CHAPTER 301-A

THE REGISTRATION AND PROTECTION OF MARKS

§1521. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 572, §2 (NEW).]

1. Applicant. "Applicant" includes the person filing an application for registration of a mark under this chapter and the person's legal representatives, successors or assigns.
[RR 2023, c. 2, Pt. C, §37 (COR).]

1-A. Certification mark. "Certification mark" means a mark used upon or in connection with the products or services of one or more persons other than the owner of the mark to certify regional or other origin, material, mode of manufacture, quality, accuracy or other characteristics of such goods or services, or that the work or labor on the goods or services was performed by members of a union or other organization.
[PL 1981, c. 684, §1 (NEW).]

1-B. Collective mark. "Collective mark" means a trademark or service mark used by the members of a cooperative, an association or other collective group or organization, and includes marks used to indicate membership in a union, an association or other organization.
[PL 1981, c. 684, §1 (NEW).]

1-C. Corporate name. "Corporate name" includes any corporate name, reserved name, registered name or assumed name as those terms are used in Title 13-C, sections 401, 402, 403 and 404 respectively and includes a corporate name, reserved name, registered name or assumed name as those terms are used in Title 13-B, sections 301-A, 302-A, 303-A and 308-A respectively.
[PL 2003, c. 344, Pt. A, §1 (NEW).]

2. Corporate name.
[PL 2003, c. 344, Pt. A, §2 (RP).]

2-A. Limited partnership name. "Limited partnership name" includes a limited partnership name or assumed name under Title 31, section 1308 or reserved name or registered name as used in Title 31, section 1309.
[PL 2005, c. 543, Pt. D, §6 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

2-B. Limited liability company name. "Limited liability company name" includes a limited liability company name, reserved name, assumed name or registered name as those terms are used in Title 31, sections 1508 to 1511.
[PL 2009, c. 629, Pt. A, §3 (AFF); PL 2009, c. 629, Pt. B, §6 (AMD).]

2-C. Limited liability partnership name. "Limited liability partnership name" includes a limited liability partnership name, reserved name, assumed name or registered name as those terms are used in Title 31, sections 803-A to 806-A.
[PL 2003, c. 344, Pt. A, §5 (AMD).]

3. Mark. "Mark" includes any trademark, service mark, certification mark or collective mark entitled to be registered under this chapter, whether registered or not.
[PL 1981, c. 684, §2 (RPR).]

4. Person. "Person" means any individual, firm, partnership, corporation, association, union or other organization.
[PL 1979, c. 572, §2 (NEW).]

5. Registrant. "Registrant" includes the person to whom the registration of a mark under this chapter is issued, the registrant's legal representatives, successors or assigns.
[PL 1991, c. 465, §10 (AMD).]

6. Service mark. "Service mark" means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others.
[PL 1979, c. 572, §2 (NEW).]

7. Trade name. "Trade name" means a word, name, symbol, device or any combination thereof used by a person to identify the person's business, vocation or occupation and distinguish it from the business, vocation or occupation of others.
[RR 2023, c. 2, Pt. C, §38 (COR).]

8. Trademark. "Trademark" means a word, name, symbol or device or any combination thereof adopted and used by a person to identify goods made or sold by the person and to distinguish them from goods made or sold by others.
[RR 2023, c. 2, Pt. C, §39 (COR).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1981, c. 684, §§1,2 (AMD). PL 1991, c. 465, §§10,11 (AMD). PL 1993, c. 316, §§2,3 (AMD). PL 1993, c. 718, §B1 (AMD). PL 1995, c. 633, §C1 (AMD). PL 2003, c. 344, §§A1-5 (AMD). PL 2005, c. 543, §D6 (AMD). PL 2005, c. 543, §D18 (AFF). PL 2009, c. 629, Pt. A, §3 (AFF). PL 2009, c. 629, Pt. B, §6 (AMD). RR 2023, c. 2, Pt. C, §§37-39 (COR).

§1521-A. Use of marks

For the purpose of this chapter, a mark is determined to be used in this State on goods when it is placed in any manner on the goods or their containers or the displays associated with the goods or on the tags or labels affixed to the goods and the goods are sold or otherwise distributed in the State and on services when it is used or displayed in the sale or advertising of services and the services are rendered in this State. [PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1522. Registration

1. Registrability. A mark shall not be registered if it:

A. Consists of or comprises deceptive matter; [PL 1979, c. 572, §2 (NEW).]

B. Consists of or comprises matter which may falsely suggest a connection with persons, living or dead, or institutions; [PL 1979, c. 572, §2 (NEW).]

