

**SMART & BIGGAR**  
**FETHERSTONHAUGH**

**Colin Ingram**

Partner

Ottawa

Barrister and Solicitor,  
Patent and Trademark Agent



**CONTACT**

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**YEAR OF CALL**

Ontario Bar 2001

**QUALIFICATIONS**

- Queen's University B.A.Sc.  
(Electrical Engineering) 1996
- University of Ottawa LL.B.  
1999
- Registered Patent Agent  
2001
- Registered Trademark Agent  
2001
- Registered to practise  
before the United States  
Patent and Trademark Office

**PRACTICE AREAS**

Litigation  
Patents  
Electrical/Electronics  
Pharmaceutical  
Life Sciences — Regulatory &  
Compliance  
Cleantech  
Agricultural Sciences

**PROFILE**

Colin Ingram practices in the areas of patent prosecution in the electrical/electronics field, and intellectual property litigation.

Colin's litigation practice spans all areas of intellectual property with a particular focus on patent litigation, including pharmaceutical patent litigation. He has experience in both conventional litigation and litigation under the *Patented Medicines (Notice of Compliance) Regulations*. Colin has also been heavily involved in leading Canadian cases on the scope of anti-trust claims relating to the use and acquisition of patent rights. He has appeared as counsel in intellectual property matters before the Ontario Superior Court of Justice, the Federal Court of Canada and the Supreme Court of Canada.

Colin's client activities involve both small and large clients, including several high-profile pharmaceutical, electronics and online retail companies. Colin works as part of a team that offers range, depth and experience in intellectual property litigation, the legal and technical resources to handle litigation in highly technical subject areas, and the capacity to take advantage of recent intellectual property procedural innovations, including the "trial within two years" initiative of the Federal Court of Canada.

Colin has also spent time working in-house at a large Canadian high-tech company, which aids his understanding of the client's perspective when seeking intellectual property advice.

Colin (together with Steven B. Garland and John R. Morrissey of Smart & Biggar) recently successfully represented Amazon.com in *Amazon.com Inc v Commissioner of Patents*, [2010 FC 1011](#), [2011 FCA 328](#) in what has become a leading case regarding patentable subject matter, including computer implemented inventions and business methods, in Canada. The Federal Court of Appeal decision was recognized as the [2012 Canadian Patent Case of the Year](#) by *Managing Intellectual Property* magazine. The Federal Court decision was recognized as the [2010 Canadian Business Case of the Year](#), in the January 2011 issue of *LEXPERT* magazine.

**Rankings and recognitions**

- Recognized as a *World IP Review Leader* since the inaugural edition in 2016
- Recognized annually in *The Canadian Legal LEXPERT® Directory* under Intellectual Property from 2014 to 2017
- Recognized annually since the inaugural edition in 2012 as a 'Local Litigation Star' in *Benchmark Canada* under Intellectual Property
- Recognized annually in *The Best Lawyers in Canada* under Intellectual Property Law since 2012

**EXPERIENCE**

*The Dow Chemical Company et al v Nova Chemicals Corporation*, [2014 FC 844](#) — Successfully represented the plaintiffs as co-counsel in a patent infringement action.

*AstraZeneca Canada Inc et al v Mylan Pharmaceuticals ULC et al*, [2011 FC 1023](#), [2012 FCA 109](#) — Court granted Order of prohibition rejecting generic's arguments of inutility and obviousness.

*Amazon.com, Inc v Canada (Attorney General)*, [2010 FC 1011](#), [2011 FCA 328](#) — Successfully represented Amazon.com in leading case regarding patentable subject matter, including computer implemented inventions and business methods, in Canada.

*Corlac v Weatherford*, [2011 FCA 228](#) - Successfully represented the intervener the Intellectual Property Institute of Canada (IPIC) on this leading case concerning the scope of the "good faith" requirement for patent prosecution in Canada.

*Eli Lilly and Company v Apotex Inc*, [2009 FC 991](#) — Successfully represented defendant by counterclaim, Shionogi & Co. Ltd., in this leading Canadian case on anti-trust claims relating to the use and assignment of patent rights (for interlocutory decision, see [2005 FCA 361](#)).

*Lundbeck Canada Inc v ratiopharm Inc*, [2009 FC 1102](#) — Represented the applicant in this leading case on good faith prosecution under section 73(1)(a) of the *Patent Act*.

*Koninklijke Phillips Electronics NV v Maple Technologies Ltd*, [2007 FC 773](#) — Successfully obtained an order requiring disclosure of information regarding equipment and inventory purchased out of the bankruptcy of a patent infringement action defendant.

*AstraZeneca Canada Inc v Canada (Minister of Health)*, [2006 SCC 49](#) — Represented the

respondent, AstraZeneca Canada, before the Supreme Court of Canada in this leading case regarding the scope of the *Patented Medicines (Notice of Compliance) Regulations*.

*Monsanto Canada Inc v Schmeiser*, [2004 SCC 34](#) — Represented the intervener, The Canadian Seed Trade Association, before the Supreme Court of Canada in this leading case regarding the scope of patents to seeds and plants and patent infringement by use.

*Harvard College v Canada (Commissioner of Patents)*, [2004] 4 S.C.R. 45 — Represented the respondent, Harvard College, before the Supreme Court of Canada in this leading case regarding patentable subject matter and in particular the patentability of animals in Canada.

*General Electric Co v Wind Power Inc*, [2003 FCT 537](#) — Successfully resisted a motion for particulars in this patent infringement action.

