



## Canadian Intellectual Property Office

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### Proposed Amendments to the *Trade-marks Regulations* - Update on Progress

#### Introduction

This document discusses proposed amendments to the *Trade-marks Regulations* under the authority of the *Trade-marks Act*.

A previous consultation document dealing with proposed amendments to the opposition regime was posted for comment on CIPO's external website in June 2010 for a period of 60 days. Written comments were received from eight stakeholders.

In January 2011, a webinar was held with stakeholders in order to discuss technical issues specific to cross-examination and written arguments. Comments received during both the formal consultation phase and the webinar have been taken into account.

The proposed amendments set out below include:

- measures relating to the opposition regime intended to streamline and simplify procedures relating to filing and serving of evidence, cross-examination, written arguments and hearings, and issuance of notices; and
- measures relating to trade-mark examination, which seek to respond to evolving business and marketing practices and to streamline transactions between applicants and the Registrar of Trade-marks.

CIPO is taking this opportunity to seek your feedback these proposed amendments. The consultation period is from February 23, 2012 to April 23, 2012.

### Proposed Amendments to the *Trade-marks Regulations*

#### Correspondence

Subsection 3(6) of the *Trade-marks Regulations*<sup>1</sup> may be replaced by the following:

3. (6) Correspondence addressed to the Registrar may be sent at any time by electronic or other means of transmission specified on the web site of the Canadian Intellectual Property Office.

Subsection 3(9) of the Regulations would be repealed.

Subsection 6(1) of the Regulations may be replaced by the following:

6. (1) Any address required to be furnished pursuant to the Act or these Regulations shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

Section 7 of the Regulations may be replaced by the following:

7. (1) Communications to the Registrar in respect of an application for the registration of a trade-mark shall include

- a. the name of the applicant; and
- b. the application number, if one has been assigned and is known.

(2) Communications to the Registrar in respect of a registered trade-mark shall include

- a. the name of the registered owner; and
- b. the registration number.

Sections 8 and 9 of the Regulations may be replaced by the following:

8. (1) Except as provided by the Act or these Regulations, for the purpose of prosecuting an application for the registration of a trade-mark the Registrar shall only communicate with, and shall only have regard to communications from, the applicant.

(2) Except as provided by the Act or these Regulations, for the purpose of an opposition proceeding under section 38 of the Act the Registrar shall only communicate with, and shall only have regard to communications from, the applicant or the opponent.

(3) With respect to the appointment of a trade-mark agent or an associate trade-mark agent to act on behalf of an applicant or with respect to the revocation of such an appointment, the Registrar shall have regard to communications from, and may communicate with any of the applicant, the trade-mark agent and the associate trade-mark agent.

(4) With respect to the appointment of a trade-mark agent or an associate trade-mark agent to act on behalf of an opponent in opposition proceedings under section 38 of the Act or with respect to the revocation of such an appointment, the Registrar shall have regard to communications from, and may communicate with any of the opponent, the trade-mark agent and the associate trade-mark agent.

(5) Subject to subsection (6), if the Registrar receives notice in writing that an applicant or opponent has appointed a trade-mark agent that is a resident of Canada, the Registrar shall communicate with, and have regard to communications from, the trade-mark agent instead of, as applicable, the applicant or the opponent.

(6) If the Registrar receives notice in writing that an applicant or opponent has appointed a trade-mark agent and that the trade-mark agent has appointed an associate trade-mark agent that is a resident of Canada, the Registrar shall communicate with, and have regard to communications from, the associate trade-mark agent instead of, as applicable, the applicant or the opponent.

(7) For the purposes of subsections (5) and (6), notice in writing of the appointment of a trade-mark agent or an associate trade-mark agent to act on behalf of an applicant may be given in the application or in a separate document submitted to the Registrar.

(8) For the purposes of subsections (5) and (6), notice in writing of the appointment of a trade-mark agent or an associate trade-mark agent to act on behalf of an opponent in opposition proceedings under section 38 of the Act may

be given in the statement of opposition or in a separate document submitted to the Registrar.

