

## CANADIAN TRADE-MARK APPLICATION INFORMATION CHECKLIST

<b><u>INFORMATION REQUIRED</u></b>													
<b>Trade-mark:</b> (If the trade-mark is a design mark, please provide an electronic copy of the design in .TIF format. See Supplementary Notes below.)													
<b>Name of Applicant:</b> (If a corporation, provide the name as it appears on the certificate of incorporation.)													
<b>Full Address of Applicant:</b>													
<b>Description of Wares and/or Services:</b> (Attach extra page if necessary. Please note that the description should be in ordinary commercial terms. Canada does not follow the International Classification System.)													
<b>Basis of Application:</b> (Check the applicable box. More than one may be applicable - see Supplementary Notes below.)	<table style="width: 100%; border: none;"> <tr> <td style="padding: 5px;">Use in Canada</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="padding: 5px;">(If Chosen, see Note 1 below.)</td> </tr> <tr> <td style="padding: 5px;">Proposed Use in Canada</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td></td> </tr> <tr> <td style="padding: 5px;">Application/Registration and use in a foreign country</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="padding: 5px;">(If Chosen, see Note 2 below.)</td> </tr> <tr> <td style="padding: 5px;">Making Known in Canada</td> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td></td> </tr> </table>	Use in Canada	<input type="checkbox"/>	(If Chosen, see Note 1 below.)	Proposed Use in Canada	<input type="checkbox"/>		Application/Registration and use in a foreign country	<input type="checkbox"/>	(If Chosen, see Note 2 below.)	Making Known in Canada	<input type="checkbox"/>	
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Making Known in Canada	<input type="checkbox"/>												

<b><u>INFORMATION REQUIRED</u></b> (cont'd)	
Priority Claim (Priority may be claimed at any time within six months of the date of the Applicant's home country application.)	YES <input type="checkbox"/> or NO <input type="checkbox"/>  If Yes, Country of Application: _____ Application No.: _____  Date of Application: _____

**Note 1**

If Use in Canada is being claimed, list below the dates when the trade-mark was first used in Canada in association with each of the general classes of wares and/or services described above (see Notes below regarding what constitutes "Use in Canada"). If an exact date cannot be determined, provide a conservative estimate prefaced by the words "At least as early as". Indicate dates of first use by any predecessor in title of the Applicant with a "\*" and provide the full name of the predecessor in title, if applicable.

WARE/SERVICE	DATE OF FIRST USE IN CANADA

**Note 2**

Application/Registration and use in a foreign country (if applicable):

Country of Application/Registration: \_\_\_\_\_  
 Country of Origin of Owner/Applicant: \_\_\_\_\_  
 Application/Registration No.: \_\_\_\_\_  
 Date of Application/Registration: \_\_\_\_\_  
 Mark is in use in the country of Application/Registration:

YES  or NO

## SUPPLEMENTARY NOTES

### Use in Canada:

Wares – “Use” in association with wares (i.e. goods) generally means that the trade-mark appears on the wares themselves (e.g., on labels) or on the packaging of the wares or is associated in some other manner with the wares at the time of transfer of possession of or property in the wares (e.g. on point of sale materials).

The distribution of free samples of the wares or the mere advertising of wares (e.g. in brochures, catalogues or on a website) without actually selling the wares in Canada is generally not considered use of the trade-mark in association with the wares.

Services – “Use” in association with services generally means that the trade-mark is displayed during the performance of the services in a manner such that notice of the association of the trade-mark and the services is given to the user of the services. Advertising of services constitutes use so long as the services are performed or available to be performed in Canada at the time of such advertisement.

The registration of a business or corporate name in Canada containing the trade-mark or the conduct of business in Canada under a business or corporate name containing the trade-mark does not necessarily, in and of itself, constitute “use” of the trade-mark in association with services.

**Proposed Use in Canada:** This basis is claimed if the mark has not yet been used in Canada in association with the claimed wares or services. Prior to final registration, a declaration of use stating that the Applicant (or its licensees) has started using the mark in Canada must be filed with the Registrar of Trade-marks. It is possible to file an Application that claims use in association with some wares/services and proposed use in association with other wares/services.

**Application/Registration and Use in a Foreign Country:** If the Applicant is not Canadian and has registered or applied to register the trade-mark in its own country (or any other country where it has a real and effective commercial presence) and has used the trade-mark in that country, then this is a separate basis for registration in Canada which should be claimed. Confirmation of use in the foreign country is required, but first use dates in the foreign country are not required. A certified copy of the foreign registration, together with a translation into English or French, must be provided before the Canadian application will be advertised for opposition purposes.

**Making Known in Canada:** If this basis is claimed, the Applicant must state that it has made the trade-mark known in Canada and must specify the date of first making known and the manner in which such mark has been made known in Canada in association with the claimed wares/services. The Applicant must also identify a Paris Convention or WTO country where use of the mark has occurred in respect of the wares/services. The manner in which a mark has been made known in Canada must be by the distribution of the wares in association with the mark in Canada or by advertisement of the wares and/or services in association with the mark in any

printed publication circulated in Canada in the ordinary course of commerce among potential dealers in or users of the wares or services, or by advertisement on any radio or t.v. broadcasts ordinarily received in Canada by potential dealers in or users of the wares or services.

**Translation/Transliteration:** If the trade-mark consists of a word in a language other than English or French, please provide a translation, if applicable, into English or French. If the trade-mark consists of foreign language characters (e.g. Chinese script or Arabic characters), please provide those characters in a .TIF format and both a translation and transliteration into English or French.

**Electronic Filing:** If the Application is filed electronically with the Canadian Intellectual Property Office, there is a \$50 CDN reduction of the government filing fee. For a design mark, the drawing must be in .TIF format in order to be filed electronically.

**Formalities:** It is not essential that an Application be executed by the Applicant and no Power of Attorney or Apostille under the Hague Convention is required.

For further information, contact the following members of our Technology and Intellectual Property Practice Group:

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