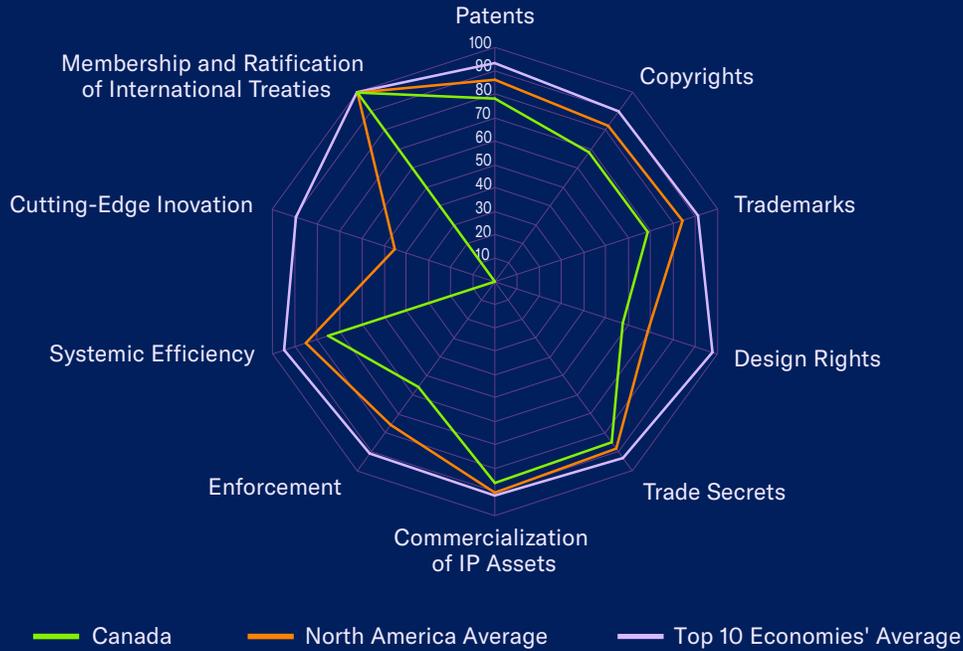
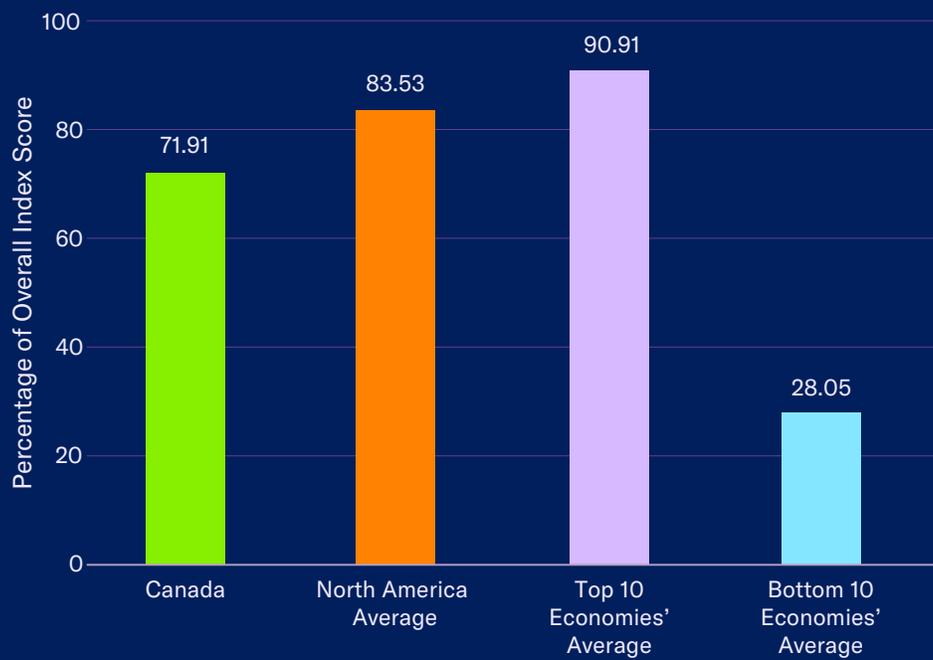




Category Scores



Overall Score in Comparison





Key Areas of Strength

- Issuing of dynamic injunction orders further strengthens copyright enforcement in Canada
- USMCA took effect in 2020, resulting in longer copyright term, new criminal sanctions for theft and misappropriation of trade secrets, and *ex officio* authority for border action against in-transit goods
- 2017 Supreme Court judgment on utility doctrine aligns Canada's patentability environment with international standards
- CETA implementing legislation in place which strengthened some rights
- Significant damages awarded in precedent setting 2017 Federal Court case with regards to Canada's DRM provisions