(9) The Registrar shall have regard to a request from any person for the recognition of a transfer of an application under section 48 and may communicate with that person in respect of that request.

(10) With respect to the submission of a declaration under subsection 40(2) of the Act or the payment of the registration fee set out in item 15 of the schedule, the Registrar shall have regard to communications from, and may communicate with, any of

- a. the applicant;
- b. if paragraph (5) applies; the trade-mark agent, and
- c. if paragraph (6) applies; the associate trade-mark agent.

9. (1) If a trade-mark agent appointed by an applicant, or by an opponent for the purpose of an opposition proceeding under section 38 of the Act, is not a resident of Canada, the trade-mark agent shall appoint an associate trade-mark agent who is a resident of Canada.

(2) If a trade-mark agent appointed by an applicant, or by an opponent for the purpose of an opposition proceeding under section 38 of the Act, is a resident of Canada, the trade-mark agent may appoint an associate trade-mark agent who is a resident of Canada.

Sections 10 and 11 of the Regulations would be repealed.

## **Documents**

Sections 13 and 14 of the Regulations may be replaced by the following:

13. Documents filed in connection with trade-mark applications and registrations shall be clear, legible and capable of being reproduced.

14. (1) The Registrar shall refuse to take cognizance of any document submitted to the Registrar that is not in the English or French language unless a translation of the document into one of those languages is submitted to the Registrar.

(2) If a person submits a translation of a document into either English or French in accordance with subsection (1) and the Registrar has reasonable grounds to believe that the translation is not accurate, the Registrar shall request the person to provide, within three months from the date of the request, either

- a. a statement by the translator to the effect that, to the best of the translator's knowledge, the translation is complete and faithful; or
- b. a new translation together with a statement by the translator to the effect that, to the best of the translator's knowledge, the new translation is complete and faithful.

(3) If a request under subsection (2) is not complied with, the Registrar shall refuse to take cognizance of the document.

(4) An application for the registration of a trade-mark pursuant to section 30 of the Act must, with the exception of the trade-mark, be entirely either in English or in French.

14.1 If an affidavit or statutory declaration submitted to the Registrar is not an original affidavit or statutory declaration, the original shall be retained by the person who submitted the affidavit or statutory declaration for one year after the expiry of all appeal periods and the original shall be submitted to the Registrar upon the request of the Registrar.

## **Time**

14.2 For greater certainty, if a time is fixed for doing anything by a provision of these Regulations, the time fixed for doing that thing is the time that is fixed by that provision as extended by the Registrar under section 47 of the Act.

## **Journal**

Section 15 of the Regulations may be replaced by the following:

15. The Registrar shall publish, on at least a weekly basis, the Journal, which shall include

- a. every advertisement made pursuant to subsection 37(1) of the Act; and
- b. every public notice required pursuant to subsection 9(1) of the Act.

Section 17 of the Regulations would be repealed.

## **Application for Registration**

Section 27 of the Regulations would be repealed.

Section 28 of the Regulations may be replaced by the following:

28. (1) An application for the registration of a trade-mark may contain a description of the trade-mark.

(2) Except in the case of a trade-mark consisting of a word or words not depicted in a special form, the drawing or drawings, either by themselves or in combination with a description of the trade-mark and any other element contained in the application in accordance with this section, must clearly define the trade-mark.

(3) For the purposes of paragraph 30(h) of the Act, an application shall be considered to be for the registration only of a word or words not depicted in a special form only if

- a. the trade-mark for which registration is sought contains only standard typographical characters used by the Registrar; and
- b. the application contains a statement to the effect that the applicant wishes that the trade-mark be registered and published in the standard characters used by the Registrar.

(4) Except in the case of applications of the type referred to in subsection (5), if an applicant wishes to claim colour as a distinctive feature of the trade-mark, the application

- a. must contain a statement to that effect;
- b. must indicate the name of the colour or colours claimed and, in respect of each colour, the principal parts of the trade-mark which are in that colour;
- c. may include a reference to an internationally recognized colour system for each colour; and
- d. must contain a colour drawing of the trade-mark.

