

**Smart In
Your World**

**It's More Than
a Tag Line**

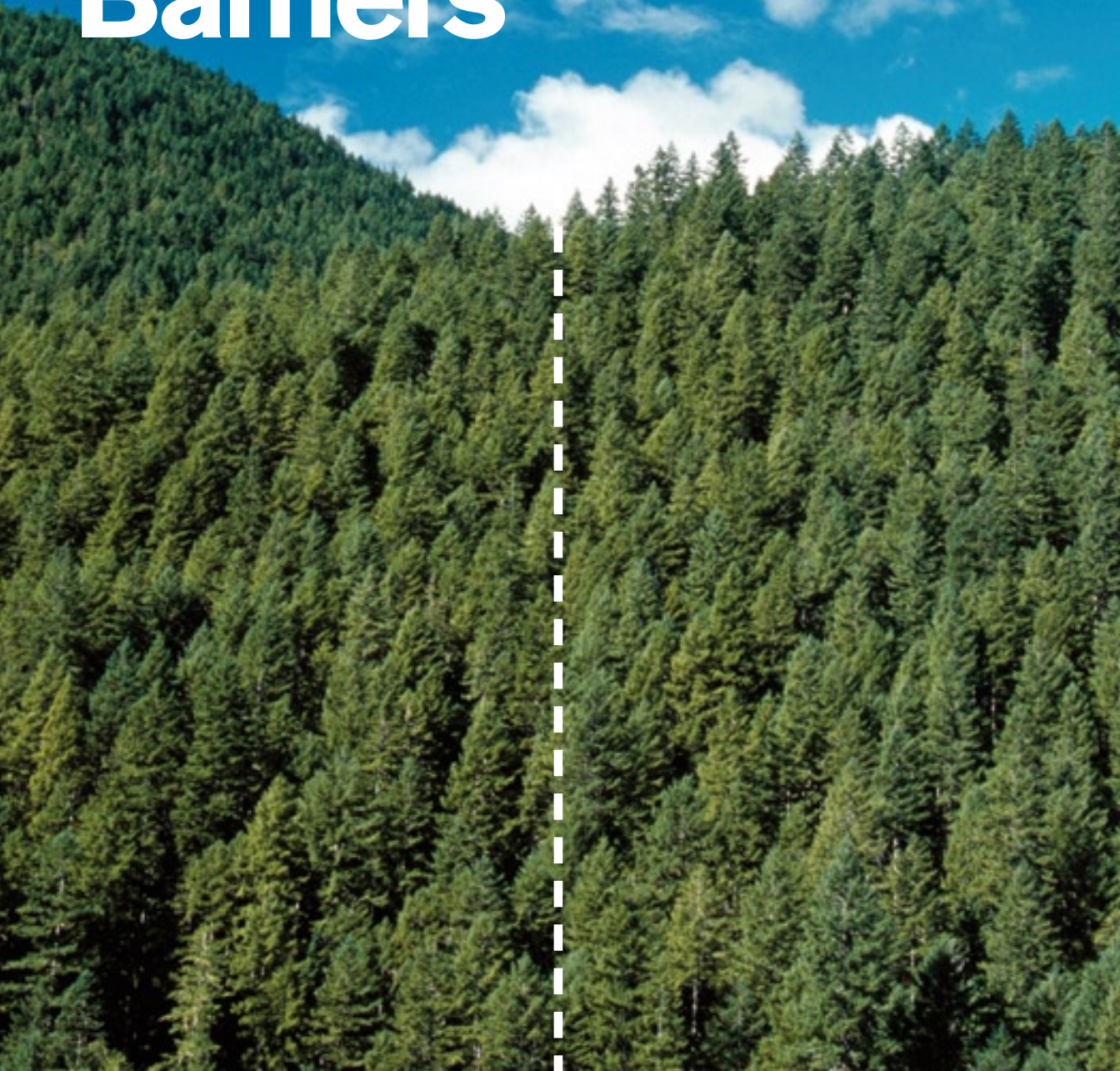
Arent

Fox

Is

Arent
Fox
Is

Breaking Down Barriers



A LONG RUNNING BORDER WAR OVER TIMBER.

The first salvo in the Lumber Trade Wars between the United States and Canada was launched in 1982. The roots of the conflict, however, extend all the way back to the early 19th century during America's great Westward Expansion.

More than 70 percent of the productive timber land in the United States is owned or controlled by private interests. This is the legacy of massive land grants given to pioneers in the mid and late 1800s to encourage westward development. Just across the 39th parallel to the north in Canada, however, an opposite reality exists. In Canada, more than 70 percent of productive forest lands, including the world's largest boreal forest, reside in public hands. The Canadian forests are owned and controlled by provincial governments in perpetual trust for the benefit of current and future generations.

More than 70 percent of timber land in the United States is owned or controlled by private interests.

In Canada, more than 70 percent of forest-lands are owned and controlled by local governments.

The Timber Wars

This distinction in the historic, political and economic development of each nation and the treatment of their respective forestlands planted the seed of what has become one of the most significant, protracted trade disputes in modern times.

STUMPAGE FEES. For decades, US timber and lumber interests have argued that the public ownership of Canadian forest lands and Canada's use of the so-called "stumpage fee" system amount to a de facto subsidization of Canada's lumber producers, giving Canada an unfair advantage in the US market.

"Stumpage fees" are payments made by Canadian lumber companies for the right to harvest timber on public land. The fees are set by the provincial governments that own the forest. In the United States, stumpage fees and log prices are determined through negotiations between private landowners and lumber mills. This difference between the US and Canadian pricing systems has been at the heart of a trade war over lumber waged by the two nations over the past 30 years.

Claiming that Canada's stumpage fees are set too low, amounting to an improper government subsidy of the Canadian lumber industry, protectionist US lumber producers have brought numerous trade actions challenging Canadian timber pricing and management systems, seeking the imposition of onerous duties on Canadian softwood lumber. The goal of these duties? To limit the volume of lumber imports from Canada, raise the price of those imports, trigger an increase in US lumber prices, all of which would ultimately raise the cost of housing in the United States, which consumes 80 percent of all the lumber sold in the US market.

For nearly 20 years, Arent Fox has represented the Province of Québec, Canada's second largest lumber producing region, in the many facets of this

critical international trade dispute, responding to new assaults on the Canadian lumber trade and protecting the interests of US homebuilders, American consumers, and Québec.

In the most recent iteration of this long running dispute, six years of aggressive advocacy by Arent Fox's international trade group led to unanimous appellate findings that lumber producers in Canada are not subsidized and that imports of softwood lumber from Canada do not threaten material injury to US lumber producers. The Arent Fox team authored and presented the decisive arguments leading to the appellate ruling that no actionable subsidies were provided to Canadian lumber producers.

In 2010, Canada won decisive victories in a novel arbitral proceeding brought by the United States government against forestry measures in Québec and Ontario. Again, a number of US lumber interests sought to limit imports and raise the cost of lumber in the US market. On behalf of Québec, Arent Fox succeeded in having a majority of the US claims dismissed and the scope of eventual remedies, if any, limited to a small fraction of the original claim.

Ever since the 1980s, Canada has responded to each legal challenge in the Lumber Trade War with an impressive series of victories in US courts, North American Free Trade Agreement tribunals, and before the World Trade Organization.

And the architect behind many of these victories has been – and continues to be – Arent Fox.

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