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; [PL 1979, c. 572, §2 (NEW).]

D. Consists of or comprises the name, signature or portrait of any living individual, except with that individual's written consent, which shall be filed together with the application for registration under this section; [PL 1979, c. 572, §2 (NEW).]

E. Consists of a mark that, when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them or, when applied to the goods or services of the applicant, is primarily geographically descriptive or deceptively misdescriptive of them, except as indications of regional origin may be registrable under subsection 3, or is primarily merely a surname, provided that nothing in this paragraph may prevent the registration of a mark used in this

State by the applicant that 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 services, proof of continuous use thereof as a mark by the applicant in this State or elsewhere for the 5 years next preceding the date of the filing of the application for registration; [PL 2005, c. 543, Pt. D, §7 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

F. Consists of or comprises a mark that 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 applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, unless the registered owner or holder of the other mark executes and files with the Secretary of State proof of authorization of the use of a similar mark by the applicant seeking to use the similar mark; [PL 1993, c. 616, §1 (AMD).]

G. Is not distinguishable from the real, assumed, fictitious, reserved or registered name of a corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership, unless the corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership executes and files with the Secretary of State proof of authorization of the use of a mark similar to the real, assumed, fictitious, reserved or registered name of a corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership by the applicant seeking to use the mark; [PL 2005, c. 543, Pt. D, §8 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

H. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial; [PL 1997, c. 633, §1 (AMD).]

I. Inappropriately promotes abusive or unlawful activity; or [PL 1997, c. 633, §1 (AMD).]

J. Notwithstanding paragraph G, is identical to a corporate, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership name, unless the corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership is the same entity as the applicant that is seeking to register the mark and files proof of ownership with the Secretary of State. [PL 2005, c. 543, Pt. D, §9 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

The Secretary of State shall make the final determination regarding the availability of a mark for filing. [PL 2003, c. 344, Pt. A, §6 (AMD); PL 2005, c. 543, Pt. D, §§7-9 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

2. Application for registration. Subject to the limitations set forth in this chapter, any person who adopts and uses a mark in this State may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, 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 the registration and, if a corporation, the state of incorporation; [PL 1997, c. 376, §1 (AMD).]

B. The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with the goods or services and the class in which the goods or services fall; [PL 1979, c. 572, §2 (NEW).]

C. The date when, to the best of the applicant's knowledge and belief, the mark was first used anywhere and the date when it was first used in this State by the applicant or the applicant's predecessor in business; and [PL 1997, c. 376, §1 (AMD).]

D. A statement that to the best of the applicant's knowledge and belief, the applicant is the owner of the mark and that no other person has the right to use the mark in this State as a mark or as a trade name or as a corporate name either in the identical form thereof or in such near resemblance

thereto as to be likely, when applied to the goods or services of the other person, to cause confusion or to cause mistake or to deceive. [PL 1997, c. 376, §1 (AMD).]

The application must be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The execution of an application containing false statements constitutes unsworn falsification under Title 17-A, section 453.

The application must be accompanied by a specimen or facsimile of the mark in triplicate.

The application for registration must be accompanied by a filing fee of $60 for the first class and $10 for each additional class, payable to the Treasurer of State.
[PL 2003, c. 673, Pt. WWW, §1 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

3. Collective marks and certification marks. Collective marks and certification marks, including indications of regional origin used in commerce, shall be registrable in the same manner and with the same effect as trademarks and service marks by persons and by governmental entities, as defined in Title 14, section 8102, subsections 2, 3 and 4.
[PL 1981, c. 684, §5 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1981, c. 684, §§3-5 (AMD). PL 1987, c. 561, §1 (AMD). PL 1993, c. 316, §§4,5 (AMD). PL 1993, c. 616, §§1,2 (AMD). PL 1993, c. 718, §B2 (AMD). PL 1995, c. 462, §A24 (AMD). PL 1995, c. 633, §C2 (AMD). PL 1997, c. 376, §1 (AMD). PL 1997, c. 633, §§1,2 (AMD). PL 2003, c. 344, §A6 (AMD). PL 2003, c. 673, §WWW1 (AMD). PL 2003, c. 673, §WWW37 (AFF). PL 2005, c. 543, §§D7-9 (AMD). PL 2005, c. 543, §D18 (AFF).

§1523. Attested copy

Upon compliance by the applicant with the requirements of this chapter, the Secretary of State shall promptly make a copy of the original and attest that copy by marking upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document. The attested copy must be returned to the person submitting the document for filing or to that person's representative. [PL 1997, c. 376, §2 (AMD).]

