



**2008 BUSINESS REFORM COMMITTEES
MEETING OF THE TRADEMARKS
COMMITTEE**

**JUNE 17, 2008
11:00 A.M.**

**Secretary of State's Office
700 North Street
Jackson, Mississippi**



700 NORTH STREET
POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-1036

STATE OF MISSISSIPPI
SECRETARY OF STATE
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AGENDA

1. Welcome – Cheryn Baker
2. Roll Call of Persons Attending by Teleconference – Cheryn Baker
3. Introduction of Committee Members and Attendees
4. Introductory Remarks – Dan Hise
5. Introduction of Secretary of State Policy & Research Division Staff – Cheryn Baker
6. Discussion of Purpose and Mission of the Business Reform Committees – Secretary Hosemann and Cory Wilson
7. Introduction to Intellectual Property and Summary of Mississippi Trademark Law – Doug Jennings
8. Introduction of Issues – Doug Jennings
 - a. What steps can Mississippi take to make its trademark laws more business-friendly?
 - i. Adoption of Revised Model State Trademark Bill (MSTB) (2007)
 - ii. Protection of registered state marks against unauthorized use on the Internet
 - iii. Disposition of trademark cases in Business Court
 - iv. Other steps to encourage registration at the state level

- b. What can the Secretary of State do to make the trademark search and trademark registration process more efficient?
 - i. Summary of current practices
 - ii. Creation of searchable, electronic trademark database
 - iii. Electronic filing
 - c. Are there other, related areas of law that need to be revisited?
9. Reminder of Upcoming Meetings: Dates and Future Programs – Cheryn Baker
10. Other Business
11. Adjourn 1:00 P.M.

Upcoming Meeting Dates

July 8

July 29

August 19

September 8 – No Meeting; Recommendations Due



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**Mississippi Secretary of State
2008 Business Reform Committees
Trademarks Committee
June 17, 2008**

Included in this packet are the following items:

1. Key Areas of Intellectual Property Protection for Businesses
2. A Brief History of Mississippi Trademark Law and the Model State Trademark Bill
3. The Role of the Mississippi Secretary of State
4. Overview of Key Provisions of Mississippi Trademark Law
5. Benefits of Federal Trademark Registration Vs. State Registration
6. Differences Between Mississippi Trademark Law and the 2007 Model State Trademark Bill (MSTB) (Chart)
7. Registration of Trademarks and Labels, Miss. Code § 75-25-1, Et Seq.
8. Model State Trademark Bill
9. Guide to Understanding the Model State Trademark Bill
10. Trademark Dilution Revision Act of 2006
11. Questions About Current Secretary of State Practices Re: Trademarks
12. Secretary of State Fee Schedules in Southeast
13. Selected Online State Trademark Databases
14. Sample Searches of Federal Trademark Database
15. MS Application to Register or Renew Trade and Service Marks
16. MS Trade and Service Mark Assignment Form
17. MS Classification of Goods and Services
18. Federal Classification of Goods and Services

KEY AREAS OF INTELLECTUAL PROPERTY PROTECTION FOR BUSINESSES

By

Martin E. Willoughby, Jr., Esq.

“Probably 70 percent of the market value of [the S&P 500] is going to be in their intangible assets,” Ashok K. Jain (principal in the valuation services group at the Chicago office of Deloitte Touche Tohmatsu).

All businesses have intellectual property. With some businesses, the role of intellectual property is obvious – Microsoft’s 4,000+ patents, Nike’s recognizable swoosh mark, or Coca-Cola’s secret formula. For other companies, their intellectual property may be more subtle - a confidential business plan, a website, proprietary training materials, or even a customer list. The way a company deals with its intellectual property can provide it a strategic advantage in the marketplace or expose it to substantial risk from competitors and potentially devalue the company.

Intellectual property can be summarized in four major categories: copyrights, patents, trademarks, and trade secrets.

INTELLECTUAL PROPERTY	PROTECTS
Copyrights	Creative works
Patents	Inventions
Trademarks	Symbols
Trade Secrets	Company Secret Information

COPYRIGHTS

Copyrights, governed exclusively by federal law, protect “original works of authorship fixed in a tangible medium of expression . . .”¹ This means that the work must have been created by the author and have some minimum level of creativity. A tangible medium of expression could be a recording, a film, a book, etc. However, a live performance would not be copyrightable. A copyright protects the form of expression rather than the subject matter. For example, a description of product could be copyrighted, but this would only prevent others from copying the description and not writing a description of their own or from making and using the product.

Copyrightable works include the following categories:²

Literary Works	Musical Works
Dramatic Works	Pantomines and Choreographic Works
Pictorial, Graphic, and Sculptural Works	Motion Pictures and other audiovisual Works
Sounds recordings	Architectural works

There are certain rights that accompany copyright ownership commonly known as the “bundle of rights”. These rights include the following:³

to copy or reproduce the copyrighted work	to perform the copyrighted work publicly
to prepare derivative works based upon the copyrighted work	to display the copyrighted work publicly
to distribute copies or phonorecords of the copyrighted work	in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

You do not have to register a copyright to establish ownership; however, there are certain benefits of registration. For example:

- By registering, there is a public record of the copyright claim; and

¹ 17 U.S.C. § 102(a)

² 17 U.S.C. § 102(a)

³ 17 U.S.C. § 106

- Statutory damages and attorney's fees will be available to the copyright owner in court actions. If there is no registration then only an award of actual damages and profits is available to the copyright owner.

The duration of the copyright protection is set by statute. For works originally created on or after January 1, 1978, the time periods for protection are as follows:⁴

TYPE OF AUTHOR	TIME PERIOD
Individual author	Life of author + 70 years
Joint author	Life of both authors + 70 years
Work for hire; anonymous	95 years from publication or 120 years from creation, whichever is shorter.

Registering a copyrightable is cost effective and easy. To register a copyright, a filer simply sends the following information to the Library of Congress, Copyright Office:

- Application form;
- A non-refundable filing fee of \$30 fee per application; and
- A non-returnable copy of the work being registered.

Although copyright notice is no longer required on copyrighted works, it is advisable. Under the 1976 Copyright Act, notice was required; however, this requirement was eliminated when the United States adhered to the Berne Convention, effective March 1, 1989. By providing notice, the copyright owner protects against claims of innocent infringement. Examples of a copyright notices are as follows:

© 2005 Martin Willoughby

Copyright 2005 Martin Willoughby

Copr. 2005 Martin Willoughby

Detailed information on the copyright filing process and the applicable forms can be found at www.copyright.gov.

⁴ 17 U.S.C. § 302

PATENTS

Similar to copyrights, patent protection is exclusively governed by federal law. By obtaining a patent, the owner is granted the exclusive right to “make, use or sell” an invention. Generally, the term of a new patent is 20 years from the date on which the application for the patent was filed, or in some circumstances, from the date an earlier related application was filed. In order to maintain their patent, patent owners must also make maintenance fee payments. Maintenance fees are due 3½, 7½, and 11½ years from the date a patent is issued or within a six month time period following these dates. Failure to pay the maintenance fees on time may result in expiration of the patent.

By statute, any person who “invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.”⁵ To be patentable, the invention must (1) have utility, (2) be novel, and be (3) non-obvious. Therefore, an invention must have some specific usefulness and must be “new” and different from what is disclosed as “prior art” as defined by statute. There are three types of United States Patents:

TYPE OF PATENT	PROTECTS
Utility Patent	Functional aspects of products and processes
Design Patent	Look and ornamental design of useful objects and not their functional features
Plant Patent	Newly discovered asexually reproduced variety of plants

Unlike a copyright or trademark, patent protection is not available without a successful application to the United States Patent and Trademark Office (“USPTO”). Only the inventor may apply for a patent, with certain exceptions. If the inventor is deceased, the

⁵ 35 U.S.C. § 101

application may be made by legal representatives. If two or more persons jointly create an invention, they may apply for a patent as joint inventors. However, a person who only makes a financial contribution to the invention is not a joint inventor and cannot be joined in the application as an inventor.

The applicant must submit the following to the USPTO to obtain a patent:

- A written description of the invention including specifications;
- An oath or declaration;
- A drawing (if necessary); and
- Filing, search, and examination fees.

Once the application is submitted, the USPTO conducts an extensive search of the “prior art” and, based on its review, will accept or reject the application. For the inventor, there are two levels of appeal in the event of a rejection – the Board of Patent Appeals and Interferences and the Federal Circuit Court of Appeals.

While essentially providing a monopoly for the inventor, the patent process is a time intensive and potentially costly process. Therefore, the businesses must carefully weigh the risks and benefits of a seeking a patent on the particular invention. Additional information regarding the filing of patents can be found at www.uspto.gov.

TRADEMARKS

The word trademark is often used in a general sense to describe several types of related intellectual property protection:

TYPE OF MARK	EXAMPLE
Trademarks	Nike
Service Marks	McDonald's
Certification Marks	Underwriter's Laboratories
Collective Marks	AAA (American Automobile Association)
Trade Dress	Coca-Cola Bottle

Trademarks and service marks are words, names, symbols, or devices used by manufacturers of goods and providers of services to identify their goods and services, and to distinguish their goods and services from goods manufactured and sold by others. Certification marks are defined as “any word, name, symbol, or device, or any combination thereof used by a person other than its owner . . . to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person’s goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.”⁶ Collective marks are defined as “a trademark or service mark used by the members of a cooperative, an association, or other collective group or organization . . . and includes marks indicating membership in a union, an association, or other organization.”⁷

Trademark protection is governed by both federal and state law. The Lanham Act⁸ provides a federal uniform system of trademark protection. In Mississippi, the Model State Trademark Act⁹ was adopted in 1952. The protection of a mark depends on the mark’s distinctiveness, with the greater distinctiveness realizing greater protection. Courts have developed the following hierarchy of distinctiveness, from most distinctive to least distinctive:

⁶ 15 U.S.C. § 1127

⁷ 15 U.S.C. § 1127

⁸ 15 U.S.C. §§ 1051-1128

⁹ Miss. Code Ann. § 75-35-1 et seq.

TYPE OF MARK	DEGREE OF PROTECTION	DESCRIPTION
Fanciful	High	a “made up” word that has no meaning at all other than the trademark meaning (e.g. Exxon®)
Arbitrary	High	real words used in a manner that is totally unrelated to the goods they designate (e.g. Apple®)
Suggestive	Medium	a trademark which indirectly describes the goods or services (e.g. Coppertone®)
Descriptive	Low	trademarks minimally distinctive and immediately inform the consumer of the product’s characteristics and uses (e.g. Chapstck®)
Generic	None	trademarks simply refer to the product or service (e.g. Cellophane)

Generic trademarks are not protectable. Descriptive trademarks are protectable only upon the establishment of “secondary meaning” which occurs when the trademark holder can prove that the public connects the descriptive trademark with the origin of the goods, rather than with the goods themselves. Business names based on geography or surnames are generally considered descriptive trademarks.

Trademark protection arises through the adoption and use of a distinctive mark in interstate commerce. The Lanham Act provides that there must be a “bona fide use of the mark in the ordinary course of trade, and not made merely to reserve a mark.”¹⁰ Even though a business is not required to register a trademark, it is advisable. Benefits of registration include:

- Constructive notice to potential users of the same mark;
- A legal presumption of the registrant's ownership of the mark;
- The ability to bring an action concerning the mark in federal court; and
- The use of the U.S registration as a basis to obtain registration in foreign countries.

¹⁰ 15 U.S.C. § 1127

To register, an applicant must complete an application along with applicable fees and submit to the USPTO either electronically via the Trademark Electronic Application System or in writing to the Commissioner for Trademarks. The fees for registration are currently as follows:

TYPE OF FILING	FEE
Electronic Filing	\$325 per international classification
Paper Filing	\$375 per international classification

There is sometimes confusion about the use of the TM, SM, and ® regarding trademarks. A trademark owner may use the TM (trademark) or SM (service mark) designation to alert the public to the owner’s claim, regardless of whether the owner has filed an application with the USPTO. In contrast, the federal registration symbol, ®, may only be used after the USPTO actually registers a mark, and not while an application is pending. Unlike the limited duration of patents and copyrights, rights in federally-registered trademarks can last indefinitely if the owner continues to use the mark in connection with the goods and/or services in the registration and files all necessary documentation with the USPTO at the appropriate times.

Additional information on obtaining a federal registration of a mark can be obtained at www.uspto.gov and for Mississippi registration on the Mississippi Secretary of State’s website at www.sos.state.ms.us.

TRADE SECRETS

The term “trade secret” can be an elusive and difficult concept. Trade secrets can include customer lists, proprietary recipes and formulas, business plans, special formulas,

processes, pricing and accounting formulas, and research and development information. The law places the burden on the trade secret owner to establish the existence of a trade secret.