Key Areas of Weakness

- PTA mechanism in effect provides a de minimis form of compensatory patent term adjustment making it difficult, if not impossible, for most applicants to obtain any restoration
- No special IP incentives for orphan medicinal product development
- Continued uncertainty over existing interpretation of educational exceptions to copyright — 2021 Supreme Court decision in Access Copyright case added more layers of uncertainty and legal complexity
- CETA amendments to Patent Act introducing patent term restoration includes restrictive eligibility requirements as well as an export claw-out, which effectively undermines biopharmaceutical exclusivity
- Deficiencies exist with respect to pharmaceutical patent enforcement remain unaddressed in PMNOC Regulations

Indicator	Score	Indicator	Score
Category 1: Patents Rights and Limitations		7.05	
1. Term of protection	1.00	29. Direct Government intervention in setting licensing terms	1.00
2. Patentability requirements	0.75	30. IP as an economic asset	0.75
3. Patentability of CII	1.00	31. Tax incentives for the creation of IP assets	0.67
4. Plant variety protection	1.00	Category 7: Enforcement	
5. Pharmaceutical-related enforcement	0.25	3.90	
6. Legislative criteria and active use of compulsory licensing	1.00	32. Physical counterfeiting rates	0.62
7. Pharmaceutical patent term restoration	0.30	33. Software piracy rates	0.78
8. Membership of a Patent Prosecution Highway	1.00	34. Civil and procedural remedies	0.50
9. Patent Opposition	0.75	35. Pre-established damages	0.50
Category 2: Copyrights and Limitations		4.79	
10. Term of protection	0.79	36. Criminal standards	0.50
11. Exclusive rights	0.50	37. Effective border measures	0.75
12. Expeditious legal remedies disabling access to infringing content online	1.00	38. Transparency and public reporting by Customs	0.25
13. Cooperative action against online piracy	0.25	Category 8: Systemic Efficiency	
14. Limitations and exceptions	0.25	3.75	
15. TPM and DRM	1.00	39. Coordination of IP rights enforcement	0.50
16. Government use of licensed software	1.00	40. Consultation with stakeholders during IP policy formation	1.00
Category 3: Trademarks Rights and Limitations		2.75	
17. Term of protection	1.00	41. Educational campaigns and awareness raising	0.75
18. Protection of well-known marks	0.75	42. Targeted incentives for the creation and use of IP assets for SMEs	0.75
19. Exclusive rights, trademarks	0.75	43. IP-intensive industries, national economic impact analysis	0.75
20. Frameworks against online sale of counterfeit goods	0.25	Category 9: Cutting-Edge Innovation	
Category 4: Design Rights and Limitations		0.00	
1.15		44. IP incentives for orphan medicinal product development	0.00
21. Industrial Design Term of Protection	0.40	45. IP incentives for orphan medicinal product development, term of protection	0.00
22. Exclusive rights, industrial design rights	0.75	46. Restrictions on the effective use of existing IP incentives for orphan medicinal product development	0.00
Category 5: Trade Secrets and the Protection of Confidential Information		7.00	
2.55		Category 10: Membership and Ratification of International Treaties	
23. Protection of trade secrets (Civil Remedies)	1.00	7.00	
24. Protection of trade secrets (Criminal Sanctions)	0.75	47. WIPO Internet Treaties	1.00
25. Regulatory data protection term	0.80	48. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	1.00
Category 6: Commercialization of IP Assets		5.17	
5.17		49. Patent Law Treaty and Patent Cooperation Treaty	1.00
26. Barriers to market access	1.00	50. Membership of the International Convention for the Protection of New Varieties of Plants, act of 1991	1.00
27. Barriers to technology transfer	0.75	51. Membership of the Convention on Cybercrime, 2001	1.00
28. Registration and disclosure requirements of licensing deals	1.00	52. The Hague Agreement Concerning the International Registration of Industrial Designs	1.00
		53. Post-TRIPS FTA	1.00

Total Score: 38.11

Spotlight on the National IP Environment

Past Editions versus Current Score

Canada's overall score remains unchanged at 38.11 out of 53 indicators.

Area of Note

In 2025, the Canadian Government finalized the Patented Medicine Prices Review Board's (PMPRB) "Guidelines for PMPRB Staff, Administrative Process for Excessive Price Hearing Recommendation." As noted in the Index, the Board has been working on finalizing this document for several years, with multiple rounds of stakeholder consultations and draft versions issued. These Guidelines took effect on January 1, 2026, and are part of a broader effort by Canadian health authorities to reform how patented medicines are evaluated and priced. Unfortunately, these efforts have focused almost exclusively on cost control and minimizing overall biopharmaceutical spending within the health system. While successful legal challenges have limited the scope of some of these efforts, the changes to the basket of economies the PMPRB uses for international price comparisons remain in effect and have been since 2022. These changes expanded the basket and removed the United States and Switzerland as comparator economies, lowering overall price comparisons and the biopharmaceutical price level in Canada while adding layers of complexity to the pricing and reimbursement process.

