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Security Interests Over Rail Cars in Canada: Tips for Perfecting a Security Interest under the Canada Transportation Act

Jennifer Wasylyk

October 4, 2016

To perfect a security interest in rail cars in Canada, the underlying document which creates the security interest must be deposited with the Registrar General of Canada pursuant to either section 104 or 105 of the *Canada Transportation Act*[1] (the CTA). As with most registration systems, the CTA deposit system is not perfect. This article provides tips for conducting a comprehensive search of the CTA deposit system and depositing a document with the Registrar General of Canada.

Before Depositing Your Document

Before a document is deposited under the CTA, a search of the deposit system should be conducted to determine if there are any prior security interests against the debtor or collateral in question. Under most Canadian registration systems, a search against the relevant debtor's name would be sufficient to determine if there are any prior security interests of concern. However, given that many of the documents deposited under the CTA date back several decades, the process of converting the text of older documents to searchable text can often result in errors and, as a result, certain text (including a party's name) may be converted incorrectly. For example, "ABC Company" might be converted to "AB*O* Company" and a search for ABC Company may not produce all deposits relevant to ABC Company. In addition, the CTA deposit system may not reflect amalgamations or other transactions involving changes in corporate name.

As a result, we recommend conducting additional searches against the specific collateral (for example, reporting marks). Although searching specific collateral increases the likelihood that all relevant deposits will be displayed, it is worth noting that equipment may be listed as a range instead of listing each piece of equipment separately and, accordingly, this search method may also be imperfect. For example, a deposited document may list reporting marks "ABC 001 - ABC 100", but if a secured party is only concerned with a specific rail car in that range (for example, ABC 050) a search of "ABC 050" would not display the previously deposited document. Accordingly, best practice is to conduct CTA searches against both the relevant debtor name and specific collateral.

Depositing Your Document

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To ensure that your security interest is displayed when searches against the same debtor or collateral are conducted in the future, the document submitted for deposit should list collateral individually (as opposed to listing a range of collateral) and the document should be a high resolution or searchable PDF. These steps will minimize the risk that your security interest is not displayed in future searches as a result of the issues noted above.

For further information regarding this matter, please contact Jennifer Wasylyk or any other member of the Banking & Specialty Finance Group.

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[1] S.C. 1996, c. 10