The concept of trade secrets originally developed in common law. Today, trade secrets are largely regulated by state law, and Mississippi is one of 44 states which have adopted the Uniform Trade Secrets Act (“MUTSA”), that provides for the protection of trade secrets. The MUTSA defines a "trade secret" as information including a formula, pattern, compilation, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.¹¹ The MUTSA provides for injunctive relief, damages, as well as punitive damages in cases of willful or malicious misappropriation of trade secrets. In addition, in cases of bad faith misappropriation, the court may award attorney fees.

Mississippi does not have a well developed body of law interpreting the MUTSA; however, the case law does give businesses some guidance for assisting their clients in protecting their trade secrets. For example, in *Fred's Stores of Mississippi, Inc. v. M & H Drugs, Inc.*, 725 So.2d 902 (Miss.1998), the Mississippi Supreme Court found that the plaintiff's customer list met both prongs of the two part test for establishing a trade secret. Addressing the first prong, the Court determined that the customer list had “economic value” because the information on the customer list was not information known to the defendant or generally ascertainable by proper means, and that the defendant could obtain economic value from the disclosure of the list. Secondly, the Court found that the plaintiff had taken

¹¹ Miss. Code Ann. § 75-26-3(d)

reasonable efforts to maintain the secrecy of the customer list by putting it on a computer and protecting it with a password.

PRACTICAL APPLICATION FOR BUSINESSES

A business's first priority should be to identify, protect, and routinely maintain its own intellectual property. For example, a company might review:

- Whether all copyrighted materials have been federally registered?
- Whether all copyrighted materials contain the copyright notice?
- Whether all assignments of copyrights have been recorded?
- Whether the business is the "author" of the copyrightable work?
- Whether inventions are patentable?
- Whether it is cost effective to file a patent application to protect the invention?
- Whether patent maintenance fees are due?
- Whether all marks and trade dress of value in the business have been registered at the federal and state level?
- Whether marks are already used "in commerce" or whether there is an "intent to use"?
- Whether proper notices are placed on the marks?
- Whether the marks will be used internationally?
- Whether all trade secrets have been identified?
- Whether the trade secrets have been adequately protected?
- Whether confidentiality and non-disclosure agreements have been properly utilized?

Once a business's intellectual property has been identified, adequately protected, and maintained, then a business should purposefully exploit and enforce its intellectual property.

For example, a business may explore whether it is realizing the full potential of its patents. For example, in a strategic move, Microsoft has recently started licensing more of its technology to third parties. Other ways to exploit intellectual property include licensing and franchising trademarks and copyrighted works. Enforcement of intellectual property rights includes routinely monitoring the marketplace and new filings with the USPTO for infringing parties. Further, if infringers are identified then appropriate action should be pursued including the issuance of cease and desist letters.

Finally, a business should purposefully avoid infringing the intellectual property rights of others. For example, businesses should conduct diligent trademark searches before using a new mark in commerce. To avoid copyright infringement, businesses should have systems in place to prevent purposeful or even accidental use of third party copyrighted material. Many problems can also be avoided by carefully screening new hires particularly when they are hired from a competitor.

In conclusion, businesses should seek to maximize the value of their intellectual property through proper identification, protection, enforcement, and exploitation of these intangible assets. In our increasingly global and technology driven world, intellectual property will play an even greater role in the viability and ultimate value of many businesses. Businesses and their professional advisors will need to continually adapt and learn to meet the evolving challenges and issues arising in today's marketplace.

A brief history of Mississippi trademark law and the Model State Trademark Bill

Mississippi's current trademark laws (*see* Miss. Code Ann. § 75-25-1 et seq.) are based upon the 1996 revision of the International Trademark Association's Model State Trademark Bill (MSTB). The MSTB was originally promulgated in 1949 in order to create uniformity among the many states' trademark laws.¹ Mississippi first adopted the MSTB in 1952, and is currently one of over 40 states whose trademark laws have adopted some or all of the MSTB.

The 1996 revision to the MSTB introduced updated trademark dilution provisions in order to mirror changes to federal law created by the Federal Trademark Dilution Act of 1996. The MSTB was again revised in June 2007 to reflect changes in federal law wrought by the Federal Trademark Dilution Revision Act of 2006 (FTDRA). At least four states have adopted this most recent revision as of the time of this writing.² Most notably, the 2007 revision (a) recognizes the concepts of "dilution by blurring" and "dilution by tarnishment," (b) adopts a more plaintiff-friendly "likelihood of dilution" standard (as opposed to the "actual dilution" standard embodied in the 1996 revision), and (c) eliminates the concept of "niche fame."

The role of the Mississippi Secretary of State

The Secretary of State is charged with administering the trademark scheme established by Miss. Code Ann. § 75-25-1 et seq. Any person wishing to apply for a state trademark registration, or to renew an existing registration, must file with the Secretary

¹ International Trademark Association, *Guide to Understanding the Model State Trademark Bill*, accessible at https://www.inta.org/index.php?option=com_content&task=view&id=1391&Itemid=154&getcontent=3.

² *See Model State Trademark Bill Is Making Progress*, accessible at <http://www.law.com/jsp/article.jsp?id=1157135237062>. California, Florida, Indiana, and Massachusetts have adopted the 2007 revision.

the prescribed form and pay a statutory fee. The Secretary then examines the application and will issue the applicant a registration certificate unless it finds the application deficient, or that the application should be rejected on a limited number of grounds (such that the mark is confusingly similar to an existing mark, is “scandalous,” etc.). After registration, the Secretary may cancel the registration if the mark-owner does not file for renewal within five years from the time the registration was granted, or if ordered to do so by a court of competent jurisdiction.

Overview of key provisions of Mississippi trademark law

Mississippi’s adoption of the MSTB creates a system for registering marks which are used within the State, and provides mark-owners with remedies against those who use those marks without consent. Following is a brief summary of Mississippi’s current trademark scheme. Differences between Mississippi’s current trademark laws and the 2007 MTSB are outlined in the attached chart, “Differences Between Mississippi Trademark Law and the 2007 Model State Trademark Bill (MSTB).”

What is a trademark mark? What is a service mark?

Under Mississippi law, a “trademark” is “any word, name, symbol, or device or any combination thereof adopted and used by a person to identify the goods of such person made or sold by him and to distinguish them from goods made or sold by others, including a unique product, from those manufactured and sold by others, and to indicate the source of the goods even if that source is unknown.”³

³ Miss. Code Ann. § 75-25-1(a).

Similarly, the term “service mark” is defined as “any word, name, symbol or device or any combination thereof used by a person to identify and distinguish the services of one (1) person, including a unique service from the services of others, and to indicate the source of the services, even if that source is unknown.”⁴

How are marks registered? What are the grounds for rejection?

Any person who uses a mark may file an application with the Secretary of State setting forth (a) the applicant’s name and address, (b) a description of the goods or services on or in connection with the applicant is using the mark, (c) dates of first use in the State of Mississippi, (d) a sworn statement that the applicant is the owner of the mark, and (e) three specimens showing how the mark is used.⁵

Such applications may be rejected for a limited number of reasons, most notably (a) if the applied-for mark consists of immoral or scandalous matter, (b) if the mark is merely descriptive or deceptively misdescriptive of the applicant’s goods and services, (c) if the mark is primarily geographically descriptive or deceptively misdescriptive, (d) if the applied-for mark is primarily a surname, or (e) if the mark “so resembles a mark registered in this state or a mark or trade name previously used in this state ... as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive.”⁶

⁴ Miss. Code Ann. § 75-25-1(b).

⁵ Miss. Code Ann. § 75-25-5.

⁶ Miss. Code Ann. § 75-25-3.

What is the duration of a trademark registration?

Under current Mississippi law, the registration of a mark is effective for **five years** from the date of registration. Beginning six months prior to the end of the term, a mark-owner may file an application to renew the registration for another five years. There is no limit to how long a mark-owner may maintain a registration in this manner.⁷

Cancellation of trademarks

After becoming registered, a mark's registration may be cancelled, or invalidated, for a number of reasons. First, the Secretary of State must cancel a mark's registration should a court of competent jurisdiction find that (a) the mark has become abandoned, (b) the registration was obtained fraudulently, (c) that the mark has become the generic name for the goods or services on or in connection with it was registered, or (d) that the mark is confusingly similar to a mark registered by another person in the United States Patent and Trademark Office prior to the date of the filing of the state application.

Additionally, the Secretary of State must cancel those registrations whose terms have expired and which have not been renewed.⁸

Trademark infringement

Mississippi law provides aggrieved mark-owners remedies against those who use, without consent, "any reproduction, counterfeit, copy, or colorable imitation of a mark ... in connection with the sale, distribution, offering for sale, or advertising of any goods or

⁷ Miss. Code Ann. § 75-25-11.

⁸ Miss. Code Ann. § 75-25-17.

services on or in connection with which such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services.”⁹

If a court finds that consumers are likely to be confused by the alleged infringement, the defendant will most likely be enjoined from using the mark further. Additionally, the plaintiff may also be entitled to the defendant’s proceeds from the infringing use, and may be able to have the infringing materials destroyed. If the court finds that the defendant acted in bad faith, it may award the plaintiff up to triple damages, as well as attorneys’ fees.¹⁰

Trademark dilution

Section 75-25-1(k) of the Mississippi Code defines trademark “dilution” as “the lessening of the capacity of registrant’s mark to identify and distinguish goods or services, regardless of the presence or absence of (a) competition between the parties, or (b) likelihood of confusion, mistake, or deception.” Whereas a traditional trademark infringement action requires a plaintiff to prove that consumers will likely be confused by the alleged infringer’s use of a mark, a trademark dilution suit requires no such showing.

Under current Mississippi law, the owner of a mark which is “famous” within the State may be entitled to relief against another’s use of a mark which “causes dilution of the distinctive quality of the owner’s mark.” In determining whether a mark is “famous,” a court may consider such factors as (a) the distinctiveness of the mark, whether inherent or acquired, (b) the duration and extent of use of the mark in the state, (c) the duration and extent of advertising in the state, and (d) the degree of recognition of the mark in the

⁹ Miss. Code Ann. § 75-25-23(a).

¹⁰ Miss. Code Ann. § 75-25-27.

state. If the mark-owner can establish that his mark became “famous” prior to the alleged diluting use, then the owner will be entitled to an injunction, and may be also be entitled to other remedies such as triple damages and attorneys’ fees, in cases of willful dilution.¹¹

Fees

Fees for trademark filings are currently set by statute, rather than rule. The fees are as follows:

Resident Application:	\$ 50.00
Nonresident Application:	\$ 60.00
Resident Renewal:	\$ 50.00
Nonresident Renewal:	\$ 60.00
Assignment of Ownership:	\$ 50.00

Benefits of federal trademark registration vs. state registration

In comparison to the benefits conferred by federal trademark registration, the advantages of registering a trademark in Mississippi are, at present, few. Under current Mississippi law, state registration allows aggrieved mark-owners to pursue an injunction and possible damages against infringers within the state,¹² but provides little else in the way of rights or benefits to the mark-owner. From an evidentiary standpoint, a mark-owner bringing a trademark infringement suit under Mississippi law faces an uphill battle, as the certificate of registration merely proves ownership of the mark.

Federal trademark registration, on the other hand, among other things, (a) provides constructive notice that the registrant has the right to use the mark throughout the entire United States (even if the mark is not being used in a specific geographical

¹¹ Miss. Code Ann. § 75-25-25.

¹² Miss. Code Ann. § 75-25-23.

area),¹³ (b) constitutes prima facie evidence that the registered mark is valid, that the registrant owns the mark, and that the registrant has the exclusive right to use the mark in commerce,¹⁴ and (c) constitutes prima facie evidence that the mark has been used continuously in commerce since the filing date of the application. The benefits conferred by federal law thus ease the evidentiary burden somewhat for an aggrieved federal trademark holder.

Some states, such as Texas, have taken an approach which provides owners of state registrations benefits which are comparable (albeit solely at the state level) to those provided to owners of federally registered trademarks. For example, Texas law provides that registration of a state trademark serves as constructive notice throughout the state of the owner's claim of ownership throughout the state.¹⁵ Additionally, a certificate of state registration serves as admissible evidence as prima facie proof of (1) the validity of the registration; (2) the registrant's ownership of the mark; and (3) the registrant's exclusive right to use the mark in commerce within Texas.¹⁶

¹³ 15 U.S.C. § 1057(c), 15 U.S.C. § 1072.

¹⁴ 15 U.S.C. § 1057(b).

¹⁵ V.T.C.A., Bus. & C. § 16.15(b).

¹⁶ V.T.C.A., Bus. & C. § 16.15(c).