(5) An application for the registration of a trade-mark that consists of one or more colours applied to the whole of the visible surface of a three-dimensional object and that is not a distinguishing guise

- a. must contain a drawing or drawings showing in dotted or broken lines the particular three-dimensional object to which the colour or colours are applied;
- b. must indicate that the trade-mark consists of the particular colour or colours applied to the particular object shown in the drawing;
- c. must indicate the name of the colour or colours claimed and, in respect of each colour, the principal parts of the trade-mark which are in that colour;
- d. may contain a reference to an internationally recognized colour system for each colour; and
- e. must contain a colour drawing of the trade-mark.

(6) An application for the registration of a distinguishing guise must

- a. state that the application is for the registration of a distinguishing guise; and
- b. contain a drawing or drawings including one or more views sufficient to show the particulars of the distinguishing guise.

(7) An application for the registration of a trade-mark consisting of a hologram must

- a. state that the application is for the registration of a hologram mark;
- b. contain a drawing or drawings including one or more views capturing the holographic effect in its entirety; and
- c. contain a description of the hologram mark.

(8) An application for the registration of a trade-mark consisting of a motion mark

- a. must state that the application is for the registration of a motion mark;
- b. must contain a drawing or drawings containing one image or a series of images depicting movement;
- c. must contain a description explaining the movement; and
- d. may contain an electronic representation showing the mark in motion.

(9) An application for the registration of a trade mark consisting of a mark applied in a particular position on a three-dimensional object must

- a. state that the application is for the registration of a position mark;
- b. contain a drawing showing the mark and its position on the three-dimensional object and showing the three-dimensional object in dotted or broken lines; and
- c. contain a description explaining the position of the mark in relation to the three-dimensional object.

(10) An application for the registration of a trade-mark consisting of a sound must

- a. state that the application is for the registration of a sound mark;
- b. contain a drawing that graphically represents the sound;
- c. contain a description of the sound; and
- d. contain an electronic recording of the sound.

## **Amendment of Application for Registration**

Section 31 of the Regulations may be replaced by the following:

31. (1) No application for the registration of a trade-mark may be amended where the amendment would change

- a. the identity of the applicant, except after recognition of a transfer by the Registrar or to correct an error in the naming of the applicant in accordance with subsection (2);
- b. the trade-mark, except in respects that do not alter its distinctive character or affect its identity; or
- c. the statement of wares or services so as to be broader than the statement of wares or services contained in the application at the time the application was filed pursuant to section 30 of the Act.

(2) A request to amend an application for the registration of a trade-mark to change the identity of the applicant to correct an error in the naming of the applicant must

- a. be made by the incorrectly identified applicant or by the trade-mark agent or other person who submitted the application to the Registrar;
- b. contain, in respect of the applicant who should have been named, any changes in the information required by paragraph 30(g) of the Act; and
- c. be submitted to the Registrar before the Registrar recognizes a transfer of the application under section 48.

Paragraphs 32(a) to (e) of the Regulations may be replaced by the following:

- a. the identity of the applicant, except after recognition of a transfer by the Registrar;
- b. the trade-mark in any manner whatsoever;
- c. the date of first use or making known in Canada of the trade-mark;
- d. the application from one alleging use or making known to one for a proposed trade-mark;
- e. the application from one not alleging use or making known of the trade-mark in Canada before the filing of the application to one alleging such use or making known;
- f. the application from one that does not allege that the trade-mark has been used and registered in or for a country of the Union to one that does so allege; or
- g. the statement of wares or services so as to be broader than the statement of wares or services contained in the application at the time of advertisement.

Section 34 of the Regulations and the heading before it would be repealed.

## **Opposition**

Section 36 of the Regulations may be replaced by the following:

36. With the exception of the filing of a statement of opposition under subsection 38(1) of the Act, a party corresponding with the Registrar shall forward a copy of any correspondence in respect of an opposition proceeding to the other party.

