

Golden, Stéphanie: CIPO-OPIC

From: Pries, Charlene [Charlene.Pries@cma.ca]
Sent: Friday, February 26, 2010 15:43
To: Golden, Stéphanie: CIPO-OPIC
Cc: Pioro, Mark
Subject: Submission in response to the Consultation on Professional Designations and Abbreviations, Acronyms or Initials

Dear Ms. Golden,

The Canadian Medical Association (CMA) commends the clarification of trade-marks practice contained in Proposed Practice Notice: Professional Designations and their initials. CMA looks forward to the publication of a practice notice on this topic, but would note the following:

In addition to being clearly descriptive of the persons employed in the production of the wares and services used in association with professional designations and their initials, professional designations and their initials may also be **deceptively misdescriptive** of the persons employed in the production of the wares and services with which they are associated. This is made clear in *College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia vs. Council of Natural Medicine College of Canada* [2009 FC 1110], at paragraph 220:

"The above marks are also associated with a practice as relating to educational, regulatory or clinical services and the marks describe these types of services. Faced with any of the acronyms and descriptive phrases above, the everyday user is apt to believe that practitioners in alternative medicine are delivering a service and in particular, that doctors and acupuncturists regulated in the field are likely to be delivering the service. Therefore, I find that the above marks which encompass all of the marks in the statement of claim clearly describe or **deceptively misdescribe** wares or services associated with the practice of traditional Chinese medicine, and do not adequately distinguish the wares or services of the defendant, CNMCC" (emphasis added).

Similarly, see paragraph 2 of *Lubrication Engineers, Inc. v. Canadian Council of Professional Engineers* (1992 FCA 243).

Therefore, in keeping with the judicial treatment of section 12(1)(b) of the Trade-marks Act, and in the interest of protecting members of the public from deceptively misdescriptive associations with respect to trademarks that appear to be professional designations, CMA respectfully recommends publication of the Proposed Practice Notice: Professional Designations and their initials, revised to reflect the above comments.

We would be happy to discuss these comments in more detail at your convenience. Thank you for the opportunity to respond.

Sincerely,
Charlene Pries

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