

Important Changes Coming to Trademark Opposition and Expungement Proceedings

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As of April 1, 2025, various amendments to the *Trademarks Act* and *Trademarks Regulations* will come into force.¹ The amendments largely aim to increase the efficiency of opposition and expungement proceedings at the Trademarks Opposition Board ("**Board**"). We discuss some of the changes below.

No more automatic right to file new evidence on appeal

A significant change is that parties will no longer have an automatic right to file new evidence on appeal of a Board decision to the Federal Court. Rather, leave from the Federal Court will now be required. This change will require that parties spend more time compiling their evidence at the Board level, and should reduce the number of second chances – or a *de novo* review – at the Federal Court level.

Procedural changes: Case Management, Cost Awards and Confidentiality Orders

The amendments also give the Board the ability to case manage proceedings, award costs and make confidentiality orders. These are welcome changes that should streamline proceedings.

- **Case Management:** The Board will be permitted to case manage an entire proceeding at any time, and notably, will have discretion to vary deadlines, and consolidate related proceedings. In deciding whether case management is warranted, the Board will consider, among other factors: the nature and extent of evidence; the complexity of the proceeding; whether the parties are represented; the number of related files; and whether substantial delay has occurred or is anticipated to occur in the conduct of the proceeding. More information can be found in the [Practice notice on case management](#).
- **Cost Awards:** The Board will now be able to award costs against a party to a proceeding, regardless of the outcome. This will only be done if requested by a party, and only in exceptional circumstances. In deciding whether to make an award, the Board may consider: a trademark application was refused on the ground that it was filed in bad faith; the presence of divisional applications; if a hearing is cancelled on less than 14 days' notice; or if there is unreasonable behaviour that causes undue delay or expense. More information can be found in the [Practice notice on costs awards](#).
- **Confidentiality Orders:** The Board will also be able to issue confidentiality orders, if requested by a party, and the confidentiality interest outweighs the public interest in open and accessible proceedings. The Board has noted that such an order is likely to be exceptional, and must be requested prior to filing evidence. More information can be found in the [Practice notice on confidentiality orders](#).

If you have any questions about the contents of this article, reach out to any member of our [Intellectual Property](#) team.

¹ For a detailed explanation of the amendments to the *Trademark Regulations*, see [Regulations Amending the Trademark Regulations: SOR/2025-19](#); For a detailed explanation of the amendments to the *Trademarks Act* see the [Budget Implementation Act, 2018, No. 2 \(Bill C-86\)](#); For clarity on which parts of the *Budget Implementation Act* come into force on April 1, 2025 see the [Canada Gazette](#).