Section 37 of the Regulations may be replaced by the following:

37. (1) Any document or other material required under section 38 of the Act or under these Regulations to be served on a party in an opposition proceeding may be served

- a. by courier;
- b. by facsimile;
- c. by personal service;
- d. if the party has provided an e-mail address for service, by e-mail; or
- e. in any other manner with the consent of the party or their agent.

(2) Unless the parties are agreed otherwise, if the party being served has appointed a trade-mark agent or has named a representative for service, service shall be effected on that agent or that representative for service.

(3) The party effecting service shall notify the Registrar of the service of a document or other material.

(4) Service of a document or other material in a manner not complying with subsection (1) shall nevertheless be considered to be valid service if, and on the date when, the document or material comes to the notice of the person to be served.

(5) If the Registrar has reasonable grounds to believe that any document or material that is required to be served in an opposition proceeding has not been served before the expiry of the prescribed time, the Registrar shall request that proof of service be submitted to the Registrar within a time specified by the Registrar. If proof of service is not submitted within the specified time, the document or material shall be considered not to have been served.

(6) The Registrar shall not have regard to any document or other material required under these Regulations to be served on a party in an opposition proceeding unless the document or material is served in accordance with the requirements of this section before the expiry of the prescribed time limit.

Section 38 may be replaced by the following:

38. If filed in paper form, a statement of opposition must be filed with the Registrar in duplicate.

The portion of subsection 41(1) of the Regulations before paragraph (a) may be replaced by the following:

41. (1) Except if the application is abandoned or deemed under subsection 38 (7.2) of the Act to be abandoned, within four months after the expiry of the time for filing the counter statement, the opponent shall

The portion of subsection 42(1) of the Regulations before paragraph (a) may be replaced by the following:

42. (1) Except if the opposition is withdrawn or deemed under subsection 41(2) to have been withdrawn, within four months after the expiry of the time for submitting the opponent's evidence or statement referred to in subparagraph 41(1)(a), the applicant shall

The portion of section 43 of the Regulations before paragraph (a) may be replaced by the following:

43. Except if the application is abandoned or deemed under subsection 42(2) to be abandoned, within one month after the expiry of the time for submitting the applicant's evidence referred to in subparagraph 42(2)(a), the opponent

Section 44 of the Regulations may be replaced by the following:

44. (1) No further evidence shall be submitted by any party except with leave of the Registrar within a time specified by the Registrar and on such other terms as the Registrar determines to be appropriate.

(2) A request for leave under subsection (1) must be accompanied by the evidence that the party proposes to submit.

44.1 (1) A party in an opposition proceeding may cross-examine under oath the affiant or declarant of any affidavit or statutory declaration that has been submitted by the other party to the Registrar under sections 41 to 43.

(2) Cross-examinations on affidavits or statutory declarations submitted under section 41, 42 or 43 shall be completed by both parties within four months after the expiry of the time for submitting the opponent's reply evidence under paragraph 43(a).

(3) Cross-examinations shall be held at a time, date and place and before a person agreed to by the parties or, in the absence of agreement and upon request to the Registrar for an order, as designated by the Registrar in the order.

(4) The Registrar shall not make an order under subsection (3) unless the party seeking to conduct the cross-examination establishes that they have been unable to reach an agreement with the other party concerning the arrangements for the cross-examination despite having made reasonable and timely efforts to do so and that there has been no undue delay in requesting the order.

(5) A transcript of the cross-examination and exhibits to the cross-examination shall be filed with the Registrar by the party conducting the cross-examination and served on the other party before the expiry of the time limit for completing the cross-examination.

(6) Any documents or materials undertaken to be submitted by the party whose affiant or declarant is being cross-examined shall be filed with the Registrar by that party and served on the other party to the proceeding before the expiry of the time limit for completing the cross-examination.

(7) If an affiant or declarant declines or fails to attend for cross-examination, the affidavit or declaration shall not be part of the evidence and shall be returned to the party who filed it.



