



CIPO Announces Mechanism for Expedited Examination for Applications Covering COVID-related Goods/Services

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On December 14, 2020, and effective immediately, CIPO announced a pilot initiative to accept requests for expedited examination of trademark applications listing at least one of the following goods or services related to COVID-19:

- pharmaceuticals, medical devices (such as diagnostic tests, ventilators), or medical protective equipment (such as sanitary masks for protection against viral infections, disposable gloves for medical purposes) that prevent, diagnose, treat, or cure COVID-19;
- medical services or medical research services for the prevention, diagnosis, treatment, or cure of COVID-19.

Pursuant to the Practice Notice, expedited examination is available if one or more of the following criteria are met:

- there is a Canadian court action underway concerning the applicant's trademark in association with the goods or services listed in the application;
- the applicant is in the process of combating counterfeit products at the Canadian border concerning the applicant's trademark in association with the goods or services listed in the application; or
- an approval for use of the goods or services listed in the application has been submitted to, or has been obtained from, Health Canada under the same name as the trademark. Examples of Health Canada approval processes included a Medical Device License; a Medical Device Establishment License; an authorization under the Interim Order Respecting Clinical Trials for Medical Devices and Drugs Relating to COVID-19; and a Notice of Compliance.

Requests for expedited examination must be in the form of an affidavit or a statutory declaration and must clearly set out how one or more of the above criteria are met. Requests must not relate to more than one trademark application. Requests must be submitted by mail or fax, and there is no associated fee.

If the request for expedited examination is accepted, the Trademarks Office will examine the application "as soon as possible", however, the Practice Notice cautions that the advantage could be lost if the applicant requests an extension of time or misses any deadline.

If the request is not accepted, the Office will explain why the request was denied in writing.

The pilot initiative, while quite limited in its scope, is welcome news to applicants with trademarks covering time-sensitive COVID-19-related goods and services, since examination is currently taking upwards of 24 months. The initiative will be in place until August 31, 2021, or until such time as the Registrar deems it appropriate.

<https://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr04872.html>

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