

December 1st, 2023: Changes to the Practice in trademark opposition proceedings and in Section 45 proceedings in Canada

In Canada, the Trademarks Opposition Board (TMOB) acts on behalf of the Registrar with respect to two types of proceedings: opposition proceedings and section 45 proceedings (expungement for non-use).

To ensure faster and more efficient procedures, the TMOB has decided to reduce the current benchmarks for extensions of time and the cooling off period.

In opposition proceedings, the statutory or administrative deadlines for the stages of proceeding will not change. The deadlines at the main stages remain the same as shown below:

| Stages of the opposition proceedings | Statutory or administrative deadline |
|---|--|
| Filing of a Statement of opposition | 2 months from the date of advertisement of application on the CIPO website |
| Filing of a Counterstatement | 2 months from the date that the Registrar forwards statement of opposition |
| Filing of the Opponent's evidence | 4 months from the effective date of service of counterstatement |
| Filing of the Applicant's evidence | 4 months from the effective date of service of opponent's evidence (or statement) |
| Cross-examination | Within the period specified by the Registrar in the notice of cross-examination |
| Cross-examination – replies to undertakings | Within the period specified by the Registrar in the notice of cross-examination |
| Reply evidence | Within the period specified by the Registrar in the notice of cross-examination |
| Opponent's written representations | 2 months from the date of the Registrar's notice under section 57(1) of the Regulations, |

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|-------------------------------------|---|
| Applicant's written representations | 2 months from the earlier of the effective date of service of the opponent's written representations (or statement) or the expiry of such deadline |
| Request for hearing | 1 month from the earlier of the effective date of service of the applicant's written representations (or statement) or 1 month from the expiry of such deadline |

However, as of December 1st, 2023, it will still be possible to request extensions of time at these different opposition stages, but the time granted will be generally halved. The cooling off periods will be reduced from nine (9) months to seven (7) months for each party. Extensions of time requested under exceptional circumstances remain in effect.

As with the opposition proceedings, the statutory or administrative deadlines for the different stages of Section 45 proceedings remain unchanged.

| Stages of the Section 45 proceedings (Expungement for non-use) | Statutory or administrative deadline |
|--|--|
| Registered Owner's Evidence | 3 months from the date of the Section 45 Notice |
| Requesting Party's Written Representations | 2 months from the date of the notice for written representations |
| Registered Owner's Written Representations | 2 months from the earlier of the effective date of service of the requesting party's written representations (or statement) or 2 months from the expiry of such deadline |
| Request for Hearing | 1 month from the earlier of the effective date of service of the registered owner's written representations (or statement) or 1 month from the expiry of such deadline |

It will still be possible to request an extension of time for filing the registered owner's evidence, but the benchmark will be reduced from four (4) months to two (2) months. Extensions of time for filing written representations and for requesting an oral hearing are not available. However, extensions of time requested under exceptional circumstances remain in effect and are determined on a case-by-case basis.

The documents summarizing the upcoming changes in opposition proceedings and Section 45 proceedings are available below. The current and upcoming versions are presented side by side.

[Changes to the *Practice in trademark opposition proceedings*](#), effective as of December 1st, 2023

[Changes to the *Practice in section 45 proceedings*](#), effective as of December 1st, 2023

If you initiate or are involved in opposition proceedings or Section 45 proceedings in Canada after December 1st, 2023, you need to act diligently to meet the deadlines. Failure to meet the deadlines may be detrimental for your clients and often fatal.

Do not hesitate to contact our team of trademark professionals for any questions or additional information.

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