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Turkey 2019

Doing Business in Canada

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March, 2019

Establishing a Business in Ontario

The Entity: Incorporation vs Branch Operation

- Branch operation
 - Possible alternative to incorporation
 - Register as a foreign corporation to COB in Ontario as a branch
 - Takes 6 to 8 weeks
 - File incorporation documents
 - Require a local agent for service – MT can provide a lawyer to perform this service
 - Key: branch is not a separate legal entity with the non-Canadian corporation subject to all the liabilities incurred by the branch

Establishing a Business in Ontario

Incorporation vs Branch Operation

Incorporation

- Direct Investment often through establishment of a corporation
- Federal (CBCA) or provincial (OBCA)



Establishing a Business in Ontario

Incorporation vs Branch Operation

Incorporation

- Federal Corporation
 - Entitled to use its name in every jurisdiction
 - Must register to operate in a particular jurisdiction
- Provincial corporation
 - Must clear its name in each jurisdiction
 - Generally must register to operate in every other jurisdiction
- Trademarks
- Many jurisdictions have resident director requirements
 - OBCA and CBCA – 25%
 - If company has no resident Canadian, MT can provide the resident Canadian director (requires executive committee approval, indemnity and insurance)
 - Can put in place a unanimous shareholder declaration taking away the powers
- British Columbia does not have resident director requirements

Establishing a Business in Ontario

Incorporation vs Branch Operation

Incorporation

- If decide to incorporate
- Complete quickly and inexpensively < 48 hours
- Virtually overnight
- Chose and clear the name
- File articles of incorporation
- Corporation has all the powers of a natural person
- Can do everything, manufacture, distribute, supply, etc.
- Does not need to specify activities in the articles
- No requirement for minimum paid in capital
- Typically shares are common shares and fully participating

Other Corporate Issues

- Investment Canada (authority)
- Special Registrations
 - Goods & Services Tax – HST
 - Health Tax
 - Employment Tax
- Income Tax Issues
- Free Trade Agreements
 - NAFTA (USMCA)
 - CETA
 - TPP

Intellectual Property

- Patents
- Designs
- Trade-marks
- Copyright
- Trade Secrets/confidential information
- Integrated Circuit Topographies
- Plant Breeders Rights
- Technical/Business Information



Patents

- Very similar to Turkey
 - Novelty – must be new in relation to world's body of technical information
 - Unobvious
 - Useful
- Canada/US/Turkey 1 year grace period for novelty
- Absolute Novelty for most other foreign countries
- 20 year term in Canada & Turkey
- Annuity payments for both Canada & Turkey

Patent Strategies

Patents

- Defer costs by
 - Filing provisional application
 - One year priority
 - PCT international application
 - Select countries
 - Canada
 - Turkey

Patent Strategies (cont'd)

- A patent covering Turkey can be obtained through 3 different routes:
 - Direct filing of national patent application with the Turkish Patent Office
 - International patent application PCT which includes Turkey
 - Through European patent and its further valuation in Turkey
 - Official language of the Turkish patent application is Turkish
 - may be submitted within 2 months of the filing date

Trademarks

Trade-Names / Trade-Marks

- Differences between TN/TM
- Trade-Mark Requirements in Canada similar to Turkey
- Search availability
 - Canada/United States/Brazil/Turkey
- Common law trade-mark rights
- Registered trade-marks
 - Advantages
- 6 month priority
- Madrid Protocol
 - Canada & Turkey

Copyright & Designs

Copyright

- Automatic
- Register
 - Advantages
 - Inexpensive

Designs

- Shape
- 1 year grace period
- Less expensive
- 6 month priority
- 5 year term in Canada – renewably for another 5 year term for a total of 10 years
- 10 year term in Turkey from the date of filing
- Can protect utility models in Turkey
 - methods and chemical products are not protected as utility models

Intellectual Property Disputes

- Provincial Courts
- Federal Court of Canada
- Federal Court of Appeal
- Supreme Court of Canada
- Mediation
- Patent and Trademark Boards

Intellectual Property Remedies

- Injunction
- Damages
- Accounting of profits
- Destruction/delivery up
- Anton Piller orders

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