Differences Between Mississippi Trademark Law and the 2007 Model State Trademark Bill (MSTB)

Provisions Regarding Trademark Dilution (see attached “Guide to Understanding the Model State Trademark Bill” for comments regarding differences between the current and 1997 versions of the MSTB)

Areas of Difference	MISSISSIPPI (based on 1997 Model State Trademark Bill)	MODEL STATE TRADEMARK BILL (2007)	Significance
Definitions regarding trademark dilution	<p>§ 75-25-1(k)</p> <p>(k) The term “dilution” as used herein means the lessening of the capacity of registrant's mark to identify and distinguish goods or services, regardless of the presence or absence of (a) competition between the parties, or (b) likelihood of confusion, mistake, or deception.</p>	<p>§ 1(k)</p> <p>(k) The term “dilution” as used herein means dilution by blurring or dilution by tarnishment, regardless of the presence or absence of</p> <p>(1) competition between the owner of the famous mark and other parties, or</p> <p>(2) actual or likely confusion, mistake, or deception, or</p> <p>(3) actual economic injury.</p> <p>(l) The term “dilution by blurring” as used herein means association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark.</p> <p>(m) The term “dilution by tarnishment” as used herein means association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.</p>	<p>The MSTB’s definition adopts the two types of trademark dilution recognized by the Federal Trademark Dilution Revision Act of 2006 (FTDRA). These two forms of dilution had been recognized by federal courts prior to the adoption of the Act, but the FTDRA formalized this distinction.</p> <p>Staff recommendation: ADOPT</p>
Trademark dilution	<p>§ 75-25-25</p> <p>The owner of a mark which is famous in this state shall be entitled, subject to the principles of equity, to an injunction against another’s use of a mark, commencing after the owner’s mark becomes famous, which causes dilution of the distinctive quality of the owner's mark, and to obtain such other relief as is provided in this section. In determining whether a mark is famous, a court may consider factors such as, but not limited to:</p>	<p>§ 13</p> <p>(a) Subject to the principles of equity, the owner of a mark which is famous and distinctive, inherently or through acquired distinctiveness, in this state shall be entitled to an injunction against another person’s commercial use of a mark or trade name, if such use begins after the mark has become famous and is likely to cause dilution of the famous mark, and to obtain such other relief as is provided in this section.</p>	<p>Prior to the adoption of the FTDRA, there had been some controversy as to whether the 1996 Federal Trademark Dilution Act imposed an “actual dilution” or “likelihood of dilution” standard. In <i>Moseley v. V Secret Catalogue, Inc.</i>, 537 U.S. 418 (2003), the United States Supreme Court held that a plaintiff had to prove actual dilution in order to prevail under the then-current federal dilution statute. The FTDRA effectively overturned the <i>Moseley</i> decision, instead imposing a “likelihood of</p>

	<p>(a) The degree of inherent or acquired distinctiveness of the mark in this state;</p> <p>(b) The duration and extent of use of the mark in connection with the goods and services;</p> <p>(c) The duration and extent of advertising and publicity of the mark in this state;</p> <p>(d) The geographical extent of the trading area in which the mark is used;</p> <p>(e) The channels of trade for the goods or services with which the owner's mark is used;</p> <p>(f) The degree of recognition of the owner's mark in its and in the other's trading areas and channels of trade in this state; and</p> <p>(g) The nature and extent of use of the same or similar mark by third parties.</p> <p>The owner shall be entitled only to injunctive relief in this state in an action brought under this section, unless the subsequent user willfully intended to trade on the owner's reputation or to cause dilution of the owner's mark. If such willful intent is proven, the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.</p>	<p>(b) A mark is famous if it is widely recognized by the general consuming public of this State or a geographic area in this State as a designation of source of the goods or services of the mark's owner. In determining whether a mark is famous, a court may consider factors such as, but not limited to:</p> <ol style="list-style-type: none"> (1) The duration, extent, and geographic reach of advertising and publicity of the mark in this state, whether advertised or publicized by the owner or third parties; (2) The amount, volume, and geographic extent of sales of goods or services offered under the mark in this state; (3) The extent of actual recognition of the mark in this state; and (4) Whether the mark is the subject of a state registration in this state, or a federal registration under the Act of March 3, 1881, or under the Act of February 20, 1905, or on the principal register under the Trademark Act of 1946, as amended. <p>(c) In an action brought under this section, the owner of a famous mark shall be entitled to injunctive relief throughout the geographic area in which the mark is found to have become famous prior to commencement of the junior use, but not beyond the borders of this state. If the person against whom the injunctive relief is sought willfully intended to cause dilution of the famous mark, then the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.</p>	<p>dilution" standard. The current version of the MSTB reflects this.</p> <p>Additionally, the new revision to the MSTB incorporates the FTDR's elimination of so-called "niche fame" as a basis for a trademark dilution suit. The current version defines a mark as "famous" only if it is "widely recognized by the <i>general consuming public</i> of this State" (emphasis added). This definition prevents a plaintiff from claiming that his or her mark is "famous" because it is well-known within a specific industry or demographic.</p> <p>Staff recommendation: ADOPT</p>
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Other Provisions

Areas of Difference	MISSISSIPPI	MSTB	Significance
Fair use	<p>NO FAIR USE PROVISIONS</p>	<p>§ 13(d)</p> <p>(d) The following shall not be actionable under this section:</p> <p>(1) Any fair use, including a nominative or descriptive fair use, or facilitation of such fair use, of a famous mark by another person other than as a designation of source for the person's own goods or services, including use in connection with</p> <p style="padding-left: 40px;">(A) Advertising or promotion that permits consumers to compare goods or services; or</p> <p style="padding-left: 40px;">(B) Identifying and parodying, criticizing, or commenting upon the famous mark owner or the goods or services of the famous mark owner;</p> <p>(2) Noncommercial use of the mark; and</p> <p>(3) All forms of news reporting and news commentary.</p>	<p>While the 1996 revision of the MSTB contained fair use provisions as formulated under the Federal Trademark Dilution Act, Mississippi apparently did not adopt these provisions.</p> <p>The current revision to the MSTB mirrors the fair use provisions implemented into federal law by the FTDR.</p> <p>Staff recommendation: ADOPT</p>
Appealing refusal of registration	<p>§ 75-25-7(6)</p> <p>(6) If the Secretary finally refuses registration of the mark, the applicant may appeal such refusal to the First Judicial District of the Hinds County Chancery Court. The secretary's refusal may be reversed, but without costs to the secretary, on proof that all the statements in the application are true and that the mark is otherwise entitled to registration.</p>	<p>§ 4(f)</p> <p>(f) If the Secretary finally refuses registration of the mark, the applicant may seek a writ of mandamus to compel such registration. Such writ may be granted, but without costs to the Secretary, on proof that all the statements in the application are true and that the mark is otherwise entitled to registration.</p>	<p>Though the language differs between the provisions, the effect is the same: they both provide an aggrieved applicant a route of appeal.</p> <p>While the MSTB allows the applicant to “seek a writ” of mandamus to compel registration, it is not clear from whom the applicant would receive such writ. The Mississippi Act directs an aggrieved applicant to a specific court, i.e., the Hinds County Chancery Court.</p> <p>Staff recommendation: ADOPT</p>

	MISSISSIPPI	MSTB	Significance
Classification of goods and services	<p>§75-25-19</p> <p>The secretary shall by regulation establish a classification of goods and services for convenience of administration of this chapter, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the secretary may require payment of a fee for each class.</p>	<p>§ 10</p> <p>The Secretary shall by regulation establish a classification of goods and services for convenience of administration of this Act, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the Secretary may require payment of a fee for each class. To the extent practical, the classification of goods and services should conform to the classification adopted by the United States Patent and Trademark Office.</p>	<p>This addition to the MSTB (see highlighted text) encourages the adoption of the classification scheme adopted by the United States Patent and Trademark Office (USPTO).</p> <p>Mississippi's current classification scheme largely mirrors that used by the USPTO; however, Mississippi has not yet adopted classes 42-45.</p> <p>Staff recommendation: ADOPT</p>
Severability	<p>No severability provision</p>	<p>§ 18</p> <p>If any provision hereof, or the application of such provision to any person or circumstance is held invalid, the remainder of this Act shall not be affected thereby.</p>	<p>Mississippi's Act does not currently contain a severability provision.</p> <p>Staff recommendation: ADOPT</p>
Time of taking effect – repeal of prior acts; intent of act	<p>No such provision</p>	<p>§ 19</p> <p>(a) This Act shall be in force and take effect after its enactment but shall not affect any suit, proceeding or appeal then pending. All acts relating to marks and parts of any other acts inconsistent herewith are hereby repealed on the effective date of this Act, provided that as to any application, suit, proceeding or appeal, and for that purpose only, pending at the time this Act takes effect such repeal shall be deemed not to be effective until final determination of said pending application, suit, proceeding or appeal.</p>	<p>Were Mississippi to adopt the current version of the MSTB, the provisions in subsection (a) would most likely need to be included in order to protect parties to suits which are pending under current Mississippi trademark law.</p> <p>Subsection (b) directs state courts to look to interpretation of the federal Trademark Act as persuasive authority for interpreting state trademark laws.</p> <p>Staff recommendation: ADOPT</p>

		(b) The intent of this Act is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, as amended. To that end, the construction given the federal Act should be examined as persuasive authority for interpreting and construing the Act.	

West's Annotated Mississippi Code Currentness

Title 75. Regulation of Trade, Commerce and Investments

→ Chapter 25. Registration of Trademarks and Labels ([Refs & Annos](#))

§ 75-25-1. Definitions

As used in this chapter the following terms shall have the meaning indicated:

(a) The term "trademark" as used herein means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify the goods of such person made or sold by him and to distinguish them from goods made or sold by others, including a unique product, from those manufactured and sold by others, and to indicate the source of the goods even if that source is unknown.

(b) The term "service mark" as used herein means any word, name, symbol or device or any combination thereof used by a person to identify and distinguish the services of one (1) person, including a unique service from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

(c) The term "mark" as used herein includes any trademark or service mark entitled to registration under this chapter whether registered or not.

(d) The term "trade name" means any name used by a person to identify a business or vocation of such person.

(e) The term "person" and any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of this chapter includes a juristic person as well as a natural person. The term "juristic person" includes a firm, partnership, corporation, union, association or other organization capable of suing and being sued in a court of law.

(f) The term "applicant" as used herein embraces the person filing an application for registration of a mark under this chapter, and the legal representatives, successors or assigns of such person.

(g) The term "registrant" as used herein embraces the person to whom the registration of a mark under this chapter is issued, and the legal representatives, successors or assigns of such person.

(h) The term "use" means the bona fide use of a mark in the ordinary course of trade and not made merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be (1) in use on goods when it is placed in any manner on the goods or other containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale and the goods are sold or transported in commerce in this state, and (2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

(i) A mark shall be deemed to be "abandoned" when either of the following occurs:

(i) When its use had been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two (2) consecutive years shall constitute prima facie evidence of abandonment.

(ii) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

(j) The term "secretary" as used herein means the Secretary of State or the designee of the secretary charged with the administration of Senate Bill No. 2861, 1996 Regular Session.

(k) The term "dilution" as used herein means the lessening of the capacity of registrant's mark to identify and distinguish goods or services, regardless of the presence or absence of (a) competition between the parties, or (b) likelihood of confusion, mistake, or deception.

§ 75-25-3. Qualifications for registration

A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) Consists of or comprises immoral, deceptive or scandalous matter; or

(b) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(c) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or any foreign nation, or any simulation thereof; or

(d) Consists of or comprises the name, signature or portrait identifying a particular living individual, except by the individual's written consent; or

(e) Consists of a mark which, (1) when used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them, or (2) when used on or in connection with the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, or (3) is primarily merely a surname, provided, however, that nothing in this subsection (e) shall prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The secretary may accept as evidence that the mark has become distinctive, as used on or in connection with the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state for five (5) years before the date on which the claim of distinctiveness is made; or

(f) Consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used in this state by another and not abandoned, as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive.

§ 75-25-5. Registration application

Subject to the limitations set forth in this chapter, any person who uses a mark may file in the office of the secretary, in a manner complying with the requirements of the secretary, an application for registration of that mark setting forth, but not limited to, the following information:

(a) The name and business address of the person applying for such registration; and, if a corporation, the state of incorporation, or if a partnership or other entity, the state in which the entity is organized and the names of the general partners, owners and/or managers, as specified by the secretary;

(b) The goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with such goods or services and the class in which such goods or services fall;

(c) The date when the mark was first used anywhere and the date when it was first used in this state by the applicant or predecessor in interest; and

(d) A statement that the applicant is the owner of the mark, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive.

The secretary may also require a statement as to whether an application to register the mark, or portions or a composite thereof, has been filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office; and, if so, the applicant shall provide full particulars with respect thereto including the filing date and serial number of each application, the status thereof and, if any application was finally refused registration or has otherwise not resulted in a registration, the reasons therefor.

The secretary may also require that a drawing of the mark, complying with such requirements as the secretary may specify, accompany the application.

The application shall be signed and verified by oath, affirmation or declaration subject to perjury laws by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by three (3) specimens showing the mark as actually used.

The application shall be accompanied by the application fee payable to the Secretary of State.

§ 75-25-7. Denial or amendment of application; appeal

(1) Upon the filing of an application for registration and payment of the application fee, the secretary may cause the application to be examined for conformity with this chapter.

