

# USPTO AMENDMENT REQUIRES ADDITIONAL PROOF OF USE FOR TRADEMARKS

In an effort to verify that trademarks are currently in use in commerce, the United States Patent and Trademark Office (USPTO) has recently amended its rules to require **additional** proof of such use of a mark in connection with the particular goods and/or services identified in the registration.

Effective Feb. 17, 2017, when examining affidavits or declarations of continued use filed pursuant to Section 8 of the Trademark Act, the USPTO may request such additional proof through random selection of registrations. Assuming that the new program will operate similarly to the USPTO's pilot program conducted in 2012, if a randomly selected registrant cannot submit additional proof of use, or adequate and current use, they will risk losing rights in the mark. Likely, the USPTO will either delete the goods or services for which proof cannot be shown, or cancel the registration in its entirety. Note that not every trademark registration will be subject to this review, as the USPTO indicated that this will be a random, but not routine, exercise.

## **What Does the Amendment Seek to Accomplish?**

The USPTO is making an effort to "clean up" its registry with regard to inaccurate goods and/or services identifications, as well as registrations that might no longer be in use or were never in use in commerce.

## **What are the Next Steps?**

There is no action required on your part at this time. If your mark is selected for review and Armstrong Teasdale manages your trademark work, we will contact you to discuss your options for responding to the USPTO's request.

## **PEOPLE**

Donna Frazier Schmitt

## **SERVICES AND INDUSTRIES**

Trademark

Intellectual Property