

May 23, 2014

Minister of Finance

The Honourable Joe Oliver
Department of Finance Canada
140 O'Connor Street
Ottawa, Ontario K1A 0G5

Re: 2014 Budget Implementation Bill C-31, *Trademarks Act*

Trademarks are among the most important assets of any company, symbolizing as they do valuable goodwill. The economy benefits from the adoption and launch of new trademarks that often are associated with improved and innovative products. It is therefore important to trademark owners to be able to clear new trademarks with the least cost, risk, and delay. The proposed legislation threatens to significantly increase the cost, risk and delay in launching new trademarks, because it is certain to increase the amount of “deadwood” trademark registrations, making clearance of trademarks more costly, and less certain.

It is also of vital importance to businesses that their trademarks be safeguarded against encroachment by others, as well as piratical acts. By permitting registration without use, the proposed *Trademarks Act* in Bill C-31 threatens to sharply increase costs for Canadian businesses because the number of oppositions will rise sharply, as CIPO itself has admitted.

At present only about 2% of all applications filed annually in Canada are the subject of costly opposition proceedings. The reason why this figure is as low as it is, is that no one can register a trademark in Canada without first having used it either in Canada or elsewhere, and any such trademark registration is restricted to the goods or services for which such use has occurred. This tends to discourage over-claiming, and therefore reduces the burden on existing trademark owners to oppose.

In the European CTM system, where registrations are granted without prior use, the opposition rate for CTMs is 18%. Oppositions are expensive, even if a settlement is reached, and divert management time better spent in more productive activities.

We therefore ask that the trademark provisions of Bill C-31 be removed from the bill pending further study. We propose that a committee should be formed to study the modernization of the *Trademarks Act*, made up of representatives of government, business, law associations, and expert practitioners. Only with true collaboration, which regrettably has not occurred to date, can such important legislation be crafted to suit the needs of Canadian businesses both now and into the future.

Sincerely,

Valerie Payn
President and CEO
Halifax Chamber of Commerce