

30 KAR 3:010. Application for registration of trademarks and service marks.

RELATES TO: KRS 365.571, 365.573, 365.593

STATUTORY AUTHORITY: KRS 365.571(1), 365.573(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 365.571(1) requires the Secretary of State to promulgate an administrative regulation establishing application requirements for registration of trademarks and service marks. This administrative regulation establishes application requirements for registration of trademarks and service marks.

Section 1. Requirements for Application for Registration of a Trademark or Service Mark. (1) Application for registration of a trademark or service mark shall be made to the Secretary of State, pursuant to KRS 365.571(1), by submitting:

- (a) A completed "Trademark/Service Mark Application";
- (b) The registration fee required by KRS 365.571(6); and
- (c) The mark specimens required by KRS 365.571(5).

(2) The application shall not be accepted for filing until the requirements of subsection (1) of this section have been met.

- (3) The application shall be in English.

Section 2. Application Which Includes Multiple Classes. An application may be filed which includes goods or services falling into multiple classes if:

- (1) The goods or services are specifically identified;
- (2) An application fee of ten (10) dollars for each classification is submitted; and
- (3) The application includes the dates of use and three (3) specimens for each class.

Section 3. Specimens. (1) An application for registration shall comply with KRS 365.571(5).

(2)(a) A trademark specimen shall be:

1. A label, tag or container bearing the trademark;
2. A point of sale display associated with the goods; or
3. If the nature of the goods or the nature of the mark makes the use of the mark on goods impractical, other documents related to the goods or the sale of the goods.

(b) A photocopy or photograph of a specimen identified in paragraph (a) of this subsection may be submitted.

(3) Service mark specimens shall show the mark as actually used in the sale or advertising of the services recited in the application.

(a) A service mark specimen shall be:

1. A newspaper or magazine advertisement, other form of advertisement, brochure or restaurant menu; or
2. Business documents such as letterhead, business cards or invoices, if the document shows the mark and refers to the relevant services.

(b) Printer's proofs for advertisements or words typed, printed or written on plain paper shall not be acceptable as specimens of the mark.

Section 4. Period of Response. (1) Within thirty (30) days of notice of the secretary's determination that an applicant is not entitled to registration, an applicant shall submit:

- (a) A reply to the secretary's determination; or
- (b) An amended application conforming to the secretary's determination.

(2) After review of an applicant's reply or amended application, the secretary shall:

- (a) Make a final determination on the application; or

(b) Permit the applicant to submit another amended application.

Section 5. Classifications. The system of classification of goods and services set out in 30 KAR 3:030 shall apply to trademark and service mark applications filed with the Secretary of State and to registrations issued on the basis of the applications. Renewals filed on registrations issued under a prior classification system shall be processed on the basis of the classification system in effect at the time the renewal application is filed.

Section 6. Incorporation by Reference. (1) The "Trademark/Service Mark Application (January 2003)" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Secretary of State's Office, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. or may be obtained at <http://www.kysos.com>. (20 Ky.R. 3339; Am. 21 Ky.R. 306; eff. 8-4-94; 29 Ky.R. 2720; 30 Ky.R. 17; eff. 7-17-2003.)