

# Publications

## Cannabis Rescheduling: What Does It Mean for Your Intellectual Property

### Related Professionals

Aaron M. Williams

Jabari A. Shaw

Michael M. Stojavljevic

### Related Services

Intellectual Property

### Related Industries

Cannabis, Hemp and CBD

**CLIENT ALERT** | 4.28.2026

Last week, the United States Department of Justice issued an order moving FDA-approved marijuana products, as well as state-licensed medical marijuana products, to Schedule III of the Controlled Substances Act (CSA), implementing President Trump's December 18, 2025, Executive Order.

### Who Is Impacted?

The order applies to two specific types of entities: (1) those offering FDA approved marijuana products; and (2) those offering state-licensed medical marijuana products. It does not affect entities involved solely in the offering of marijuana products for recreational use, which remain classified under Schedule I.

### How Does This Impact My Intellectual Property Strategy?

There are a few areas related to your IP that are impacted by this change and/or should be monitored in preparation for future changes:

**Trademarks:** The rescheduling of FDA-approved or state-licensed medical marijuana products to Schedule III removes the "lawful use" barrier that previously prohibited the protection of marks for goods or services deemed unlawful, creating a pathway for the registration of marijuana-related marks under the Lanham Act. Entities seeking to register these marks should ensure compliance with all applicable federal and state regulations.

**Patents:** Although the order does not impact one's ability to obtain Plant Variety Protection Act certificates from the United States Department of Agriculture for high-tetrahydrocannabinol (THC) varieties, the order signals a shift that this layer of protection may be available sooner, rather than later. In the meantime, plant patents and utility patents for cannabis-related inventions remain issuable and the practical realities that sometime accompany obtaining these patents for medical purposes have been lessened

because of the order.

This rescheduling marks a significant step forward for the medical marijuana industry, opening new opportunities for IP protection and business growth. Companies operating in this space should review their IP portfolios and strategies to take full advantage of these changes, while staying alert to further regulatory developments that may impact both medical and recreational cannabis products in the future.