
 Industry Canada Industrie Canada	POLICY STATEMENT ÉNONCÉ DE POLITIQUE 1.2
Corporations Canada	Date July 21, 2010
Reference or division - Référence ou division External Distribution – Diffusion externe	Cancels – Annule new
Signature and title - Signature et titre 	Page 1 of – de 2

Allegations of Corporate Name Confusion *Canada Business Corporations Act*

Pursuant to subsection 12(2) of the *Canada Business Corporations Act* (CBCA), Corporations Canada has authority to require a CBCA corporation to change its corporate name if its corporate name creates a likelihood of confusion. As a rule, Corporations Canada does not hold oral hearings into allegations of confusion. Rather each party involved is given an opportunity to present its case through an exchange of correspondence.

Corporations Canada's decision will be based on the criteria set out in sections 18 and 19 of the *Canada Business Corporations Regulations*. The information to be provided by the parties involved includes:

- references to the inherent distinctiveness of the name or trademark involved,
- the degree of resemblance between the corporate names,
- the extent of use of the names or trademark,
- the type of goods or services associated with the trademark or the corporate name and their means of distribution,
- the territory of operation,
- the type of clientele,
- the reason for any delay in bringing the allegation, and
- the particulars of any court action which may have been commenced in respect of the same issue.

All factual information submitted should be in the form of affidavits or statutory declarations made by person(s) with knowledge of those facts. Arguments as to the effect of those facts may be made by letter. A model statutory declaration is attached (see Annex) for your information. Please ensure that the document is signed before a Commissioner for taking oaths (to be found in law offices, court offices, city halls, legislatures).

A copy of the allegation will be forwarded by Corporations Canada to the party against whom the allegation is made (allegee). In order to ensure that the matter is dealt with in the minimum amount of time, the allegee is requested to send a copy of its reply directly to the party bringing the allegation (allegor) or the solicitor acting on its behalf. Upon receiving a copy of such a reply, the allegor or its solicitor should, within 30 days, submit any comments thereon to Corporations Canada, or alternately advise Corporations Canada that there will be no comments. If a reply of some nature has not been received by Corporations Canada within 30 days, the allegation of confusion may be considered to have been withdrawn.

Corporations Canada's decision may be appealed to a court pursuant to paragraph 246(b) of the CBCA.

If Corporations Canada's decision goes against the allegee and directs the corporation to change its name, the corporation has 60 days following Corporations Canada's decision to file articles of amendment, without a fee, requesting such a change. If the articles are not filed within 60 days, Corporations Canada will change the name of the corporation to a number name.

ANNEX

IN THE MATTER OF THE
CANADA BUSINESS CORPORATIONS ACT

AND

IN THE MATTER OF AN ALLEGATION OF CONFUSION
PURSUANT TO SUBSECTION 12(2) AGAINST

(Name of Defendant Corporation)

STATUTORY DECLARATION

I, _____, of the City of _____ in the Province of _____,

DO SOLEMNLY DECLARE that:

1. I am _____ and I have personal knowledge of the matters herein deposed to.

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED before me at the
City of _____,
in the Province of _____,
this ___ day of _____, 20___.

(signature)

A Commissioner, etc.