

Canada

Previous Canadian case law did not recognise client-patent advisor privilege (*Lumonics Research Co. v. Gould*, 70 C.P.R. (2d) 11; *Whirlpool Corp. v. Camco Inc.*, 72 C.P.R. (3d) 444; *Lilly Icos LLC v. Pfizer Ireland Pharmaceuticals*, 2006 FC 1465). However, that case law is no longer valid in light of recent legislative changes creating a privilege for the clients of agents.

On June 24, 2016, Canada enacted amendments to its patent legislation to recognize as privileged confidential communications between patent advisors and their clients. This privilege applies to any communication between a registered patent agent and their client, which is intended to be confidential; and is made for the purpose of seeking or giving advice with respect to any matter relating to the protection of an invention. Canada's new patent law also recognizes as privileged in Canada communications between a client and a patent advisor from another country, provided that the law of the other country also recognizes those communications as privileged.

So far, no court decisions have been issued regarding this new legislation.