

## CHAPTER 333

## TRADE NAMES, MARKS, AND INSIGNIA

333.055 Term of certificate; renewal, notices, fees.  
 333.19 Unregistrable matter; collective and certification marks.

**333.055 TERM OF CERTIFICATE; RENEWAL, NOTICES, FEES.**

*[For text of subs 1 to 3, see M.S.1980]*

Subd. 4. The secretary of state shall accept for filing all certificates and renewals thereof which comply with the provisions of sections 333.001 to 333.06 and which are accompanied by the prescribed fees, notwithstanding the fact that the assumed name disclosed therein may be the same as, or similar to, one or more other assumed names already filed with the secretary of state. In the event of duplication or similarity, the secretary of state shall, within 20 days after the filing, notify in writing each person who has previously filed a certificate for the assumed name or a similar assumed name, of the duplication or similarity, including in the notice the name and last known address of the person so filing. The secretary of state shall not accept for filing a certificate that discloses an assumed name that is the same as, or deceptively similar to, a corporate name in use or reserved in this state by another, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of non-user of the kind required by section 302A.115, subdivision 1, clause (d). The secretary of state shall determine whether a name is "deceptively similar" to another name for purposes of this subdivision.

**History:** 1981 c 270 s 137

**333.19 UNREGISTRABLE MATTER; COLLECTIVE AND CERTIFICATION MARKS.**

Subdivision 1. A trademark or service 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;

- (1) consists of or comprises immoral, deceptive or scandalous matter; or
- (2) 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
- (3) 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
- (4) consists of or comprises the name, signature or portrait of any living individual, except with his written consent; or
- (5) consists of a mark which, (a) when applied to the goods or used to identify the services of the applicant, is merely descriptive or deceptively misdescriptive of them, or (b) when applied to the goods or used to identify the services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, or (c) is primarily merely a surname provided, however, that nothing in this subsection (5) shall prevent the registration of a mark used in this state by the applicant which has become distinctive of the applicant's goods or services. The secretary of state may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or used to identify the services, proof of substantially exclusive and continuous use thereof as a mark by the applicant in

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this state for the five years next preceding the date of the filing of the application for registration; or

(6) consists of or comprises a mark which so resembles a mark registered in this state or a corporate name in use or reserved in this state by another, or a mark or trade name previously used in this state by another and not abandoned, as to be likely, when applied to the goods or used to identify the services of the applicant, to cause confusion or mistake or to deceive.

*[For text of subd 2, see M.S.1980]*

**History:** 1981 c 270 s 138