An attested copy issued by the Secretary of State under this section or a copy duly certified by the Secretary of State is admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State. [PL 1997, c. 376, §2 (AMD).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1997, c. 376, §2 (AMD).

§1524. Duration and renewal

Registration of a mark is effective for a term of 10 years from the date of registration. Upon application filed within 6 months prior to the expiration of the term, on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. A renewal fee of $60, payable to the Treasurer of State, must accompany the application for renewal of the registration. [PL 2003, c. 673, Pt. WWW, §2 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

A mark registration may be renewed for successive periods of 10 years in like manner. [PL 1979, c. 572, §2 (NEW).]

The Secretary of State shall notify each registrant of a mark under this chapter of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration, by writing to the last known address of the registrant. [PL 1979, c. 572, §2 (NEW).]

A registration in force on January 1, 1980 expires 10 years from the date of the registration or one year after January 1, 1980, whichever is later, and may be renewed by filing an application with the Secretary of State on a form furnished by the Secretary of State and paying the renewal fee within 6 months prior to the expiration of the registration. [RR 2023, c. 2, Pt. C, §40 (COR).]

All applications for renewals under this chapter, whether of registrations made under this chapter or of registrations effected under any prior Act, shall include a statement that the mark is still in use in this State. [PL 1979, c. 572, §2 (NEW).]

The Secretary of State shall, within 6 months after the effective date of this chapter, notify all registrants of marks under prior Acts of the date of expiration of the registrations, unless renewed in accordance with this chapter by writing by first class mail to the last known address of each registrant. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1987, c. 561, §2 (AMD). PL 2003, c. 673, §WWW2 (AMD). PL 2003, c. 673, §WWW37 (AFF). RR 2023, c. 2, Pt. C, §40 (COR).

§1525. Assignment

1. Recording. Any mark and its registration are 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 must be by an instrument in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of $40 payable to the Treasurer of State. The Secretary of State, upon recording of an assignment, shall issue an attested copy in the name of the assignee. The assignment is valid for the remainder of the term of the registration or of the last renewal. An assignment of any registration under this chapter is void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary of State within 3 months after the date thereof or prior to the subsequent purchase.
[PL 1997, c. 376, §3 (AMD).]

2. Corporate, limited liability company or partnership name. Any registrant of a mark that has been duly recorded pursuant to section 1523 may grant to any domestic or foreign corporation, limited liability company, limited liability partnership or limited partnership authorized to do business in this State the exclusive right to the use of a name similar to that mark.
[PL 1997, c. 376, §4 (AMD).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1987, c. 561, §3 (AMD). PL 1993, c. 316, §6 (AMD). PL 1993, c. 718, §B3 (AMD). PL 1995, c. 633, §C3 (AMD). PL 1997, c. 376, §§3,4 (AMD).

§1525-A. Amendment

The registration of a mark may be amended by adding or removing one or more classes of goods and services under section 1527, subsection 2. The amendment must be in writing and recorded with the Secretary of State and accompanied by a filing fee of $10 for each class affected, payable to the Treasurer of State. The Secretary of State may prescribe a form for this purpose. The Secretary of State upon recording of an amendment shall issue an attested copy. The amendment is valid for the remainder of the term of the registration or of the last renewal. [PL 1997, c. 376, §5 (AMD).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW). PL 1997, c. 376, §5 (AMD).

§1526. Records

The Secretary of State shall keep for public examination a record of all marks registered or renewed under this chapter. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1526-A. Information requests

(REPEALED)

SECTION HISTORY

PL 1991, c. 780, §U2 (NEW). PL 1991, c. 837, §A27 (NEW). PL 1993, c. 349, §25 (RPR). PL 2007, c. 231, §1 (RP).

§1527. Cancellation; classification

1. Cancellation required. The Secretary of State shall cancel from the register:

A. After one year from the effective date of this chapter, all registrations under prior Acts which are more than 10 years old and not renewed in accordance with this chapter; [PL 1979, c. 572, §2 (NEW).]

B. Any registration on file when the Secretary of State receives a voluntary request for cancellation from the registrant or the assignee of record. The cancellation must be in writing and recorded with the Secretary of State and accompanied by a filing fee of $10, payable to the Treasurer of State. The Secretary of State may prescribe a form for this purpose. The Secretary of State, upon the recording of a cancellation under this paragraph, shall issue an attested copy to the remitter of the instrument; [PL 2007, c. 535, Pt. A, §1 (AMD); PL 2007, c. 535, Pt. A, §7 (AFF).]

C. All registrations granted under this chapter and not renewed in accordance with the chapter; [PL 1979, c. 572, §2 (NEW).]

