In The News

Evelina Gentry Examines COVID-19 Pandemic's Impact on Trademark Owner's Ability to Claim Continuous Use in Article for *Intellectual Property & Technology Law Journal*

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Evelina Gentry wrote an article for *Intellectual Property & Technology Law Journal* examining the impact of the COVID-19 pandemic on a trademark owner's ability to claim continuous use on its patent.

"Courts have held that to satisfy the 'continuous use' requirement for incontestability, the mark must have been used throughout the entire period in connection with the sale of goods or services that were sold or transported in commerce. In another context, that of the 'prior use' defense to a claim of infringement of a registered mark, where the party seeking to assert the defense must prove that its use of the mark was in continuous use prior to the registration of the mark of which it is accused of infringing, courts have held that for use to be a continuous use, the use must be "maintained without interruption."

"In light of the COVID-19 pandemic, and the resultant temporary closure of many businesses, the question arises whether such closures, and the possible temporary non-use of registered trademarks during this period of closure, will interfere with trademark owners' ability to claim continuous

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use and thereby secure incontestable trademarks. While caselaw is scant on this issue in the context of incontestability, certain cases may be instructive."

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