

New Practice Notice from the Canadian Intellectual Property Office: Priority Claims

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The Trade-marks Office released a new Practice Notice¹ on September 2, 2010, to clarify its practice with respect to priority claims.

The Notice is largely unchanged from the previous version, with the exception of a paragraph clarifying the Office's practice with respect to limitations of priority claims to specified wares and/or services. The Office does not require the applicant to identify the wares or services in respect of which priority is claimed, just to declare that the priority application covers the same or substantially the same trademark for use with the same kind of wares or services. If an applicant wishes to limit the claim to certain wares and/or services, it must do so within the six-month priority period. Once the six-month priority period has expired, the Office will not permit any amendment to remove such limitations on the priority claim.

Other key points to remember:

- In order to claim priority to an earlier filed application, a declaration stating the date and country of filing of the earlier application must be filed within six months from the filing date of earliest application.
- The priority declaration may be filed with the original application, in an amended application, or as a separate declaration in respect of the application, as long as it is filed within the six-month priority period.
- Errors in the date or country of filing of the earlier application may be corrected within the six-month priority period.
- The number of the earlier application is not required in the priority declaration; however, if it is not included, the Office will require the applicant to either provide the number or submit a certified copy of the earlier application.
- Errors in the number of the earlier application can be corrected at any time before registration.

¹ <http://www.cipo.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr02805.html>