(2) The applicant shall provide any additional pertinent information requested by the secretary including a description of a design mark and may make, or authorize the secretary to make, such amendments to the application as may be reasonably requested by the secretary or deemed by applicant to be advisable to respond to any rejection or objection.

(3) The secretary may require the applicant to disclaim an unregistrable component of a mark otherwise registerable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter be or shall have become distinctive of the applicant's or registrant's goods or services.

(4) Amendments may be made by the secretary upon the application submitted by the applicant upon applicant's agreement; or a fresh application may be required to be submitted.

(5) If the applicant is found not to be entitled to registration, the secretary shall advise the applicant thereof and of the reasons therefor. The applicant shall have a reasonable period of time specified by the secretary in which to reply or to amend the application, in which event the application shall then be reexamined. This procedure may be repeated until (a)

the secretary finally refuses registration of the mark or (b) the applicant fails to reply or amend within the specified period, whereupon the application shall be deemed to have been abandoned.

(6) If the Secretary finally refuses registration of the mark, the applicant may appeal such refusal to the First Judicial District of the Hinds County Chancery Court. The secretary's refusal may be reversed, but without costs to the secretary, on proof that all the statements in the application are true and that the mark is otherwise entitled to registration.

(7) In the instance of applications concurrently being processed by the secretary seeking registration of the same or confusingly similar marks for the same or related goods or services, the secretary shall grant priority to the applications in order of filing. If a prior-filed application is granted a registration, the other application or applications shall then be rejected. Any rejected applicant may bring an action for cancellation of the registration upon grounds of prior or superior rights to the mark, in accordance with the provisions of [Section 75-25-17](#).

§ 75-25-9. Certificate of registration; issuance

Upon compliance by the applicant with the requirements of this chapter, the secretary shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the secretary and the seal of the state, and it shall show the name and business address and, if a corporation, the state of incorporation, or if a partnership or other entity, the state in which the partnership or other entity is organized and the names of the general partners, owners, and/or managers, as specified by the secretary, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this state, the class of goods or services and a description of the goods or services on or in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

Any certificate of registration issued by the secretary under the provisions hereof or a copy thereof duly certified by the secretary shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any actions or judicial proceedings in any court of this state.

§ 75-25-11. Renewal

A registration of mark hereunder shall be effective for a term of five (5) years from the date of registration and, upon application filed within six (6) months prior to the expiration of such term, in a manner complying with the requirements of the secretary, the registration may be renewed for a like term from the end of the expiring term. A renewal fee, payable to the secretary, shall accompany the application for renewal of the registration.

A registration may be renewed for successive periods of five (5) years in like manner.

Any registration in force on the date on which Senate Bill No. 2861, 1996 Regular Session, shall become effective shall continue in full force and effect for the unexpired term thereof and may be renewed by filing an application for renewal with the secretary complying with the requirements of the secretary and paying the aforementioned renewal fee therefor within six (6) months prior to the expiration of the registration.

All applications for renewal under Senate Bill No. 2861, 1996 Regular Session, whether of registrations made under this chapter or of registrations effected under any prior act, shall include a verified statement that the mark has been and is still in use and include a specimen showing actual use of the mark on or in connection with the goods or services.

§ 75-25-13. Assignment

(1) Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the secretary upon the payment of the filing fee, payable to the secretary, who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under Senate Bill No. 2861, 1996 Regular Session, shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the secretary within three (3) months after the date thereof or prior to such subsequent purchase.

(2) Any registrant or applicant effecting a change of the name of the person to whom the mark was issued or for whom an application was filed may record a certificate of change of name of the registrant or applicant with the secretary upon the payment of the filing fee. The secretary may issue in the name of the assignee a certificate of registration of an assigned application. The secretary may issue in the name of the assignee, a new certificate or registration for the remainder of the term of the registration or last renewal thereof.

(3) Other instruments which relate to a mark registered or application pending pursuant to Senate Bill No. 2861, 1996 Regular Session, such as, by way of example, licenses, security interests or mortgages, may be recorded in the discretion of the secretary, provided that such instrument is in writing and duly executed.

(4) Acknowledgment shall be prima facie evidence of the execution of an assignment or other instrument and, when filed by the secretary, the record shall be prima facie evidence of execution.

(5) A photocopy of any instrument referred to in subsection (1), (2) or (3) above, shall be accepted for filing if it is certified by any of the parties thereto, or their successors, to be a true and correct copy of the original.

§ 75-25-15. Public examination of records

The secretary shall keep for public examination a record of all marks registered or renewed under this chapter, as well as a record of all documents recorded pursuant to [Section 75-25-13](#).

§ 75-25-17. Cancellation of registrations

The secretary shall cancel from the register, in whole or in part:

- (1) Any registration concerning which the secretary shall receive a voluntary request for cancellation thereof from the registrant or the assignee of record;
- (2) All registrations granted under this chapter and not renewed in accordance with the provisions hereof;
- (3) Any registration concerning which a court of competent jurisdiction shall find:
 - (a) That the registered mark has been abandoned,
 - (b) That the registrant is not the owner of the mark,
 - (c) That the registration was granted improperly,
 - (d) That the registration was obtained fraudulently,

(e) That the mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered,

(f) That the registered mark is so similar, as to be likely to cause confusion or mistake, or to deceive, to a mark registered by another person in the United States Patent and Trademark Office prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that, should the registrant prove that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including this state, the registration hereunder shall not be cancelled for such area of the state, or

(g) When a court of competent jurisdiction shall order cancellation of a registration on any ground.

§ 75-25-19. Classification of goods and services

The secretary shall by regulation establish a classification of goods and services for convenience of administration of this chapter, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the secretary may require payment of a fee for each class.

§ 75-25-21. False or fraudulent representations

Any person who shall for himself or herself, or on behalf of any other persons, procure the filing or registration of any mark in the office of the secretary under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

§ 75-25-23. Infringement; liability

Subject to the provisions of [Section 75-25-31](#) hereof, any person who shall:

(a) Use, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under Senate Bill No. 2861, 1996 Regular Session, in connection with the sale, distribution, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services; or

(b) Reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this state of such goods or services; shall be liable in a civil action by the registrant for any and all of the remedies provided in [Section 75-25-27](#) hereof, except that under paragraph

(b) hereof the registrant shall not be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive.

§ 75-25-25. Relief for infringement

The owner of a mark which is famous in this state shall be entitled, subject to the principles of equity, to an injunction against another's use of a mark, commencing after the owner's mark becomes famous, which causes dilution of the dis-

tinctive quality of the owner's mark, and to obtain such other relief as is provided in this section. In determining whether a mark is famous, a court may consider factors such as, but not limited to:

- (a) The degree of inherent or acquired distinctiveness of the mark in this state;
- (b) The duration and extent of use of the mark in connection with the goods and services;
- (c) The duration and extent of advertising and publicity of the mark in this state;
- (d) The geographical extent of the trading area in which the mark is used;
- (e) The channels of trade for the goods or services with which the owner's mark is used;
- (f) The degree of recognition of the owner's mark in its and in the other's trading areas and channels of trade in this state; and
- (g) The nature and extent of use of the same or similar mark by third parties.

The owner shall be entitled only to injunctive relief in this state in an action brought under this section, unless the subsequent user willfully intended to trade on the owner's reputation or to cause dilution of the owner's mark. If such willful intent is proven, the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.

§ 75-25-27. Relief for counterfeits or imitations

Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the said court deemed just and reasonable, and may require the defendants to pay to such owner all profits derived from and/or all damages suffered by reason of such wrongful manufacture, use, display or sale; and such court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. The court, in its discretion, may enter judgment for an amount not to exceed three times such profits and damages and/or reasonable attorneys' fees of the prevailing party in such cases where the court finds the other party committed such wrongful acts with knowledge or in bad faith or otherwise as according to the circumstances of the case.

The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.

§ 75-25-29. Cancellation actions

(1) Actions to require cancellation of a mark registered pursuant to this chapter or to appeal the secretary's refusal to register a mark pursuant to this chapter shall be brought in the First Judicial District of the Hinds County Chancery Court. In an appeal of the secretary's refusal to register a mark, the proceeding shall be based solely upon the record before the secretary. In an action for cancellation, the secretary shall not be made a party to the proceeding but shall be notified of the filing of the complaint by the clerk of the court and shall be given the right to intervene in the action.

(2) In any action brought against a non-resident registrant, service may be effected by any means authorized by the Mississippi Rules of Civil Procedure.

§ 75-25-31. Acquired marks; enforcement rights

Nothing herein shall adversely affect the rights of the enforcement of rights in marks acquired in good faith at any time at common law.

§ 75-25-33. Fees

Fees required by this chapter shall be submitted to the secretary and shall not be refundable. The amount of such fees shall be as follows:

Resident Application	\$ 50.00
Nonresident Application	\$ 60.00
Resident Renewal	\$ 50.00
Nonresident Renewal	\$ 60.00
Assignment	\$ 50.00

Current through all 2007 Sessions and Chs. 302, 309, 312, 373 and 376 of the 2008 Reg. Sess.
END OF DOCUMENT



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Model State Trademark Bill



An Act to Provide for the Registration and Protection of Trademarks

(Be it enacted, etc.)

Section 1: Definitions

(a) The term "trademark" as used herein means any word, name, symbol, or device or any combination thereof used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others, and to indicate the source of the goods, even if that source is unknown.

(b) The term "service mark" as used herein means any word, name, symbol, or device or any combination thereof used by a person, to identify and distinguish the services of one person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

(c) The term "mark" as used herein includes any trademark or service mark, entitled to registration under this Act whether registered or not.

(d) The term "trade name" means any name used by a person to identify a business or vocation of such person.

(e) The term "person" and any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of this Act includes a juristic person as well as a natural person. The term "juristic person" includes a firm, partnership, corporation, union, association, or other organization capable of suing and being sued in a court of law.

(f) The term "applicant" as used herein embraces the person filing an application for registration of a mark under this Act, and the legal representatives, successors, or assigns of such person.

(g) The term "registrant" as used herein embraces the person to whom the registration of a mark under this Act is issued, and the legal representatives, successors, or assigns of such person.

(h) The term "use" means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this Act, a mark shall be deemed to be in use

(1) on goods when it is placed in any manner on the goods or other containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and the goods are sold or transported in commerce in this state, and

(2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

(i) A mark shall be deemed to be "abandoned" when either of the following occurs:

(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment; or

(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

(j) The term "Secretary" as used herein means the secretary of the state or the designee of the secretary charged with the administration of this Act.

(k) The term "dilution" as used herein means dilution by blurring or dilution by tarnishment, regardless of the presence or absence of

(1) competition between the owner of the famous mark and other parties, or

(2) actual or likely confusion, mistake, or deception, or

(3) actual economic injury.

(l) The term "dilution by blurring" as used herein means association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark.

(m) The term "dilution by tarnishment" as used herein means association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.

Section 2: Registrability

A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it

(a) consists of or comprises immoral, deceptive or scandalous matter; or

(b) consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(c) consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(d) consists of or comprises the name, signature or portrait identifying a particular living individual, except by the individual's written consent; or

(e) consists of a mark which,

(1) when used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them, or

(2) when used on or in connection with the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, or

(3) is primarily merely a surname;

provided, however, that nothing in this subsection (e) shall prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The Secretary may accept as evidence that the mark has become distinctive, as used on or in connection with the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state for the five years before the date on which the claim of distinctiveness is made; or

(f) consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used by another and not abandoned, as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive.

Section 3: Application for Registration

(a) Subject to the limitations set forth in this Act, any person who uses a mark may file in the office of the Secretary, in a manner complying with the requirements of the Secretary, an application for registration of that mark setting forth, but not limited to, the following information:

(1) the name and business address of the person applying for such registration; and, if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the Secretary,

(2) the goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with such goods or services and the class in which such goods or services fall,

(3) the date when the mark was first used anywhere and the date when it was first used in this state by the applicant or a predecessor in interest, and

(4) a statement that the applicant is the owner of the mark, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use such mark either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive.

(b) The Secretary may also require a statement as to whether an application to register the mark, or portions or a composite thereof, has been filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office; and, if so, the applicant shall provide full particulars with respect thereto including the filing date and serial number of each application, the status thereof and, if any application was finally refused registration or has otherwise not resulted in a registration, the reasons therefore.

(c) The Secretary may also require that a drawing of the mark, complying with such requirements as the Secretary may specify, accompany the application.

(d) The application shall be signed and verified (by oath, affirmation or declaration subject to perjury laws) by the applicant or by a member of the firm or an officer of the corporation or association applying.

(e) The application shall be accompanied by three specimens showing the mark as actually used.

(f) The application shall be accompanied by the application fee payable to the Secretary of state.

Section 4: Filing of Applications

(a) Upon the filing of an application for registration and payment of the application fee, the Secretary may cause the application to be examined for conformity with this Act.

