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Top Three Things Brand Owners Need to Know About the Changes to the Canadian Trademarks Act

By RIW on June 5, 2019

On June 17th a new Trademark Act will take effect in Canada. While there are many changes, there are three that brand owners should consider with regard to their current trademark portfolio in Canada, as immediate action may be advisable.

1) No Use Requirements – Declarations of use will no longer be required (in fact there will no longer be any requirement to claim a specific filing basis), which means that defensive registrations are now allowed. Therefore, if you have a mark you are not yet using in Canada but would not want anyone else to use or register it, you may want to consider defensive registration. Use in Canada will still be relevant if you do have to enforce your rights there, but a defensive registration is a proactive way to prevent most similar marks from being filed at all.

2) Introduction of a Per Class Application Structure– Currently, Canada only charges one filing fee for applications, C$250. The filing fees after June 17th will be C$330 for the first class and C$100 for each class thereafter. Companies considering an application in Canada may want to file now to take advantage of the markedly lower fees.

3) Per Class Fee Structure for Renewals– Like applications, renewals will also require per-class fees – C$400 for the first class and C$125 for each class thereafter. As renewal requests can currently be filed at any time, trademark owners with Canadian registrations may want to renew now to avoid the higher per class fees. After June 17th, a renewal can only be filed within six months of its renewal deadline and classification of the goods and services will be mandatory.

There are several other important changes to the Canadian Trademarks Act, which we are happy to discuss, but above are the ones that might require immediate attention.

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