initiated by the Commissioner of Economic Development and Communications.
5. **Administration:** Upon registration the Commissioner shall notify the Department Head and SMT of successful completion. The original certificate shall reside with Corporate Records and copies provided to the Department Head and Commissioner of Economic Development and Communications. The Department Head shall notify applicable staff and Council as required.

#### External Approval Requirements

The Economic Development and Communications Department shall retain the services of an external agent specializing in the applicable application and filing processes in the Province of Ontario and in Canada.

Below is a summary of the procedure the City's agent shall undertake for each application made by the City of Brampton.

1. An independent application for each item, deemed to be 'Intellectual Property of the City of Brampton', shall be filed with CIPO.
2. Under the legislation, public notice shall be given pursuant to the requirements of the applicable Act.

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3. Upon completion, a certificate and registration number shall be issued to the City of Brampton.

CIPO charges a filing and registration fee for registering the Intellectual Property. Such registration thereafter, provides the City of Brampton exclusive rights to use the Intellectual Property across Canada for a period of time (e.g., for Trade-Marks -15 years or in perpetuity) and can be renewed thereafter upon payment of a renewal fee. An additional fee is charged, per application, by the City's agent.

#### Use of Intellectual Property

Registered Intellectual Property under this policy shall be used exclusively for activities related to The Corporation of the City of Brampton. Usage of Corporate Intellectual Property by City of Brampton employees, other than within the scope of employment, members of Brampton City Council, other government agencies, not-for profit agencies, the public and businesses, for activities not related to The Corporation of the City of Brampton, without the approval of City Council, is prohibited. Intellectual Property used by the Corporation in its regular business activities (e.g., City Hall mark on letterhead, business cards, web site and so on) is subject to this policy.

The procedure for obtaining approval from City Council for the usage of the Corporation's Intellectual Property is:

1. Letter from the party, to the Commissioner of Economic Development and Communications, requesting usage of the identified Intellectual Property, stating: (1) Formats it will be used; (2) Why it will be used; (3) Timeframe required; (4) How it will be displayed, featured, promoted in the media, or marketplace.
2. Letter circulated to SMT for comments.
3. Staff report with recommendations submitted to Council for consideration.
4. Party notified by the Commissioner of Economic Development and Communications of the Council decision.

#### Infringement of Corporate Intellectual Property

A person who infringes a patent or trade-mark or copyright or industrial design or integrated circuit topography registered by the Corporation of the City of Brampton is liable, and shall be subject to the infringement provisions stated in the applicable legislation. The City Solicitor

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with authorization from City Council shall undertake the necessary action to protect the City's intellectual property rights when an infringement has been identified.

### **ACCOUNTABILITY:**

While the Commissioner of Economic Development and Communications is responsible for Verification, Implementation and Administration of matters related to this policy, Department Heads are responsible within their service delivery mandate to Identify "Intellectual Property" candidates and initiate the steps outlined in this policy. Department heads are also responsible for bringing infringement of the City's intellectual property rights to the attention of Senior Management Team for appropriate action.

### **ADMINISTRATION:**

The department responsible for administration of this policy is the Economic Development and Communications Department.

### **CONTACT:**

Commissioner of Economic Development and Communications

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