D. 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 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 and not abandoned; except that, should the registrant prove that the registrant is the owner of a concurrent registration of the registrant's mark in the United States Patent and Trademark Office covering an area including this State, the registration may not be cancelled; or

(6) That, in the case of a certification mark, the registrant does not control, or is not able legitimately to exercise control over, the use of the mark; engages in the production or marketing of any goods or services to which the certification mark is applied; permits the use of the certification mark for purposes other than to certify; or discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which the mark certifies; and [RR 2023, c. 2, Pt. C, §41 (COR).]

E. When a court of competent jurisdiction shall order cancellation of a registration on any ground. [PL 1979, c. 572, §2 (NEW).]

[RR 2023, c. 2, Pt. C, §41 (COR).]

2. Classification. The following general classes of goods and services are established 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. If the goods or services fall in more than one class, an additional fee in the amount prescribed in section 1522, subsection 2, shall be paid for each additional class.

The classes are as follows:

A. Goods and services:

(1) Chemical products used in industry, science, photography, agriculture, horticulture, forestry; artificial and synthetic resins; plastics in the form of powders, liquids or pastes, for industrial use; natural and artificial manures; fire extinguishing compositions; tempering substances for preserving foodstuffs; tanning substances and adhesive substances used in industry;

(2) Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; coloring matters, dyestuffs; mordants; natural resins and metals in foil and powder form for painters and decorators;

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

(4) Industrial oils and greases, other than oils and fats and essential oils; lubricants; dust laying and absorbing compositions; fuels, including motor spirit and illuminants and candles, tapers, night lights and wicks;

(5) Pharmaceutical, veterinary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax, disinfectants and preparations for killing weeds and destroying vermin;

(6) Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains, except driving chains for vehicles; nonelectric cables and wires; locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in nonprecious metal not included in other classes and ores;

(7) Machines and machine tools; motors, except for land vehicles; machine couplings and belting, except for land vehicles; large size agricultural implements and incubators;

(8) Hand tools and instruments; cutlery, forks and spoons and side arms;

(9) Scientific, nautical, surveying and electrical apparatus and instruments, including wireless apparatus and instruments, photographic, cinematographic, optical, weighing, measuring, signaling, checking, supervision, lifesaving and teaching apparatus and instruments; coin or counterfreed apparatus; talking machines, cash registers; calculating machines and fire extinguishing apparatus;

(10) Surgical, medical, dental and veterinary instruments and apparatus, including artificial limbs, eyes and teeth;

(11) Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes;

(12) Vehicles and apparatus for locomotion by land, air or water;

(13) Firearms; ammunition and projectiles; explosive substances and fireworks;

(14) Precious metals and their alloys and goods in precious metals or coated therewith, except cutlery, forks and spoons and jewelry, precious stones, horological and other chronometric instruments;

(15) Musical instruments, other than talking machines and wireless apparatus;

(16) Paper, cardboard, articles of paper or of cardboard, not included in other classes; printed matter, newspapers and periodicals, books; bookbinding material; photographs; stationery, adhesive stationery materials; artists' materials; paint brushes; typewriters and office requisites, other than furniture; instructional and teaching material, other than apparatus; playing cards; printers' type and stereotype cliches;

(17) Gutta percha, india rubber, balata and substitutes, articles made from these substances and not included in other classes; plastics in the form of sheets, blocks and rods, being for use in manufacture; materials for packing, stopping or insulating; asbestos, mica and their products and nonmetallic hose pipes;

(18) Leather and imitations of leather, and articles made from these materials and not included in other classes; skins, hides; trunks and traveling bags, umbrellas, parasols and walking sticks and whips, harness and saddlery;

(19) Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road-making materials; asphalt, pitch and bitumen; portable buildings; stone monuments and chimney pots;

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

(21) Small domestic utensils and containers, not of precious metals, or coated therewith; combs and sponges; brushes, other than paint brushes; brushmaking materials; instruments and material for cleaning purposes, steel wool; unworked or semiworked glass, excluding glass used in building and glassware, porcelain and earthenware, not included in other classes;

(22) Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding and stuffing materials, such as hair, kapok, feathers, seaweed and raw fibrous textile materials;

(23) Yarns and threads;

(24) Tissue piece goods; bed and table covers and textile articles not included in other classes;

(25) Clothing, including boots, shoes and slippers;

(26) Lace and embroidery, ribands and braid; buttons, press buttons, hooks and eyes, pins and needles and artificial flowers;

(27) Carpets, rugs, mats and matting; linoleums and other materials for covering existing floors and nontextile wall hangings;