## PROFESSIONAL INVOLVEMENT

### Memberships

- Fellow, Intellectual Property Institute of Canada
- Member, American Intellectual Property Law Association

### Speaking engagements

- "Emerging Trends and Policies in Software and Business Method Patenting Around the World," AIPLA 2014 Spring Meeting, Philadelphia, PA, May 2014
- "Business Method Patents: Coming of Age," organized by *LEXPART Magazine*, Toronto, November 2012
- "Navigating the potential minefield of pharmaceutical patents" (co-presenter: J. Sheldon Hamilton), Benchmark Canada Cross-Border Litigation Forum, New York, September 2012
- Presentation of the patents paper, Law Society of Upper Canada's 14th Annual Intellectual Property Law Year in Review, Ottawa, January 2010
- Presentation on intellectual property law and careers in intellectual property, University of Ottawa section of the American Society of Mechanical Engineers 2007 Technical Seminar, Ottawa, November 2007
- "Intellectual Property Rights: Practical Advice for the Non-IP Practitioner" (co-presenters: Steven B. Garland, L. Catherine Eckenswiler and Jeremy E. Want), Continuing Legal Education seminar for the County of Carleton Law Association, Ottawa, October 2006

### Teaching activities

- "Patent Law" (with Steven Garland), University of Ottawa Law School, Common Law Section, February-April 2011-2015
- "Patent Law" (with Steven Garland), University of Ottawa Law School, Common Law Section, 2007
- "Intellectual Property & Technology Law for Engineers" (with Philip Lapin and David Schwartz), University of Ottawa, 2006
- "Patent Law" (with Steven Garland), University of Ottawa Law School, Common Law Section, 2006
- "Intellectual Property & Technology Law for Engineers" (with Philip Lapin and David Schwartz), University of Ottawa, 2005
- "Patent Law" (with Steven Garland), University of Ottawa Law School, Common Law Section, 2005

## MEDIA

### Publications

- "[Federal Court of Appeal affirms award of legal costs of \\$6.5 million in patent infringement case](#)," (co-authors: Steven Garland, Kevin Graham, Jeremy Want) *IP Update — Canada*, February 7, 2017; *International Law Office Intellectual Property Newsletter*, March 13, 2017
- "[Competition Bureau releases updated Intellectual Property Enforcement Guidelines](#)," (co-author: Andrea Kroetch), *IP Update — Canada*, April 1, 2016; *Lexology*, April 1, 2016; *Mondaq*, April 4, 2016; *International Law Office Intellectual Property Newsletter*, April 18, 2016
- "[Competition Bureau releases draft update of Intellectual Property Enforcement Guidelines addressing conduct involving patent assertion entities and industry standard patents](#)" (co-author: Andrea Kroetch), *IP Update — Canada*, June 18, 2015; *Lexology*, June 18, 2015; *Primary Opinion*, June 18, 2015; *Mondaq*, June 19, 2015; CCCA Members Knowledge Centre, June 2015; *International Law Office Intellectual Property Newsletter*, July 6, 2015
- "[Competition considerations in IP settlement agreements](#)" (co-author: Daniel Whalen), *IP Update — Canada*, November 19, 2014; *Lexology*, November 19, 2014; *Mondaq*, November 20, 2014; CCCA Members Knowledge Centre, November

- 2014; [International Law Office Intellectual Property Newsletter](#), December 8, 2014
- "Software Patents Worldwide: Canada" (co-author: Steven B. Garland), [Software Patents Worldwide](#), Wolters Kluwer Law, December 2013
  - "How the Amazon ruling affected business-method patents" (co-author: Matthew Zischka), [Managing Intellectual Property](#), September 2013
  - "[Supreme Court of Canada: VIAGRA patent 'void' for insufficient disclosure](#)" (co-authors: J. Sheldon Hamilton and Gunars A. Gaikis), *IP Update — Canada*, November 8, 2012; [Lexology](#), November 8, 2012; [Mondag](#), November 9, 2012; [International Law Office Intellectual Property Newsletter](#), December 3, 2012
  - "Software Patents Worldwide: Canada" (co-author: Steven B. Garland), *Software Patents Worldwide*, Wolters Kluwer Law, September 2012
  - "Business-Method Patent Law in U.S., Canada, Seemingly in Synch" (co-author: Steven B. Garland), *Executive Counsel*, August/September 2012
  - "Liability for Infringement by Inducement" (co-author: Andrea C. Kroetch), *Intellectual Property Journal*, Volume XVII, No. 2, 2012
  - "Canada and the duty of candour" (co-authors: Steven B. Garland and Cameron P. Weir), *Intellectual Property Magazine*, November 2011
  - "Amazon.com's 'single action ordering' patent application and the patenting of 'business methods' in Canada" (co-authors: Steven B. Garland and John R. Morrissey), *CBA Business & Corporate Bulletin*, March 2011
  - "An Update on the Scope of Patentable Subject Matter in Canada: The Amazon.com's 'single action ordering' patent application and the patenting of 'business methods' in Canada" (co-authors: Steven B. Garland and John R. Morrissey), American Bar Association's *LANDSLIDE magazine*, May/June 2011
  - "Amazon single action ordering patent and the scope of patentable subject matter in Canada" (co-authors: Steven B. Garland and Cameron Weir) *Intellectual Property Magazine*, February 2011
  - "[Federal Court Introduces Summary Trial Rules](#)" (co-author: Daniel M. Anthony), *IP Perspectives*, Spring 2010; *International Law Office Intellectual Property Newsletter*, May 14, 2010
  - "Making IP Litigation in Canada More Attractive" (co-authors: Steven B. Garland and Jeremy E. Want), *Law360*, August 7, 2009
  - "[Federal Court Issues Practice Direction Aimed at Streamlining Complex Litigation](#)," *International Law Office Intellectual Property Newsletter*, June 22, 2009
  - "Recent Developments Lead to Changing Face (and Pace) of Patent Litigation in Canada" (co-authors: Steven B. Garland and Jeremy E. Want), *Patent World*, December 2007/January 2008