Subsections 45(2) and (3) of the Regulations may be replaced by the following:

(2) All documents and other materials filed in an opposition proceeding shall be open to public inspection.

Section 46 of the Regulations may be replaced by the following:

46. (1) Within two months after the expiry of the time for the completion of all cross-examinations on affidavits or statutory declarations filed under sections 41 to 43, the opponent may file a written argument with the Registrar and shall serve a copy of any such written argument on the applicant.

(2) Within two months after the expiry of the time for the opponent to file a written argument under subsection (1), the applicant may file a written argument with the Registrar and shall serve a copy of any such written argument on the opponent.

(3) No written argument shall be filed and served after the expiry of the periods referred to in subsections (1) and (2), except with leave of the Registrar.

(4) Within one month after the expiry of the time for the applicant to file a written argument under subsection (2), each party wishing to be heard by the Registrar at a hearing shall file with the Registrar and serve upon the other party a requisition for a hearing, that

- a. (a) specifies whether the party will
  - i. make representations in English or French; and
  - ii. require simultaneous translation if the other party makes representations in the other official language; and
- b. sets out details concerning how the party wishes to make representations at the hearing including, as applicable, whether the party wishes to make representations in person and, if the party wishes to make representations by telephone, the telephone number at which they wish to be contacted.

(5) Following receipt of a requisition for a hearing complying with subsection (4), the Registrar shall send the parties a written notice setting out the time and date of, and other details concerning, the hearing.

(6) If only one of the parties files a requisition for a hearing and if, after a notice is sent under paragraph (5), that party withdraws their requisition, the Registrar shall notify all the parties that the hearing is cancelled.

(7) A party may notify the Registrar of changes to any of the information provided under subsection (4) and the Registrar shall modify the administrative arrangements for the hearing accordingly if the notice is received by the Registrar at least one month before the date of the hearing or, if the Registrar is reasonably able to modify the administrative arrangements that have been made for the hearing, at any time before the hearing.

Section 47 of the Regulations would be repealed.

## **Transfer**

Section 48 of the Regulations may be replaced by the following:

48. (1) Subject to subsection (2), the Registrar shall recognize a transfer of an application for registration of a trade-mark on receipt of a written request from the transferor or the transferee for recognition together with the information required by paragraph 30(g) of the Act in the case of a first application.

(2) If the Registrar has reasonable grounds to doubt the veracity of any indication contained in the request, the Registrar shall require evidence to be furnished to establish the veracity of that indication.

## **Objection Proceedings under Section 11.13 of the Act**

Section 53 of the Regulations may be replaced by the following:

53. (1) Any document or other material required under section 11.13 of the Act or under these Regulations to be served on a party in an objection proceeding may be served

- a. by courier;
- b. by facsimile;
- c. by personal service;
- d. if the party has provided an e-mail address for service, by e-mail; or
- e. in any other manner with the consent of the party or their agent.

(2) Unless the parties are agreed otherwise, if the party being served has appointed a trade-mark agent or has named a representative for service, service shall be effected on that agent or that representative for service.

(3) The party effecting service shall notify the Registrar of the service of a document or other material.

(4) Service of a document or other material in a manner not complying with subsection (1) shall nevertheless be considered to be valid service if, and on the date when, the document or material comes to the notice of the person to be served.

(5) If the Registrar has reasonable grounds to believe that any document or material that is required to be served in an opposition proceeding has not been served before the expiry of the prescribed time, the Registrar shall request that proof of service be submitted to the Registrar within a time specified by the Registrar. If proof of service is not submitted within the specified time, the document or material shall be considered not to have been served.

(6) The Registrar shall not have regard to any document or other material required under these Regulations to be served on a party in an objection proceeding unless the document or material is served in accordance with the requirements of this section before the expiry of the prescribed time limit.

