

§ 80-3. Application for registration.

(a) Subject to the limitations set forth in this Article, any person who uses a mark, or any person who controls the nature and quality of the goods or services in connection with which a mark is used by another, in this State may file in the office of the Secretary in a format to be prescribed by 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 registration; and, if a corporation, the state of incorporation. If the application for registration relates to a mark used in connection with goods, the applicant shall list either the address of the applicant's principal place of business in North Carolina or a place of distribution and usage of the goods in this State. If the application for registration relates to a mark used in connection with services, the applicant shall list a physical location at which the services are being rendered or offered in this State;
- (2) 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;
- (3) The date when the mark was first used anywhere and the date when it was first used in this State by the applicant, the applicant's predecessor in business or by another under the control of the applicant; and
- (4) A statement that the applicant is the owner of the mark, that the mark is in use, and that to the best of the knowledge of the person verifying the application, no other person has registered in this State, or has the right to use the mark in this State 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.

(b) The application shall be signed and verified by the applicant, by a partner, by a member of the firm, or an officer of the corporation or association applying for registration. In states in which a notary is not required by law to obtain a notary's stamp or seal, an original certificate of authority of the notary issued by the appropriate State agency shall be submitted with the application. If the application is signed by a person acting pursuant to a power of attorney from the applicant, an original power of attorney or a certified copy of the power of attorney shall accompany the application.

The application shall be accompanied by three specimens of the mark as currently used and by a filing fee of seventy-five dollars (\$75.00), payable to the Secretary.

(c) The Secretary may require a statement as to whether an application to register the mark, or portions or a component of the mark, 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 any relevant information required by the Secretary, including the filing date and serial number of the application and the status of the application. If any application was finally refused registration or has otherwise not resulted in a registration, the Secretary may require the applicant to provide in the statement the reason the application was not registered. The Secretary may also require that a drawing of the mark accompany the application in a form specified by the Secretary. (1903, c. 271, s. 3; Rev., s. 3014; C.S., s. 3973; 1935, c. 60; 1941, c. 255, s. 2; 1967, c. 1007, s. 1; 1983, c. 713, s. 49; 1991, c. 626, s. 3; 1997-476, s. 4; 2002-126, s. 29A.36.)