

333.25 CANCELLATION OF MARKS.

Subdivision 1. **Secretary of state's authority.** The secretary of state shall cancel from the register:

(1) after two years from the effective date of Laws 1959, chapter 600, all registrations under prior acts which are not renewed according to sections 333.18 to 333.31;

(2) any registration concerning which the secretary of state shall receive a voluntary request for cancellation from the registrant;

(3) all registrations filed under sections 333.18 to 333.31 and not renewed according to its provisions;

(4) in compliance with an order of a district court, any registration concerning which the court shall find that:

(i) the registered mark has been abandoned;

(ii) the registrant is not the owner of the mark;

(iii) the registration was filed improperly;

(iv) the registration was obtained fraudulently;

(v) the mark is or has become the generic name for the goods or services, or a portion of the goods or services, for which it has been registered; or

(vi) 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 previously in this state or in the United States Patent and Trademark Office, before the date of the filing of the application for registration by the registrant under sections 333.18 to 333.31, and not abandoned; provided, however, that should the registrant prove that the registrant is the prior user of the mark or the owner of a concurrent registration of the mark in the United States Patent and Trademark Office covering an area including this state, the registration shall not be canceled; or

(5) a registration when a district court shall order cancellation of the registration on any ground.

Subd. 2. **Exception.** No registration shall be canceled after the mark has had substantially exclusive and continuous use by the registrant for five years following the registration of the mark except for the reasons set forth in subdivision 1, clauses (1), (2), and (3) and clause (4), items (i), (ii), and (iv), or unless a mark has been registered in this state before use of registrant's mark or a mark has been registered in the United States Patent and Trademark Office with the publication date of it before the date of use of registrant's mark, which marks when used on or in connection with the goods or services of the respective registrants would be likely to cause confusion, mistake, or deception, or unless the mark is the common descriptive name of any article, substance, or service.

History: 1959 c 600 s 8; 1986 c 444; 1998 c 315 s 8