The portion of subsection 55(1) of the Regulations before paragraph (a) may be replaced by the following:

55. (1) For the application of subsection 11.13(5) of the Act, within four months after the expiry of the time for filing a counter statement, the objector

The portion of section 56 of the Regulations before paragraph (a) may be replaced by the following:

56. Except if the objection is withdrawn or deemed under subsection 55(2) to have been withdrawn, within four months after the expiry of the time for submitting the objector's evidence or statement referred to in paragraph 55(1) (a), the responsible authority

The portion of section 57 of the Regulations before paragraph (a) may be replaced by the following:

57. Within one month after the expiry of the time for submitting the responsible authority's evidence referred to in paragraph 56(a), the objector

Section 58 of the Regulations may be replaced by the following:

58. (1) No further evidence shall be submitted by any party except with leave of the Registrar within a time specified by the Registrar and on such terms as the Registrar determines to be appropriate.

(2) A request for leave under subsection (1) must be accompanied by the evidence that the party proposes to submit.

58.1 (1) A party in an objection proceeding may cross-examine under oath the affiant or declarant of any affidavit or statutory declaration that has been submitted by the other party to the Registrar under sections 55 to 57.

(2) Cross-examinations on affidavits or statutory declarations submitted under section 55, 56 or 57 shall be completed by both parties within four months after the expiry of the time for submitting the objector's reply evidence under paragraph 57(a).

(3) Cross-examinations shall be held at a time, date and place and before a person agreed to by the parties or, in the absence of agreement and upon request to the Registrar for an order, as designated by the Registrar in the order.

(4) The Registrar shall not make an order under subsection (3) unless the party seeking to conduct the cross-examination establishes that they have been unable to reach an agreement with the other party concerning the arrangements for the cross-examination despite having made reasonable and timely efforts to do so and that there has been no undue delay in requesting the order.

(5) A transcript of the cross-examination and exhibits to the cross-examination shall be filed with the Registrar by the party conducting the cross-examination and served on the other party before the expiry of the time limit for completing the cross-examination.

(6) Any documents or materials undertaken to be submitted by the party whose affiant or declarant is being cross-examined shall be filed with the Registrar by that party and served on the other party to the proceeding before the expiry of the time limit for completing the cross-examination.

(7) If an affiant or declarant declines or fails to attend for cross-examination, the affidavit or declaration shall not be part of the evidence and shall be returned to the party who filed it.

Subsection 59(2) and (3) of the Regulations may be replaced by the following:

(2) All documents and other materials filed in an objection proceeding shall be open to public inspection.

Section 60 of the Regulations may be replaced by the following:

60. (1) Within two months after the expiry of the time for the completion of all cross-examinations on affidavits or statutory declarations filed under sections 55 to 57, the objector may file a written argument with the Registrar and shall serve a copy of any such written argument on the responsible authority.

(2) Within two months after the expiry of the time for the objector to file and serve a written argument under subsection (1), the responsible authority may file a written argument with the Registrar and shall serve a copy of any such written argument on the objector.

(3) No written argument shall be filed and served after the expiry of the periods referred to in subsections (1) and (2), except with leave of the Registrar.

(4) Within one month after the expiry of the time for the responsible authority to file a written argument under subsection (2), each party wishing to be heard by the Registrar at a hearing shall file with the Registrar and serve upon the other party a requisition for a hearing that

- a. specifies whether the party will
  - i. make representations in English or French; and
  - ii. require simultaneous translation if the other party makes representations in the other official language; and
- b. sets out details concerning how the party wishes to make representations at the hearing including, as applicable, whether the party wishes to make representations in person and, if the party wishes to make representations by telephone, the telephone number at which they wish to be contacted.

(5) Following receipt of a requisition for a hearing complying with subsection (4), the Registrar shall send the parties a written notice setting out the time and date of, and other details concerning, the hearing.

(6) If only one of the parties files a requisition for a hearing and if, after a notice is sent under paragraph (5), that party withdraws their requisition, the Registrar shall notify all the parties that the hearing is cancelled.

(7) A party may notify the Registrar of changes to any of the information provided under subsection (4) and the Registrar shall modify the administrative arrangements for the hearing accordingly if the notice is received by the Registrar at least one month before the date of the hearing or, if the Registrar is reasonably able to modify the administrative arrangements that have been made for the hearing, at any time before the hearing.

