

CANADIAN TRADEMARK OFFICE LAUNCHES PILOT PROGRAM TO AUDIT REGISTERED MARKS

Donna Frazier Schmitt and Elizabeth O'Donoghue, Ph.D.

Maintaining trademark rights in Canada requires use in commerce. Starting in January 2025, your Canadian trademark registration(s) may be subject to cancellation for non-use due to additional requirements stemming from a new Canadian pilot program whereby marks registered in Canada for at least three years will be randomly selected for audit every month. This program is similar to one initiated in the United States in 2019 – the Post Registration Audit Program.

If your mark is randomly selected for audit by the Canadian Trademark Office (CIPO), you will then be required to submit acceptable evidence of use for *every* applicable good and/or service listed in your registration. If you cannot produce acceptable evidence of use, then you must submit justification for non-use based on exceptional circumstances, or the subject trademark registration in Canada will be canceled either in part or in its entirety. If registered marks in Canada are currently in use with all applicable goods and/or services in commerce, then no action is required on your part at this time. However, if registered marks are not in use in Canada, you will need to discuss your options with legal counsel for maintaining protection of the mark or marks.

This is a new program, so there is no information yet on how strict the CIPO will be in accepting evidence of exceptional circumstances for non-use. If audited, requesting deletion of goods/service no longer in use may avoid cancellation of the entire registration. There is no evidence on how strict the CIPO will be in accepting such deletions, but as the program is very similar to the United States' program, this is the anticipated response.

If you have questions regarding the CIPO pilot program, please contact your Armstrong Teasdale attorney or one of the listed authors or contacts.

PEOPLE

Donna Frazier Schmitt

Elizabeth O'Donoghue, Ph.D.

Lucas Amodio, C|EH

Jennifer A. Schwesig

SERVICES AND INDUSTRIES

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