(b) The applicant shall provide any additional pertinent information requested by the Secretary including a description of a design mark and may make, or authorize the Secretary to make, such amendments to the application as may be reasonably requested by the Secretary or deemed by applicant to be advisable to respond to any rejection or objection.

(c) The Secretary may require the applicant to disclaim an unregistrable component of a mark otherwise registrable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. No disclaimer shall prejudice or affect the applicant's or registrant's rights then existing or thereafter arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter be or shall have become distinctive of the applicant's or registrant's goods or services.

(d) Amendments may be made by the Secretary upon the application submitted by the applicant upon applicant's agreement; or a fresh application may be required to be submitted.

(e) If the applicant is found not to be entitled to registration, the Secretary shall advise the applicant thereof and of the reasons therefor. The applicant shall have a reasonable period of time specified by the Secretary in which to reply or to amend the application, in which event the application shall then be reexamined. This procedure may be repeated until

(1) the Secretary finally refuses registration of the mark; or

(2) the applicant fails to reply or amend within the specified period, whereupon the application shall be deemed to have been abandoned.

(f) If the Secretary finally refuses registration of the mark, the applicant may seek a writ of mandamus to compel such registration. Such writ may be granted, but without costs to the Secretary, on proof that all the statements in the application are true and that the mark is otherwise entitled to registration.

(g) In the instance of applications concurrently being processed by the Secretary seeking registration of the same or confusingly similar marks for the same or related goods or services, the Secretary shall grant priority to the applications in order of filing. If a prior-filed application is granted a registration, the other application or applications shall then be rejected. Any rejected applicant may bring an action for cancellation of the registration upon grounds of prior or superior rights to the mark, in accordance with the provisions of Section 9 of this Act.

Section 5: Certificate of Registration

(a) Upon compliance by the applicant with the requirements of this Act, the Secretary shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the Secretary and the seal of the state, and it shall show the name and business address and, if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the Secretary, of the person claiming ownership of the mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this state, the class of goods or services and a description of the goods or services on or in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

(b) Any certificate of registration issued by the Secretary under the provisions hereof or a copy thereof duly certified by the Secretary shall be admissible in evidence as competent and sufficient proof of the registration of such mark in any actions or judicial proceedings in any court of this state.

Section 6: Duration and Renewal

(a) A registration of mark hereunder shall be effective for a term of five years from the date of registration and, upon application filed within six months prior to the expiration of such term, in a manner complying with the requirements of the Secretary, the registration may be renewed for a like term from the end of the expiring term. A renewal fee, payable to the Secretary, shall accompany the application for renewal of the registration.

(b) A registration may be renewed for successive periods of five years in like manner.

(c) Any registration in force on the date on which this Act shall become effective shall continue in full force and effect for the unexpired term thereof and may be renewed by filing an application for renewal with the Secretary complying with the requirements of the Secretary and paying the aforementioned renewal fee therefor within six months prior to the expiration of the registration.

(d) All applications for renewal under this Act, whether of registrations made under this Act or of registrations effected under any prior act, shall include a verified statement that the mark has been and is still in use and include a specimen showing actual use of the mark on or in connection with the goods or services.

Section 7: Assignments, Changes of Name and Other Instruments

(a) Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be recorded with the Secretary upon the payment of the recording fee payable to the Secretary who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this Act shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary within three months after the date thereof or prior to such subsequent purchase.

(b) Any registrant or applicant effecting a change of the name of the person to whom the mark was issued or for whom an application was filed may record a certificate of change of name of the registrant or applicant with the Secretary upon the payment of the recording fee. The Secretary may issue in the name of the assignee a certificate of registration of an assigned application. The Secretary may issue in the name of the assignee, a new certificate or registration for the remainder of the term of the registration or last renewal thereof.

(c) Other instruments which relate to a mark registered or application pending pursuant to this Act, such as, by way of example, licenses, security interests or mortgages, may be recorded in the discretion of the Secretary, provided that such instrument is in writing and duly executed.

(d) Acknowledgement shall be prima facie evidence of the execution of an assignment or other instrument and, when recorded by the Secretary, the record shall be prima facie evidence of execution.

(e) A photocopy of any instrument referred to in subsections (a), (b) or (c), above, shall be accepted for recording if it is certified by any of the parties thereto, or their successors, to be a true and correct copy of the original.

Section 8: Records

The Secretary shall keep for public examination a record of all marks registered or renewed under this Act, as well as a record of all documents recorded pursuant to Section 7.

Section 9: Cancellation

The Secretary shall cancel from the register, in whole or in part:

(a) any registration concerning which the Secretary shall receive a voluntary request for cancellation thereof from the registrant or the assignee of record;

(b) all registrations granted under this Act and not renewed in accordance with the provisions hereof;

(c) any registration concerning which a court of competent jurisdiction shall find

(1) that the registered mark has been abandoned,

(2) that the registrant is not the owner of the mark,

(3) that the registration was granted improperly,

(4) that the registration was obtained fraudulently,

(5) that the mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered,

(6) that the registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that, should the registrant prove that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including this state, the registration hereunder shall not be cancelled for such area of the state; or

(d) when a court of competent jurisdiction shall order cancellation of a registration on any ground.

Section 10: Classification

The Secretary shall by regulation establish a classification of goods and services for convenience of administration of this Act, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. When a single application includes goods or services which fall within multiple classes, the Secretary may require payment of a fee for each class. To the extent practical, the classification of goods and services should conform to the classification adopted by the United States Patent and Trademark Office.

Section 11: Fraudulent Registration

Any person who shall for himself or herself, or on behalf of any other person, procure the filing or registration of any mark in the office of the Secretary under the provisions hereof, by knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.

Section 12: Infringement

Subject to the provisions of Section 16 hereof, any person who shall

(a) use, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this Act in connection with the sale, distribution, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services; or

(b) reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this state of such goods or services;

shall be liable in a civil action by the registrant for any and all of the remedies provided in Section 14 hereof, except that under subsection (b) hereof the registrant shall not be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive.

Section 13: Injury to Business Reputation; Dilution

(a) Subject to the principles of equity, the owner of a mark which is famous and distinctive, inherently or through acquired distinctiveness, in this state shall be entitled to an injunction against another person's commercial use of a mark or trade name, if such use begins after the mark has become famous and is likely to cause dilution of the famous mark, and to obtain such other relief as is provided in this section.

(b) A mark is famous if it is widely recognized by the general consuming public of this State or a geographic area in this State as a designation of source of the goods or services of the mark's owner. In determining whether a mark is famous, a court may consider factors such as, but not limited to:

(1) The duration, extent, and geographic reach of advertising and publicity of the mark in this state, whether advertised or publicized by the owner or third parties;

(2) The amount, volume, and geographic extent of sales of goods or services offered under the mark in this state;

(3) The extent of actual recognition of the mark in this state; and

(4) Whether the mark is the subject of a state registration in this state, or a federal registration under the Act of March 3, 1881, or under the Act of February 20, 1905, or on the principal register under the Trademark Act of 1946, as amended.

(c) In an action brought under this section, the owner of a famous mark shall be entitled to injunctive relief throughout the geographic area in which the mark is found to have become famous prior to commencement of the junior use, but not beyond the borders of this state. If the person against whom the injunctive relief is sought willfully intended to cause dilution of the famous mark, then the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.

(d) The following shall not be actionable under this section:

(1) Any fair use, including a nominative or descriptive fair use, or facilitation of such fair use, of a famous mark by another person other than as a designation of source for the person's own goods or services, including use in connection with

(A) Advertising or promotion that permits consumers to compare goods or services; or

(B) Identifying and parodying, criticizing, or commenting upon the famous mark owner or the goods or services of the famous mark owner;

(2) Noncommercial use of the mark; and

(3) All forms of news reporting and news commentary.

Section 14: Remedies

(a) Any owner of a mark registered under this Act may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the said court deemed just and reasonable, and may require the defendants to pay to such owner all profits derived from and/or all damages suffered by reason of such wrongful manufacture, use, display or sale; and such court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. The court, in its discretion, may enter judgment for an amount not to exceed three times such profits and damages and/or reasonable attorneys' fees of the prevailing party in such cases where the court finds the other party committed such wrongful acts with knowledge or in bad faith or otherwise as according to the circumstances of the case.

(b) The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.

Section 15: Forum for Actions Regarding Registration; Service On Out of State Registrants

(a) Actions to require cancellation of a mark registered pursuant to this Act or in mandamus to compel registration of a mark pursuant to this Act shall be brought in the [name of court]. In an action in mandamus, the proceeding shall be based solely upon the record before the Secretary. In an action for cancellation, the Secretary shall not be made a party to the proceeding but shall be notified of the filing of the complaint by the clerk of the court in which it is filed and shall be given the right to intervene in the action.

(b) In any action brought against a non-resident registrant, service may be effected upon the Secretary as agent for service of the registrant in accordance with the procedures established for service upon non-resident corporations and business entities under sections < > of the <general statutes>.

Section 16: Common Law Rights

Nothing herein shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

Section 17: Fees

The Secretary shall by regulation prescribe the fees payable for the various applications and recording fees and for related services. Unless specified by the Secretary, the fees payable herein are not refundable.

Section 18: Severability

If any provision hereof, or the application of such provision to any person or circumstance is held invalid, the remainder

of this Act shall not be affected thereby.

Section 19: Time of Taking Effect - Repeal of Prior Acts; Intent of Act

(a) This Act shall be in force and take effect after its enactment but shall not affect any suit, proceeding or appeal then pending. All acts relating to marks and parts of any other acts inconsistent herewith are hereby repealed on the effective date of this Act, provided that as to any application, suit, proceeding or appeal, and for that purpose only, pending at the time this Act takes effect such repeal shall be deemed not to be effective until final determination of said pending application, suit, proceeding or appeal.

(b) The intent of this Act is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, as amended. To that end, the construction given the federal Act should be examined as persuasive authority for interpreting and construing the Act.

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Guide to Understanding the Model State Trademark Bill



Introduction:

The following is a synopsis of the major revisions to the Model State Trademark Bill in 2007. It offers a brief explanation as to the nature of the amendments and the rationale behind the changes.

Secretaries of State, legislators, staff members, and attorneys, should use this material as a guide to understanding the Model Bill. Additional references are also provided should a more in depth explanation of the revisions be required.

Originally promulgated by the International Trademark Association ("INTA") (formerly the United States Trademark Association) in 1949, the Model State Trademark Bill ("MSTB") fostered uniformity among existing state trademark statutes and addressed proposals mandating compulsory registration statutes. Since its inception, the Model Bill has been adopted in a substantial majority of states as the foundation for their trademark statutes.

In order to assist states in keeping abreast of present day trademark owner practices while continuing to promote uniformity, in September 1992, INTA's Board of Directors approved a proposal revising the MSTB to reflect current needs of intrastate and regional commerce while harmonizing state trademark practices with recent changes in federal trademark law. The dilution provisions of the MSTB were amended in November 1996 to reflect the Federal Trademark Dilution Act ("FTDA") and again in June 2007 to reflect the Federal Trademark Dilution Revision Act ("TDRA"). Versions of the MSTB have been reviewed by both the International Association of Corporation Administrators ("IACA") and the National Association of Secretaries of State ("NASS") as well as several state bar associations.

Of particular note are the following MSTB revised sections:

OVERVIEW OF 2007 AMENDMENTS

Section 1 - Definitions

The definition of "dilution" was amended in 2007 in light of the TDRA to incorporate the two forms of dilution recognized by TDRA, "dilution by blurring" and "dilution by tarnishment." These are seen to be fundamental conceptual underpinnings of the dilution remedy which should be reflected in any state dilution statute.

The definitions of "dilution by blurring" and "dilution by tarnishment" are in turn also incorporated from the TDRA, with one difference. INTA decided not to incorporate in the MSTB the six factors that are spelled out in the TDRA definition of dilution by blurring, because it was believed that the result would be too lengthy and cumbersome. Because the MSTB includes in Section 19 a general statement that the Lanham Act "should be examined as persuasive authority for interpreting and construing this Act," it was felt that adopting the exact language of the TDRA definition of "dilution by blurring" would be sufficient to lead courts and advocates to consult the dilution factors set out in the federal law without requiring them to be set out in the MSTB. A further advantage of this approach is that any amendment to these factors at the federal level in the future would "propagate" to the state statutes without need for further amendments by multiple state legislatures.

Section 13 - Dilution

Dilution was first enacted at the Federal level with the passage of the FTDA in 1996, and was substantially revised by the TDRA in 2007. Between 1996 and 2007, the MSTB addressed dilution in a manner consistent with the FTDA. When the TDRA was enacted in 2006, INTA amended the MSTB to reflect those changes. The 2007 amendments to the MSTB dilution provision in light of the TDRA are summarized as follows:

Section 13(a) - The MSTB previously provided that an injunction was available to prevent use of a mark that "causes dilution" of a famous mark. This language was changed to "likely to cause dilution," consistent with the standard set forth in the TDRA. Although the language of the prior version of the MSTB was intended to encompass likelihood of dilution as well as actual dilution, in light of the Supreme Court's contrary interpretation of identical language in the FTDA in the Victoria's Secret case, INTA determined that the MSTB should explicitly incorporate the likelihood of dilution standard.