Section 61 of the Regulations would be repealed.

## **Fees**

Item 2 of the schedule to the Regulations may be replaced by the following:

2. A statement of opposition pursuant to subsection 38(1) of the Act,

- a.

if the statement of opposition and fee are submitted on-line to the Office of the Registrar of Trade-marks, via the Canadian Intellectual Property Office web site

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- b. in any other case 750
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Item 8 of the schedule to the Regulations may be replaced by the following:

8. A request to send one or more notices pursuant to section 44 or 45 of the Act, for each notice

- a. if the request and fee are submitted on-line to the Office of the Registrar of Trade-marks, via the Canadian Intellectual Property Office web site 350
- 

- b. in any other case 400
- 

Item 9 of the schedule to the Regulations may be replaced by the following:

9. An application for an extension of time pursuant to subsection 47(1) or (2) of the Act, for each act,

- a. if the application and fee are submitted on-line to the Office of the Registrar of Trade-marks, via the Canadian Intellectual Property Office web site 100
- 

- b. in any other case 125
- 

Item 14 of the schedule to the Regulations may be replaced by the following:

14. A statement of objection pursuant to subsection 11.13(1) of the Act,

- a. if the statement of objection and fee are submitted on-line to the Office of the Registrar of Trade-marks, via the Canadian Intellectual Property Office web site 950
- 

- b. in any other case 1000
- 

Item 15 of the schedule to the Regulations may be replaced by the following:

15. A trade-mark, including, without further fee, the issuance of a certificate of registration of the trade-mark,

- a. if the fee is submitted on-line to the Office of the Registrar of Trade-marks, via the Canadian Intellectual Property Office web site 150
- 

- b. in any other case 200
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## Transitional Provisions

In respect of applications for the registration of a trade-mark that were advertised in the *Trade-marks Journal* under subsection 37(1) of the Act before the date of coming into force of these Regulations, section 28 of the *Trade-marks Regulations* is replaced by section 28 of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations.

In an opposition proceeding under section 38 of the Act, if before the coming into force of these Regulations

- a. the applicant filed and served a counter statement, the portion of subsection 41(1) of the *Trade-marks Regulations* before paragraph (a) is replaced by the portion, before paragraph (a), of subsection 41(1) of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations;
- b. the opponent submitted and served either evidence under subsection 38(7) of the Act or a statement that the opponent does not wish to submit evidence, the portion of subsection 42(1) of the *Trade-marks Regulations* before paragraph (a) is replaced by the portion, before paragraph (a), of subsection 42(1) of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations;
- c. the applicant submitted and served evidence under subsection 38(7) of the Act, the portion of section 43 of the *Trade-marks Regulations* before paragraph (a) is replaced by the portion, before paragraph (a), of section 43 of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations;
- d. the Registrar, under subsection 44(2) of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations, ordered the cross-examination under oath in respect of a particular affidavit or declaration,
  - i. the cross-examination shall be completed before the later to expire of the time fixed by the Registrar and the time specified under subsection 44.1(2) of the *Trade-marks Regulations*; and
  - ii. a transcript of the cross-examination and exhibits to the cross-examination, and any documents or material undertaken to be submitted by the party whose affiant or declarant is being cross-examined, shall be filed with the Registrar by the party conducting the cross-examination before the later to expire of the time fixed by the Registrar and the time specified under subsection 44.1(2) of the *Trade-marks Regulations* for completing the cross-examination;
- e. the Registrar, under subsection 46 of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations, gave the parties written notice that they may file written arguments with the Registrar
  - i. section 44.1 of the *Trade-marks Regulations* does not apply; and
  - ii. section 46 of the *Trade-marks Regulations* is replaced by section 46 of the *Trade-marks Regulations* as they read immediately before the coming into force of these Regulations.

## Coming into Force

These Regulations come into force [30 days after the day on which they are registered].

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<sup>1</sup> SOR/96-195

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Date Modified: 2012-02-23