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Sent: Friday, January 22, 2021 5:23 PM

To: TMFeedback <TMFeedback@USPTO.GOV>

Subject: Question re TMA: New Cancellation Counterclaim - Affect on Traditional Non-Use Claim

Parties have long been able to assert a cancellation claim based on non-use as of the relevant date (e.g. date a use-based application was filed, date an allegation of use was filed), and the claim could be asserted at any time after registration. Under the TMA, there is a new cancellation claim based on complete non-use of the mark (not non-use as of a particular date), which may only be asserted after 3 years of registration. Does this affect the ability to assert a traditional non-use claim (as of a relevant date)? I realize that it might now be less costly and burdensome to petition the Director to re-examine the registration, but I am wondering if a party could assert the traditional non-use claim if it prefers.

Thank you.

Michael Chiappetta