The phrase "subject to the principles of equity" was moved to the beginning of the paragraph. This is not seen as a substantive change, but is clearer grammatically, and tracks the phraseology of the TDRA. Some versions of the MSTB have been published with the additional phrase "and upon such terms as the court deems reasonable," which appeared in the original FTDA. INTA agreed with the determination of the drafters of the TDRA that this added phrase is unnecessary surplusage.

The phrase "and distinctive, inherently or through acquired distinctiveness," was added to track the TDRA language. INTA could see no reason why state dilution protection should not also be available to marks that, though not inherently distinctive, have acquired distinctiveness.

The phrase "of the distinctive quality of" was deleted as unnecessary and possibly confusing in light of the addition of the reference to acquired distinctiveness.

Section 13(b) - This section was created by breaking apart what was previously all included in the first paragraph of Section 13. A definition of "famous" was added that is based on the definition in the TDRA, but modified in an important respect. INTA saw no justification for state dilution law to depart from the determination in the TDRA that "niche market" fame - fame in a specific channel of trade or in a specific industry - should be insufficient to give rise to dilution protection. The proposed revisions therefore adopt the TDRA reference to the "general consuming public".

With respect to the geographic scope of fame, however, the state forum necessitates a departure from the TDRA's requirement of nationwide fame. If state dilution statutes are to continue to have vitality at all, and the FTDA explicitly contemplates that they will since it preempts state dilution laws only if the junior mark is federally registered but not otherwise, then a requirement of nationwide fame for protection in a particular state makes no sense. Statewide fame is not a good alternative, however, because it would produce illogical and inequitable results. Due to the Commerce Clause of the U.S. Constitution, state borders are not commercially relevant boundaries in most respects. Markets are frequently larger than or smaller than individual states, and the states themselves vary dramatically in size, mostly for reasons of historical accident or political expediency. It would be irrational and unfair, for example, to say that a mark that is famous throughout Northern California is not entitled to dilution protection because it is not well known in Los Angeles, but that a mark is entitled to dilution protection by virtue of being famous only in the much smaller region of the State of Rhode Island.

Accordingly, in order to provide rational and meaningful protection of "locally famous" marks, the MSTB dilution provisions permit a court to recognize fame within a geographic area smaller than the State itself. At the same time, INTA believes it important that (1) the geographic scope of the injunctive relief available be limited to the scope of the fame found, and (2) for reasons of comity and potential conflicts between states, injunctions not be available beyond the State's borders. The definition of "famous" from the TDRA, as well as the remedies language discussed below, have therefore been modified to implement these objectives.

The 1996 version of the MSTB set out the "fame" factors that were in the original FTDA. If it was writing on a blank slate, INTA might have preferred not to incorporate any "fame" factors in the MSTB, for the same reasons as are explained above with respect to the "dilution" factors. Given that "fame" factors were already in the MSTB, however, it was felt that they could not simply be eliminated without there being some negative implication inferred. Accordingly, the best compromise was believed to be to amend the factors to conform to the factors adopted by the TDRA, adding the phrase "in this state" to each to make clear that in-state fame cannot be inferred from fame elsewhere.

The prior reference to the existence of a state registration as a factor to be considered for fame is retained, notwithstanding the reality that the meaningfulness of a state registration can vary widely from state to state. Because the factors are all non-mandatory, advocates and judges remain free to argue and decide that a registration in a state that does little or no substantive examination, for example, should be entitled to little or no weight.

Section 13(c) - The primary issue addressed by revisions to this subsection is the geographic scope of injunctive relief. For the reasons discussed above, language is added that is intended to make clear that injunctive relief should be available only within the geographic area as to which fame has been found, but not beyond the borders of the State.

The second sentence of this subsection, addressing the availability of monetary relief for willful conduct, was revised in order to achieve consistency with the new definition of dilution, which incorporates both dilution by blurring and dilution by tarnishment. No substantive change is intended.

Section 13(d) - The 1996 version of the MSTB included the "fair use" defenses as formulated under the original FTDA. The TDRA expanded this language to address First Amendment concerns, and those concerns are certainly capable of being raised at the state level as well. Accordingly, the TDRA formulation of the "fair use" defenses is incorporated here.

Works Consulted

1. Andrew Goldstein, *Bringing the Model State Trademark Bill Into the 90s and Beyond*, 83 Trademark Reporter 226-256 (1993).
2. J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition*, Chapter 22 (4th ed. 2007).

For additional information on the Model State Trademark Bill, please consult these references.

Trademark Dilution Revision Act of 2006 (Enrolled as Agreed to or Passed by Both House and Senate)

--H.R.683--

H.R.683

*One Hundred Ninth Congress
of the
United States of America
AT THE SECOND SESSION*

Begun and held at the City of Washington on Tuesday,

the third day of January, two thousand and six

An Act

To amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) Short Title- This Act may be cited as the 'Trademark Dilution Revision Act of 2006'.

(b) References- Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 2. DILUTION BY BLURRING; DILUTION BY TARNISHMENT.

Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended--

(1) by striking subsection (c) and inserting the following:

`(c) Dilution by Blurring; Dilution by Tarnishment-

`(1) INJUNCTIVE RELIEF- Subject to the principles of equity, the owner of a famous mark that is distinctive, inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

`(2) DEFINITIONS- (A) For purposes of paragraph (1), a mark is famous if it is widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner. In determining whether a mark possesses the requisite degree of recognition, the court may consider all relevant factors, including the following:

- `(i) The duration, extent, and geographic reach of advertising and publicity of the mark, whether advertised or publicized by the owner or third parties.
- `(ii) The amount, volume, and geographic extent of sales of goods or services offered under the mark.
- `(iii) The extent of actual recognition of the mark.
- `(iv) Whether the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

`(B) For purposes of paragraph (1), 'dilution by blurring' is association arising from the similarity between a mark or trade name and a famous mark that impairs the distinctiveness of the famous mark. In determining whether a mark or trade name is likely to cause dilution by blurring, the court may consider all relevant factors, including the following:

- `(i) The degree of similarity between the mark or trade name and the famous mark.
- `(ii) The degree of inherent or acquired distinctiveness of the famous mark.
- `(iii) The extent to which the owner of the famous mark is engaging in substantially exclusive use of the mark.
- `(iv) The degree of recognition of the famous mark.
- `(v) Whether the user of the mark or trade name intended to create an association with the famous mark.
- `(vi) Any actual association between the mark or trade name and the famous mark.

`(C) For purposes of paragraph (1), 'dilution by tarnishment' is association arising from the similarity between a mark or trade name and a famous mark that harms the reputation of the famous mark.

`(3) EXCLUSIONS- The following shall not be actionable as dilution by blurring or dilution by tarnishment under this subsection:

- `(A) Any fair use, including a nominative or descriptive fair use, or facilitation of such fair use, of a famous mark by another person other than as a designation of source for the person's own goods or services, including use in connection with-
 - `(i) advertising or promotion that permits consumers to compare goods or services; or
 - `(ii) identifying and parodying, criticizing, or commenting upon the famous mark owner or the goods or services of the famous mark owner.
- `(B) All forms of news reporting and news commentary.
- `(C) Any noncommercial use of a mark.

- `(4) BURDEN OF PROOF- In a civil action for trade dress dilution under this Act for trade dress not registered on the principal register, the person who asserts trade dress protection has the burden of proving that--
- `(A) the claimed trade dress, taken as a whole, is not functional and is famous; and
 - `(B) if the claimed trade dress includes any mark or marks registered on the principal register, the unregistered matter, taken as a whole, is famous separate and apart from any fame of such registered marks.
- `(5) ADDITIONAL REMEDIES- In an action brought under this subsection, the owner of the famous mark shall be entitled to injunctive relief as set forth in section 34. The owner of the famous mark shall also be entitled to the remedies set forth in sections 35(a) and 36, subject to the discretion of the court and the principles of equity if--
- `(A) the mark or trade name that is likely to cause dilution by blurring or dilution by tarnishment was first used in commerce by the person against whom the injunction is sought after the date of enactment of the Trademark Dilution Revision Act of 2006; and
 - `(B) in a claim arising under this subsection--
 - `(i) by reason of dilution by blurring, the person against whom the injunction is sought willfully intended to trade on the recognition of the famous mark; or
 - `(ii) by reason of dilution by tarnishment, the person against whom the injunction is sought willfully intended to harm the reputation of the famous mark.
- `(6) OWNERSHIP OF VALID REGISTRATION A COMPLETE BAR TO ACTION- The ownership by a person of a valid registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register under this Act shall be a complete bar to an action against that person, with respect to that mark, that--
- `(A)(i) is brought by another person under the common law or a statute of a State; and
 - `(ii) seeks to prevent dilution by blurring or dilution by tarnishment; or
 - `(B) asserts any claim of actual or likely damage or harm to the distinctiveness or reputation of a mark, label, or form of advertisement.
- `(7) SAVINGS CLAUSE- Nothing in this subsection shall be construed to impair, modify, or supersede the applicability of the patent laws of the United States.'; and
- (2) in subsection (d)(1)(B)(i)(IX), by striking `(c)(1) of section 43' and inserting `(c)'.

SEC. 3. CONFORMING AMENDMENTS.

(a) Marks Registrable on the Principal Register- Section 2(f) of the Trademark Act of 1946 (15 U.S.C. 1052(f)) is amended--

(1) by striking the last two sentences; and

(2) by adding at the end the following: `A mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be refused registration only pursuant to a proceeding brought under section 13. A registration for a mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be canceled pursuant to a proceeding brought under either section 14 or section 24.'.

(b) Opposition- Section 13(a) of the Trademark Act of 1946 (15 U.S.C. 1063(a)) is amended in the first sentence by striking `as a result of dilution' and inserting `the registration of any mark which would be likely to cause dilution by blurring or dilution by tarnishment'.

(c) Cancellation- Section 14 of the Trademark Act of 1946 (15 U.S.C. 1064) is amended, in the matter preceding paragraph (1) by striking `, including as a result of dilution under section 43(c),' and inserting `, including as a result of a likelihood of dilution by blurring or dilution by tarnishment under section 43(c),'.

(d) Marks for the Supplemental Register- The second sentence of section 24 of the Trademark Act of 1946 (15 U.S.C. 1092) is amended to read as follows: `Whenever any person believes that such person is or will be damaged by the registration of a mark on the supplemental register--

(1) for which the effective filing date is after the date on which such person's mark became famous and which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c); or

(2) on grounds other than dilution by blurring or dilution by tarnishment, such person may at any time, upon payment of the prescribed fee and the filing of a petition stating the ground therefor, apply to the Director to cancel such registration.'.

(e) Definitions- Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by striking the definition relating to the term `dilution'.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

Questions about current Secretary of State practices re: trademarks

Q: How does a person or company wanting to conduct a trademark search through the Secretary of State do so?

At present, a person wanting to conduct a search has a few options: (1) he or she can call the Business Services Division and perform a search over the phone; (2) he or she can e-mail one of our examiners and go through the process that way; or (3) he or she can visit the office and look through the trademark files.

The Office understands that an online database of trademark registrations would be superior to the present system, and has begun work on such a database.

Q: How do the major trademark search services keep their Mississippi trademark databases current?

Each month, the Secretary of State sends copies of all approved applications, renewals, and assignments of ownership to a number of these companies. The reports are provided for a nominal fee.

Q: Is trademark data at all scanned into a computerized system? Is the Secretary of State still using paper files?

While applications are scanned into a computerized database as they come in, no system has yet been created to allow electronic searching of applications and registrations. Paper files are still the norm.

Q: How would one search for a design mark under the current system?

The Office has adopted an informal keyword system based upon the applicant's description of the mark. For example, if a design featuring a map of the State is registered, it would be filed under "M," for "Mississippi."

Q: How does the Secretary of State keep track of assignments, security interests, etc.?

Such documents are kept in the same file folder as the registration to which the security interest or assignment applies.

Q: Does the Secretary of State keep statistics on the number of registered marks in the state, the number of applications submitted / accepted / rejected per year, etc.?

No, primarily because of the difficulty of keeping up with such statistics in a paper-filing system. Adoption of an electronic database would simplify this immensely.

**SECRETARY OF STATE FEE SCHEDULES IN SOUTHEAST AS OF JANUARY 2008
 PREPARED BY THE MISSISSIPPI SECRETARY OF STATE'S OFFICE, DIVISION OF POLICY AND RESEARCH**

Trademarks

Filing	Mississippi	Alabama	Arkansas	Louisiana	Tennessee	Average	Difference between MS and Average
Registration of Trademark/Service mark	\$50	\$30	\$50	\$50	\$20	\$40	<i>MS is \$10 more</i>
Trademark/Service mark Assignment	\$50	\$30	\$20	\$50	\$20	\$34	<i>MS is \$16 more</i>
TOTAL	\$100	\$60	\$70	\$100	\$40	\$74	MS is \$26 more

Registered Name

Information Search

Generated by TnT Names Search Version 3.10

[Instructions](#)

Search by only one of the following:

Filing Number:

- OR -

Applicant / Agent Name:

Use only significant words, such as "JAN BREWER"

- OR -

Registered Name:

Use only significant words, such as "SECRETARY STATE"

Type of Search:

- Match on partial words?
- Match on exact words?
- Match on metaphone words?
- Match on partial metaphone words?
- Match on soundex max words?
- Match on soundex words?