During the latest phase of the development of the Guidelines, rights holders raised several critical concerns including the way price comparisons are made and what is judged as "excessive";

the basis and conduct of so-called "in-depth reviews" including comparisons made on a therapeutic basis; the predictability of the review process itself including changing assessment criteria and price comparisons made over time; and the nature of the third-party complaints procedure and its triggering of an automatic in-depth review. While some of these concerns were adequately addressed in the finalized Guidelines — most notably the use of a "highest international price" (HIP) in international price comparisons — many others remain unresolved. Given the centrality of these Guidelines to the PMPRB's decision-making process and staff assessments, it is regrettable that the Board was unable to address more of these concerns.

As the last two decades of pharmaceutical launch and reimbursement data clearly show, the direct impact of the PMPRB and the Canadian health system's broader focus on pharmaceutical cost control has been a consistent time lag in new, innovative products reaching Canadian patients. On average, Canadians wait longer to access the latest innovative medicines than patients in the United States and many other OECD markets. As the Index has detailed over the last decade, the biopharmaceutical IP environment in Canada could, in many respects, be strengthened and aligned with best practices in the United States, the European Union, and leading Asian economies. Similarly, incentivizing innovation in the Canadian health system through adequate pricing and reimbursement policies for biopharmaceuticals would also improve the competitiveness of the Canadian environment and allow innovators — domestic and international — to be fairly compensated for their innovation and creativity. The Index will continue to monitor these developments in 2026.

Patent Rights and Limitations

7. Patent term restoration for pharmaceutical products:

As part of commitments made under the Canada-United States-Mexico Agreement, Canada agreed to introduce a patent term adjustment (PTA) mechanism. The purpose of this mechanism is to compensate patent applicants for any undue delay in prosecuting the patent application. Unfortunately — and as noted in last year's Index — the Canadian PTA mechanism in effect today provides a de minimis form of compensatory term adjustment, making it difficult, if not impossible, for most applicants to obtain any such restoration.

More broadly, any PTA granted runs concurrently with a separate and distinct form of patent term restoration, namely, supplementary protection for biopharmaceutical patents. Yet these are two completely different types of restoration seeking to compensate rights holders for other forms of regulatory delay. PTA is due to what the USMCA terms “unreasonable” delays in patent prosecution. In Canada, the government issues Certificates of Supplementary Protection (CSP) for biopharmaceutical patents to restore the time that companies lose during the sanitary registration and marketing authorization processes for new medicines and biopharmaceutical technologies. As such, one form of restoration is unrelated to the other.

The way Canadian authorities interpret and implement their commitments under the USMCA is reminiscent of how the government handled the introduction of the CSP mechanism under the Comprehensive Economic and Trade Agreement (CETA) with the EU. The relevant amendments to the Patent Act and implementing regulations set a maximum CSP restoration period of two years, on paper. However, the effective availability of this restoration term was severely limited by several technical carve-outs and restrictions.

There is little point in introducing IP incentives, such as PTA and CSP, if onerous conditions and carve-outs undermine them. Instead of strengthening Canada's national IP environment and stimulating more R&D and related economic activity, such actions simply hollow out both the IP environment and any incentives for future innovation. The Index will continue to monitor these developments in 2026.

Copyrights and Limitations

14. Scope of limitations and exceptions to copyrights and related rights:

Like many other Index economies, the use of machine learning and AI-based technologies and applications is increasing in Canada. While these are important areas of future economic activity, as advances in computational power and new technological advancements allow for scientific advances and innovation to take place through the analysis of large volumes of data and information, there are concerns over how the development, application, and use of these technologies will affect creators and rights holders across the world.

Over the last few years, the Canadian Government has introduced several new initiatives to establish an appropriate legal and policy environment for the use and application of AI technologies. Following a general election and the opening of a new Parliament, the government abandoned Bill C-27 (“An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts”). The bill was the first legislative initiative in Canada seeking to establish a framework for the national development and application of AI and machine learning technologies.

At the time of the research, the Government launched a new “AI Strategy Task Force” and a new public consultation. Given the existing dynamics of the Internet and the volume of infringing content available online, it is essential that safeguards be adhered to, and that rights holders can appropriately enforce their rights.

Separately, in 2025, there was no progress on the long-standing issue of educational exceptions. As noted repeatedly in the Index, the 2012 amendments to the Copyright Act broadened Canada’s framework of copyright exceptions, including the expansion of education and personal-use exceptions. Canadian Supreme Court decisions from the same year also broadened the scope of judicial interpretation of existing exceptions, to the extent that their continued compatibility with the Berne three-step test was questionable.

Over the last 13 years, there have been several rounds of litigation culminating in a Supreme Court ruling in 2021, yet the issue remains unresolved. The net effect of the reforms and Supreme Court rulings has been a contraction in the publishing sector, with the Canadian publishing industry and individual rights holders reporting that publishing income has decreased substantially.

In 2022, the federal Government appears to have finally recognized the dire impact of the 2012 amendments and subsequent Supreme Court rulings. In that year’s national budget, the Government stated plainly that it would “work to ensure a sustainable educational publishing industry, including fair remuneration for creators and copyright holders, as well as a modern and innovative marketplace that can efficiently serve copyright users.” In the last three years, there has been no further action. The Index will continue to monitor these developments in 2026.