(28) Games and playthings; gymnastic and sporting articles, except clothing and ornaments and decorations for Christmas trees;

(29) Meats, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and other dairy products; edible oils and fats; preserves and pickles;

(30) Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour, and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard, pepper, vinegar, sauces, spices and ice;

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

(32) Beer, ale and porter; mineral and aerated waters and other nonalcoholic drinks and syrups and other preparations for making beverages;

(33) Wines, spirits and liqueurs;

(34) Tobacco, raw or manufactured; smokers' articles and matches; and

(35) Merchandise not otherwise classified;

(36) Advertising and business;

(37) Insurance and financial;

(38) Construction and repair;

(39) Communication;

(40) Transportation and storage;

(41) Material treatment;

(42) Education and entertainment; and

(43) Services not otherwise classified. [PL 1997, c. 376, §6 (AMD).]

[PL 1997, c. 376, §6 (AMD).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1981, c. 684, §§6,7 (AMD). RR 1991, c. 2, §32 (COR). PL 1997, c. 376, §6 (AMD). PL 2007, c. 535, Pt. A, §1 (AMD). PL 2007, c. 535, Pt. A, §7 (AFF). RR 2023, c. 2, Pt. C, §41 (COR).

§1527-A. Powers of the Secretary of State

The Secretary of State has the power and authority reasonably necessary to administer this chapter efficiently and to perform the duties imposed upon the secretary. These powers include, without limitation: [PL 1991, c. 465, §12 (NEW).]

1. Rulemaking. The power to make rules not inconsistent with this chapter;
[PL 1991, c. 465, §12 (NEW).]

2. Forms; required. The power to prescribe forms for all documents required or permitted to be filed with the Secretary of State and to refuse to file documents not utilizing the prescribed forms to the extent possible; and
[PL 1991, c. 465, §12 (NEW).]

3. Refuse filing of documents. The power to refuse to file any document that is not clearly legible or may not be clearly reproducible photographically.
[PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1527-B. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing an improved filing service. [PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1527-C. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1527-D. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.
[PL 1991, c. 465, §12 (NEW).]

2. Fund; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this chapter and for funding new publications.
[PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1528. Fraudulent registration

A person who, for that person or on behalf of any other person, procures the filing or registration of any mark in the office of the Secretary of State under this chapter, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, is liable to pay all damages sustained in consequence of the filing or registration, to be recovered by or on behalf of the party injured in any court of competent jurisdiction. [RR 2023, c. 2, Pt. C, §42 (COR).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). RR 2023, c. 2, Pt. C, §42 (COR).

§1529. Infringement

Subject to section 1532, any person who shall: [PL 1979, c. 572, §2 (NEW).]

1. Use without consent of copy of a registered mark in connection with sale of goods or services. Use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this chapter in connection with the sale, offering for sale or advertising of any goods or services on or in connection with which use is likely to cause confusion or mistake to deceive as to the source of origin of the goods or services; or
[PL 1979, c. 572, §2 (NEW).]

2. Reproduce and apply a mark in conjunction with sale of goods or services. Reproduce, counterfeit, copy or colorably imitate any mark and apply the reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used upon or in conjunction with the sale or other distribution in this State of the goods or services;

shall be liable to a civil action by the owner of the registered mark for any or all of the remedies provided in section 1531, except that under subsection 2 the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive.

[PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1530. Injury to business reputation; dilution

Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1531. Remedies

1. Generally. 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 and the Superior Court may grant injunctions to restrain the manufacture, use, display or sale as may be by the court deemed just and reasonable and may require the defendants to pay to the owner all profits derived from and all damages suffered by reason of the wrongful manufacture, use, display or sale and the court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case, be delivered to an officer of the court or to the complainant to be destroyed.
[PL 1979, c. 572, §2 (NEW).]

2. Statutory damages. The owner of the mark may elect, at any time before final judgment is rendered, to recover instead of actual damages or profits an award of statutory damages with respect to any one mark for which any one defendant is liable individually or for which any 2 or more defendants are liable jointly and severally in an amount not to exceed $2,000.
[PL 1979, c. 572, §2 (NEW).]

3. Attorney's fees and costs. The Superior Court shall award the prevailing party costs and, in exceptional cases only, may award the prevailing party reasonable attorney's fees.
[RR 1991, c. 2, §33 (COR).]

4. Criminal prosecution. The enumeration of any right or remedy shall not affect a registrant's right to prosecute under any penal law of this State.
[PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). RR 1991, c. 2, §33 (COR).

§1532. Common law rights

Nothing in this chapter shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at common law at any time before or after the enactment of this chapter. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

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