Start Search

Reset Search



NEW HAMPSHIRE

Corporation Division

- Search
- By Business Name
- By Business ID
- By Registered Agent
- Annual Report
- File Online
- Trademark
- Trademark Search

Search Trademarks

Registration #

Description

Commercial Owner Name

Owner First Name

Owner Middle Name

Owner Last Name

Owner City

Owner State






Search Previous Owners

Search

The information contained herein is provided as a public service. The State makes no representation or guarantee as to the correctness, completeness or suitability of the information provided or of any linked information. All critical information should be verified directly with the Secretary of State, Corporation Division. The State, its employees, contractors, subcontractors or their employees do not make any warranty, expressed or implied, or assume any legal liability for the accuracy, completeness or usefulness of any information, apparatus, product or process disclosed or represent that its use would not infringe on privately-owned rights. The information and/or services provided may change at any time without notice.

Search the Trademarks & Service Marks Database

To search the database, enter as much information as you like. The information may be:

-  the mark name or a keyword to be found in the mark name
-  a keyword to be found in the description field
-  the service
-  the owner
-  the classification

Mark Name:

Description:

Service:

Owner:

Classification:

The list which results from your search is made up of summary information filed with the Office of the Secretary of State of Maryland. This information may not reflect the most recent information on file. The *last updated* date below does not necessarily pertain to the database information to be searched.

- Business Home
- Business Information
- Business Search
- Help on this Page
- FAQs
- Glossary

Records Search

Business paper documents processed through: 06/09/2008

Complete one of the following:

Business name, trademark or trade name:

OR

ID or document number:

OR

Name availability:

- Advanced Search
- Trademark Advanced Search

Search

Previous Page

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Trademark Advanced Search

Search results will meet ALL entered criteria. Each additional criteria selected will further limit the search results.

Search results may not include all information from trademarks filed prior to May 29, 2007.

See [FAQ](#) for more information.

Trademark:

Type (if no box is marked, search results will include all types)

 special form standard character

Class (if no box is marked, search results will include all classes)

 001 Chemicals 002 Paints 003 Cosmetics and Cleaning Preparations 004 Lubricants and Fuels 005 Pharmaceuticals 006 Metal Goods 007 Machinery 008 Hand Tools 009 Electrical and Scientific Apparatus 010 Medical Apparatus 011 Environmental Control Apparatus 012 Vehicles 013 Firearms 014 Jewelry 015 Musical Instruments 016 Paper Goods and Printed Matter 017 Rubber Goods 018 Leather Goods 019 Non-metallic Building Materials 020 Furniture

- 025 Clothing
- 026 Fancy Goods
- 027 Floor Coverings
- 028 Toys and Sporting Goods
- 029 Meats and Processed Foods
- 030 Staple Foods
- 031 Natural Agricultural Products
- 032 Light Beverages
- 033 Wine and Spirits
- 034 Smokers' Articles
- 035 Advertising and Business
- 036 Insurance and Financial
- 037 Construction and Repair
- 038 Communication
- 039 Transportation and Storage
- 040 Material Treatment
- 041 Education and Entertainment
- 042 Computer, Scientific and Legal
- 043 Hotels and Restaurants
- 044 Medical, Beauty and Agricultural
- 045 Personal

Goods or service:

Date filed to
(mm/dd/yyyy) *(mm/dd/yyyy)*

Date of first use in Colorado to
(mm/dd/yyyy) *(mm/dd/yyyy)*

Status (if no box is marked, search results will include all statuses)

- Cancelled
- Expired
- Effective
- Withdrawn
- Effectiveness Prevented

Search

Previous Page



[Trademarks](#) > **Trademark Electronic Search System (TESS)**

TESS was last updated on Thu Jun 12 04:10:32 EDT 2008

[HELP](#) **News!**

NOTE: Click [here](#) for a description of changes to word mark entries for standard character marks submitted via TEAS Plus that you may wish to consider when constructing your TESS searches.

Please logout when you are done to release system resources allocated for you.

Select The Search Form
▶ New User Form Search (Basic)
▶ Structured Form Search (Boolean)
▶ Free Form Search (Advanced Search)
▶ Browse Dictionary (View Indexes)
▶ Search OG Publication Date or Registration Date

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Jun 12 04:10:32 EDT 2008

- TESS HOME
- STRUCTURED
- FREE FORM
- BROWSE DICT
- SEARCH OG
- BOTTOM
- HELP

WARNING: AFTER SEARCHING THE USPTO DATABASE, EVEN IF YOU THINK THE RESULTS ARE "O.K.," DO NOT ASSUME THAT YOUR MARK CAN BE REGISTERED AT THE USPTO. AFTER YOU FILE AN APPLICATION, THE USPTO MUST DO ITS OWN SEARCH AND OTHER REVIEW, AND MIGHT REFUSE TO REGISTER YOUR MARK.

View Search History:

Plural and Singular
 Singular
 Live and Dead
 Live
 Dead

Search Term:

Field:

Result Must Contain:

- Combined Word Mark (BI, TI, MP, TL)
- Serial or Registration Number
- Owner Name and Address
- ALL

Submit Query

Clear Query

Logout

Please logout when you are done to release system resources allocated for you.

This **New User (Basic)** search form allows for searching of the most commonly searched fields: word marks, serial or registration numbers, and owners.

The **Combined Word Mark** is the default search field and includes the **word mark** and **translation**.

Use the \$ for truncation in any field. For Combined Word Mark searches, the * is a more efficient truncation operator for left and/or right truncation. For example, the search

Trademarks > Trademark Electronic Search System

TESS was last updated on Thu Jun 12 04:10:32 EDT 2008

TESS HOME NEW USER FREE FORM BROWSE DICT SEARCH OG BOTTOM HELP

WARNING: AFTER SEARCHING THE USPTO DATABASE, EVEN IF YOU THINK YOUR MARK CAN BE REGISTERED AT THE USPTO. AFTER YOU FILE AN APPLICATION, THE USPTO MIGHT REFUSE TO REGISTER YOUR MARK.

View Search History: [input field]

Records Returned: 100 [dropdown] Plurals: [input field] Field: ALL [dropdown] Operator OR [dropdown]

Search Term: ttablog [input field] Field: ALL [dropdown]

Submit Query Clear Query Logout Please logout when you are done to release system resources allocated for you.

- ALL
- Abandonment Date
- Affidavits
- Assignment Recorded
- Attorney of Record
- Basic Index (combined MP+PM+MN)
- Coordinated Class
- Cancellation Date
- Change in Registration
- Current Filing Basis
- Decimal Mark
- Description of Mark
- Design Code
- Design Description
- Disclaimer Statement
- Distinctiveness Limitation Statement
- Filing Date
- Full Mark
- Goods & Services
- International Class

AT YOUR MARK CAN BE REGISTERED, AND MIGHT REFUSE TO REGISTER YOUR MARK.

View Search History:

Records Returned: Plurals: [Quick Tips](#)

Search Term:

Please logout when you are done to release system resources allocated for you.

US Trademark Field Codes

Code & Name	Code & Name	Code & Name
[AD] Abandonment Date	[IC] International Class	[RD] Registration Date
[AF] Affidavits	[IR] International Registration Number	[RE] Renewals
[AR] Assignment Recorded	[LD] Live/Dead	[RG] Register
[AT] Attorney of Record	[MD] Mark Drawing Code	[RN] Registration Number
[BI] Basic Index	[MI] Mark Index	[SF] Section 44 Indicator
[CB] Current Filing Basis	[MN] Mark Non-Punctuated	[SD] Single Design Code
[CC] Coordinated Class	[MP] Mark Punctuated/Word Mark	[SN] Serial Number
[CD] Cancellation Date	[OB] Original Filing Basis	[SO] Serial - Other Formats
[CR] Change in Registration	[OD] Other Data	[ST] Standard Characters Claimed
[DC] Design Search Code	[ON] Owner Name	[SR] Supplemental Register Date
[DD] Design Description	[OW] Owner Name and Address	[TC] Trademark Search Facility Classification Code
[DE] Description of Mark	[PD] Priority Date	[TD] Total Designs
[DM] Decimal Mark	[PF] Physical Filing Date	[TF] Distinctiveness Limitation Statement
[DS] Disclaimer	[PO] Published for Opposition	[TI] Translation Index
[FD] Filing Date	[PM] Pseudo Mark	[TL] Translation
[FM] Full Mark	[PI] Pseudo Mark Index	[TM] Type of Mark
[GS] Goods and Services	[PR] Prior Registrations	[UD] Update/Load Date
		[US] US Class

Logout Please logout when you are done to release system resources allocated for you.

Start List At: [] OR Jump to record: [] 13 Records(s) found (This page: 1 ~ 13)

Refine Search ("ttablog"[bi,ti] or blog[de]) & live[lid] Submit

Current Search: S4: ("ttablog"[bi,ti] or blog[de]) & live[lid] docs: 13 occ: 27

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	79043716		OVERBLOG	TARR	LIVE
2	78867654	3399953	BLOGTV	TARR	LIVE
3	78669946	3398417	THE TTABLOG	TARR	LIVE
4	78908394		BLOG TALK RADIO	TARR	LIVE
5	78934487		CELEBRITY BABY BLOG	TARR	LIVE
6	78570832	3091628	MAGAZINE BLOG	TARR	LIVE
7	78570823	3057694	BLOG MAGAZINE	TARR	LIVE
8	77337538		NO IMPACT MAN	TARR	LIVE
9	77482296		BLOG A BAR	TARR	LIVE
10	77482860		BRANDBLOG	TARR	LIVE
11	77107177	3416955	I BLOG BUSINESS IT'S JUST BUSINESS, UNFILTERED.	TARR	LIVE
12	77342430		MY BLOG LOS BLOGUIS	TARR	LIVE
13	77272546		BLOGZ Z	TARR	LIVE

[TARR Status](#)
[ASSIGN Status](#)
[TDR](#)
[TTAB Status](#)
(Use the "Back" button of the Internet Browser to return to TESS)

THE TTABLOG

Word Mark	THE TTABLOG
Goods and Services	IC 041. US 100 101 107. G & S: An online blog featuring commentary and information in the field of trademarks; an online blog featuring commentary and information regarding decisions of the Trademark Trial and Appeal Board and the courts relating to trademark law. FIRST USE: 20041109. FIRST USE IN COMMERCE: 20041109
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	LETTER-3-OR-MORE TTAB Combination of three or more letters as part of the mark
Serial Number	78669946
Filing Date	July 13, 2005
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 1, 2008
Registration Number	3398417
Registration Date	March 18, 2008
Owner	(REGISTRANT) John L. Welch INDIVIDUAL UNITED STATES 79 Saint Botolph Street, Unit 1 Boston MASSACHUSETTS 021166404
Type of Mark	SERVICE MARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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This page was generated by the TARR system on 2008-06-12 16:16:02 ET

Serial Number: 78669946 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3398417

Mark

THE TTABLOG

(words only): [THE TTABLOG](#)

Standard Character claim: [Yes](#)

Current Status: [Registered](#).

Date of Status: [2008-03-18](#)

Filing Date: [2005-07-13](#)

Transformed into a National Application: [No](#)

Registration Date: [2008-03-18](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 106](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2008-03-18](#)

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [John L. Welch](#)

Address:

John L. Welch
79 Saint Botolph Street, Unit 1
Boston, MA 021166404
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

An online blog featuring commentary and information in the field of trademarks; an online blog featuring commentary and information regarding decisions of the Trademark Trial and Appeal Board and the courts relating to trademark law

Basis: 1(a)

First Use Date: 2004-11-09

First Use in Commerce Date: 2004-11-09

ADDITIONAL INFORMATION

Section 2(f)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-03-18 - Registered - Principal Register

2008-01-01 - Published for opposition

2007-12-12 - Notice of publication

2007-11-29 - Law Office Publication Review Completed

2007-11-27 - Assigned To LIE

2007-11-14 - Approved for Pub - Principal Register (Initial exam)

2007-11-07 - Ex parte appeal terminated

2007-09-28 - Teas/Email Correspondence Entered

2007-09-28 - Communication received from applicant

2007-09-28 - Assigned To LIE

2007-08-21 - TEAS Response to Office Action Received

2007-08-21 - TEAS Response to Office Action Received

2007-08-20 - Ex parte appeal - Refusal affirmed

2007-06-14 - Applicant/Correspondence Changes (Non-Responsive) Entered

2007-06-14 - TEAS Change Of Owner Address Received

2007-02-26 - EXAMINERS STATEMENT E-MAILED

2007-02-26 - Examiners Statement - Completed

2007-01-09 - Jurisdiction Restored To Examining Attorney

2006-11-26 - TEAS Change Of Correspondence Received

2006-10-14 - Ex parte appeal - Instituted

2006-10-14 - EXPARTE APPEAL RECEIVED AT TTAB

2006-10-13 - ACTION DENYING REQ FOR RECON E-MAILED

2006-10-13 - Continuation of final refusal mailed

2006-09-25 - Amendment From Applicant Entered

2006-08-18 - Communication received from applicant

2006-08-18 - PAPER RECEIVED

2006-06-13 - Final refusal e-mailed

2006-06-13 - Final Refusal Written

2006-03-04 - Teas/Email Correspondence Entered

2006-02-20 - Communication received from applicant

2006-02-20 - TEAS Response to Office Action Received

2006-02-06 - Non-final action e-mailed

2006-02-06 - Non-Final Action Written

2006-02-01 - Assigned To Examiner

2005-07-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

John L. Welch

79 Saint Botolph Street, Unit 1

Boston MA 02116-6404

Phone Number: 617-395-7000

Fax Number: 617-395-7070

Trademark eBusiness

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IMPORTANT NOTICE: [E-Mail with Direct Link to Issued Trademark Office Actions and Examining Attorney Appeal Briefs Replaces E-Mailed Office Actions/Appeal Briefs \(Updated: 06/25/2007\)](#)

US Serial No: 78669946

Select New Case Contents of File

To view a document page-by-page, click on the document name in the Document Description column. The document will open in a New Window. To download and print the complete document, check the boxes next to the desired documents and click the Start Download button.
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Mail / Create Date	Document Description	Select All	Start Download	Clear All
18-Mar-2008	Registration Certificate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12-Dec-2007	Notice of Publication	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30-Nov-2007	Publication & Issue Review Complete	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15-Nov-2007	TRAM Snapshot of App at Pub for Oppostn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29-Sep-2007	Amendment and Mail Process Complete	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21-Aug-2007	Response to Office Action	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21-Aug-2007	Response to Office Action	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14-Jun-2007	Teas Change of Owner Address	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26-Feb-2007	Offc Action Outgoing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26-Nov-2006	Change of Address	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.: 78/669,946

2. Mark: THE TTABLOG
Standard Character Mark

3. International Class(es): 41

4. Publication Date: Jan 1, 2008

5. Applicant: John L. Welch

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

21-Aug-2007	Response to Office Action
14-Jun-2007	Teas Change of Owner Address
26-Feb-2007	Offc Action Outgoing
26-Nov-2006	Change of Address

[Office Actions and Examining Attorney Appeal Briefs Replaces](#)
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*... in the Document Description column. The document will ...
... document, check the boxes next to the desired documents and ...
... ment was loaded into the database; it is not necessarily the ...
... e mailing date is available in the prosecution History in [TARR](#).*

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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 78855327 Filing Dt: 04/06/2006 Reg #: 3206042 Reg. Dt: 02/06/2007

Registrant: Bart, Teddy
Mark: BEYOND REASON

Assignment: 1

Reel/Frame: 3630/0556 Received: 09/28/2007 Recorded: 09/28/2007 Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: BART, TEDDY

Exec Dt: 09/19/2007
Entity Type: INDIVIDUAL
Citizenship: UNITED STATES
Entity Type: PARTNERSHIP
Citizenship: TENNESSEE

Assignee: BART-EVINS PRODUCTIONS
P.O. BOX 150263
NASHVILLE, TENNESSEE 37215

Correspondent: DOUGLAS A. JENNINGS, JR.
315 UNION STREET
SUITE 1100
NASHVILLE, TN 37201

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

Search Results as of: 08/12/2008 04:19 PM



1. Please indicate below the type of registration desired

Trademark

Original

Service Mark

Renewal

Registration No.

2. Name of owner (person, corporation or other entity) applying for registration

3. Business address of applicant

Telephone (area code first)

City, State, ZIP5, ZIP4

4. Applicant is:

Corporation

Individual

Partnership

Sole Proprietor

Limited Liability Company

Limited Liability Partnership

Other

State or country of

For Foreign Corporation, Partnership, Limited Liability Company, Limited Liability Partnership or Other)

5. If partnership or other entity, list names and business addresses of general partners, owners and /or managers:

Name

Title

Name

Title

Name

Title

Application to Register or Renew Trade and Service Marks



Name

Title

Name

Title

Name

Title

6. The goods or services on or in connection with which the mark is used are:

7. Classification

(Use two digit classification number from instructions.)

8. Mode or manner in which the mark is used on or in connection with the goods or services is:

9. Date mark was first used anywhere:

MM/DD/YYYY

First used in Mississippi:

MM/DD/YYYY

10. Applicant or predecessor in interest has on file an application to register in the U.S. Patent and Trademark Office covering an area including this state.

Yes

No

Serial Number

Filing Date

Application Status

Application Refused?

Yes

No

Reasons:



11. Describe in detail the mark (a drawing) as you want it registered.

12. Attached hereto are three specimens or facsimiles of the mark in use.

13. Consent (if applicable). SEE INSTRUCTIONS.

Give name and address of owner of existing mark and attach hereto letter of consent.

14. I, the owner of the mark, a member of the firm or an officer of the corporation or association applying, attest that the mark is in use, and that to my knowledge, no other person has registered either Federally or in this state, or has the right to use such mark, except as provided for in item 13 above, either in the identical form or in such near resemblance thereto as to be like, when applied to the goods or services of such person to cause confusion, or to cause mistake or to deceive.

Name
and Title
(Print name.)

Signature
(Please keep
writing within
blocks.)



ACKNOWLEDGMENT

State of

County of

I,

being first duly sworn, depose and say that I am

of

the applicant herein, and that I make this affidavit and verification subject to the perjury laws on the behalf of and have the authority to make this affidavit and I have read the above and foregoing application and know the contents thereof, and that the facts set herein are true.

I further depose and say that the three specimens filed herein are true and correct.

Signature of Applicant

Sworn to and subscribed before me this

day of

Notary Seal

Notary Signature

My commission expires

Trade and Service Mark Assignment



1. Registration number

2. The mark to be assigned is

3. ASSIGNOR:

Name

Indicate if Assignor is a corporation or other entity and the State of incorporation or organization:

Incorporated

State

Organized

State

Address

City, State, ZIP5, ZIP4

4. ASSIGNEE:

Name

Indicate if Assignee is a corporation or other entity and the State of incorporation or organization:

Incorporated

State

Organized

State

5. All right, title and interest in and to said mark, together with the good will of business in which the mark is used (or that part of the good will of the business connected with the use of the mark) is hereby assigned by

(the Assignor) to

(the Assignee).



Trade and Service Mark Assignment

By: Signature of Assignor (Please keep writing within blocks)

Signature box for Assignor

Printed Name

Printed Name box for Assignor

Title

Title box for Assignor

By: Signature of Assignee (Please keep writing within blocks)

Signature box for Assignee

Printed Name

Printed Name box for Assignee

Title

Title box for Assignee

ACKNOWLEDGMENT

State of

State box

County of

County box

Sworn to and subscribed before me this

Day box

day of

Month box

Year box

Notary

Seal

Notary Seal box

Notary

Signature

Notary Signature box

My commission expires

Commission expiration box

INSTRUCTIONS: The above assignment must be signed by both the Assignor and the Assignee. If either is a corporation or other entity, the name of the corporation or entity is to be inserted as Assignor or Assignee with the signature of the proper authorities. Please enclose Filing Fee of \$50.00 made payable to the Mississippi Secretary of State.

I0023

* I0023 *

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE

P.O. BOX 136, JACKSON, MS 39205-0136 (601) 359-1333

Instructions for Application to Register
or Renew Trade and Service Marks

Goods or Services - Enter goods or services on or in connection with which the mark is used. Enter only one line of 50 characters per box. Use the codes listed below to identify your goods or services.

Mode or Manner in which the mark is used on or in connection with the goods or services listed above.

Date of Issue - Enter dates.

If the applicant currently owns an application to register this mark or label in the U.S. Patent Office, and it covers an area which includes Mississippi, indicate this, and enter the serial number in the box provided. Enter other pertinent information as indicated.

Description (A drawing) of the mark - Enter a description (drawing) of the mark.

Specimens or facsimiles of mark - Be sure they are attached to this application.

Consent - If applicable enter name and address of owner of existing mark and attach letter of consent.

Keep all signatures within the blocks allocated for them.

Title - Enter the official title of the person.

Acknowledgment - Complete and execute.

Enclose the appropriate filing fee (\$50.00 for Mississippi, \$60.00 for Foreign), made payable to the Mississippi Secretary of State, with this document.

Use these codes to identify the classification of your goods or service. Classifications must be those set by rule.

GOODS

- 01 Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry, unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions, tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.
- 02 Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.
- 03 Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices.
- 04 Industrial oils and greases, lubricants, dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.
- 05 Pharmaceutical, veterinary and sanitary preparations, dietetic substances adapted for medical use; food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants, preparations for destroying vermin, fungicides, herbicides.
- 06 Common metals and their alloys; metal building materials, transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.
- 07 Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.
- 08 Hand tools and implements (hand operated); cutlery; side arms; razors.
- 09 Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision) life-saving and teaching apparatus and instruments; apparatus for recording, transmission, or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.
- 10 Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.
- 11 Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
- 12 Vehicles; apparatus for locomotion by land, air or water.
- 13 Firearms; ammunition and projectiles; explosives; fireworks.
- 14 Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones, horological and chronometric instruments.
- 15 Musical instruments.
- 16 Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artist's materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); playing cards; printers' type; printing blocks.
- 17 Rubber, gutta percha, gum asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing; stopping and insulating materials; flexible pipes, not of metal.
- 18 Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides, trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- 19 Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.
- 20 Furniture, mirrors, picture frames, goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials or of plastics.
- 21 Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles used for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain, and earthenware not included in other classes.
- 22 Ropes, string, nets, tents, awning, tarpaulins, sails, sacks and bags (not included in other classes); padding; and stuffing materials (except of rubber or plastics); raw fibrous textile materials.
- 23 Yarns and threads, for textile use.
- 24 Textiles and textile goods, not included in other classes; bed and table covers.
- 25 Clothing, footwear, headgear.

I0023

* I0023 *

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE

P.O. BOX 136, JACKSON, MS 39205-0136 (601) 359-1333

Instructions for Application to Register
or Renew Trade and Service Marks

- 26 Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.
- 27 Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non textile).
- 28 Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.
- 29 Meat, fish, poultry, and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.
- 30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour, and preparations made from cereals, bread, pastry and confectionery, honey, treacle, yeast, baking powder; salt, mustard, vinegar, sauces (condiments); spices; ice.
- 31 Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.
- 32 Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.
- 33 Alcoholic beverages (except beers).
- 34 Tobacco; smokers articles; matches.

SERVICES

- 35 Advertising; business management; business administration; office functions.
- 36 Insurance; financial affairs; monetary affairs; real estate affairs.
- 37 Building construction; repair, installation services.
- 38 Telecommunications.
- 39 Transport; packaging and storage of goods; travel arrangement.
- 40 Treatment of materials.
- 41 Education: providing of training; entertainment; sporting and cultural activities.
- 42 Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes.

Thank you for your assistance.

Please call (601) 359-1333 if there are any questions.

List of classes of goods and services

Goods

9th Edition of the Nice Classification

Class 1

Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3

Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4

Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

Class 5

Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6

Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

Class 7

Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements (other than hand-operated); incubators for eggs.

Class 8

Hand tools and implements (hand-operated); cutlery; side arms; razors.

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms

for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

Class 10

Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.

Class 11

Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12

Vehicles; apparatus for locomotion by land, air or water.

Class 13

Firearms; ammunition and projectiles; explosives; fireworks.

Class 14

Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

Class 15

Musical instruments.

Class 16

Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.

Class 17

Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18

Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19

Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20

Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

>>

List of classes of goods and services

Goods (continued)

9th Edition of the Nice Classification

Class 21

Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22

Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23

Yarns and threads, for textile use.

Class 24

Textiles and textile goods, not included in other classes; bed and table covers.

Class 25

Clothing, footwear, headgear.

Class 26

Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27

Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28

Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29

Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

Class 30

Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder, salt, mustard; vinegar, sauces (condiments); spices; ice.

Class 31

Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

Class 32

Beers; Mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33

Alcoholic beverages (except beers).

Class 34

Tobacco; smokers' articles; matches.

Services

Class 35

Advertising; business management; business administration; office functions.

Class 36

Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37

Building construction; repair; installation services.

Class 38

Telecommunications.

Class 39

Transport; packaging and storage of goods; travel arrangement.

Class 40

Treatment of materials.

Class 41

Education; providing of training; entertainment, sporting and cultural activities.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

Class 43

Services for providing food and drink; temporary accommodation.

Class 44

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45

Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

