

Please
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TSA
58-01
58-02

KANSAS SECRETARY OF STATE
Trademark or Service Mark Application
Instructions

Kansas Office of the Secretary of State:

Memorial Hall, 1st Floor (785) 296-4564
120 S.W. 10th Avenue kssos@sos.ks.gov
Topeka, KS 66612-1594 www.sos.ks.gov

The following form **must be complete** and accompanied by **the correct filing fee** or the document will **not** be accepted for filing.

Stay up-to-date on your trademark or service mark status, expiration date, and contact address at **www.sos.ks.gov**.

General Information

| | |
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| <input type="checkbox"/> Difference | Trade and service marks are commonly referred to as brand names, logos or slogans. Trademarks are used to identify tangible goods. Service marks are used to identify services. The term “mark” is used to refer to both trademarks and service marks. |
| <input type="checkbox"/> Trade names not registrable | “Trade names” are terms used only to identify a business organization, rather than to distinguish the goods or services provided by the business. A company name may be viewed to be merely a trade name, instead of a mark, if it is advertised in such a way that it attracts little attention, is used in close proximity to an address or phone number, or is dominated by the presence of another mark. However, a company name may be registered if it is shown to function as a mark. |
| <input type="checkbox"/> Conflict check | Since identical or confusingly similar marks may not be registered by more than one person, a person planning to use or register a mark should take steps to determine whether others have priority of rights to that mark. Although checking the active registrations on file with the Secretary of State can be a useful step, the absence of a conflicting registration on file does not mean that no one else claims priority of rights in the mark. Visit www.sos.ks.gov , then click Business Filing Center, then click Trademark/Service Mark Search. |

Requirements for Registration

| | |
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| <input type="checkbox"/> Mark must be in use | Registration of marks in Kansas is based on actual use of the mark in Kansas commerce. For example, before an application can be submitted to the Secretary of State, the trademark must be used on a product sold or distributed in Kansas, or the service mark must be used in association with services rendered in Kansas (during advertising or sale). A proposed mark may not be “reserved” prior to its actual use in Kansas commerce or before the submission of a properly completed and filed application. If an application is submitted prior to actual use, registration will be refused. |
| <input type="checkbox"/> Mark must be distinctive | Only distinctive words, names, symbols, devices, or logos are entitled to registration. A designation that is primarily a surname, or that is commonly used in describing the product or service, or that directly describes the qualities or characteristics of a product or service is not distinctive on first use and not entitled to registration. For example, the terms “Food & Beverage Online” would not be entitled to registration when used in association with “a news and information service for the food processing industry contained in a database” since such terms would be merely descriptive of such a service. However, sometimes a designation that is not inherently distinctive may acquire distinctiveness through at least five (5) years of continuous and substantially exclusive use. |

Instructions for Application

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| <input type="checkbox"/> Filing fee | The filing fee for the application is \$40 . |
| <input type="checkbox"/> Payment | Please enclose a check or money order payable to the Secretary of State. Forms received without the appropriate fee will be rejected. Please do not send cash. NOTICE: There is a \$25 service fee for all checks returned by your financial institution. |
| <input type="checkbox"/> 1. Applicant/owner | The applicant should be the person who owns the mark and controls the use of the mark and the quality of the goods or services. If the applicant is an individual, provide the individual's name. If the applicant is an organized entity, such as a corporation, limited liability company, or limited partnership, provide the legal name of the organized entity as shown in its formation document. (e.g., <i>ABC Business Company, Inc.</i>) |
| <input type="checkbox"/> 2. Business address | Provide the business address of the applicant. |
| <input type="checkbox"/> 3. Type of business entity | If the applicant is a corporation, limited liability company, limited partnership, general partnership, or other business entity, identify the type of business organization and the state under whose laws the entity was incorporated or organized. |
| <input type="checkbox"/> General partners | If the applicant is organized as a general or limited partnership, then provide the names of all general partners. |
| <input type="checkbox"/> 4. Name of mark | The name you list here is how the mark is searched in the Kansas Secretary of State's database. |
| <input type="checkbox"/> 5. Description of the mark | Describe the mark exactly as it appears in the samples of use. The description and the samples of use provided must match. The applicant can seek to register only one mark per application; a single application may not be used to register multiple variations or multiple color combinations. |
| <input type="checkbox"/> 6. Disclaimer | A disclaimer may be included in an original application. Generally, components that are generic or descriptive of the goods or services would be disclaimed (e.g., an outline of the state, a geographic term of origin, or words that are commonly used to describe the goods or services). An applicant cannot disclaim all elements of the proposed mark. A properly worded disclaimer might be: <i>No claim is made to the exclusive right to use of _____ apart from the mark as shown.</i> |

7a. Class of goods

State the number(s) of the class(es) in which the goods or services belong. For assistance with classifying goods or services, see the chart below or the Acceptable Identification of Goods and Services Manual at www.uspto.gov.

Goods

Class 1: Chemicals
Class 2: Paints
Class 3: Cosmetics and Cleaning Preparations
Class 4: Lubricants and Fuels
Class 5: Pharmaceuticals
Class 6: Metal Goods
Class 7: Machinery
Class 8: Hand Tools
Class 9: Electrical and Scientific Apparatus
Class 10: Medical Apparatus
Class 11: Environmental Control Apparatus
Class 12: Vehicles
Class 13: Firearms
Class 14: Jewelry
Class 15: Musical Instruments
Class 16: Paper Goods and Printed Matter
Class 17: Rubber Goods
Class 18: Leather Goods
Class 19: Non-metallic Building Materials
Class 20: Furniture and articles not otherwise classified
Class 21: Housewares and Glass
Class 22: Cordage and Fibers
Class 23: Yarns and Threads
Class 24: Fabrics

Class 25: Clothing
Class 26: Fancy Goods (e.g. buttons, ribbons)
Class 27: Floor Coverings
Class 28: Toys and Sporting Goods
Class 29: Meats and Processed Foods
Class 30: Staple Foods (e.g. coffee, sugar)
Class 31: Natural Agricultural Products
Class 32: Light Beverages
Class 33: Wine and Spirits
Class 34: Smokers' Articles

Services

Class 35: Advertising and Business
Class 36: Insurance and Financial
Class 37: Building Construction and Repair
Class 38: Telecommunications
Class 39: Transportation and Storage
Class 40: Treatment of Materials
Class 41: Education and Entertainment
Class 42: Computer, Scientific and Legal
Class 43: Hotels and Restaurants
Class 44: Medical, Beauty and Agricultural
Class 45: Personal

7b. Goods or services

For each class listed on the application, describe clearly and concisely the goods or the services currently sold or provided by the applicant on or in connection with which the mark is being used. Limit the description of goods or services to those goods or services under the same class heading.

7c. Date mark was first used

For each class listed on the application, accurately state the date on which the mark was first publicly used to identify the goods or services being marketed. Both dates of first use "Anywhere" and "in Kansas" must be indicated on the application. (If the first use was in Kansas, both dates will be the same). State the month, day and year for each date of first use (e.g. 11/30/2014).

8. Disclose

An applicant must fully disclose whether the applicant or the applicant's predecessor in interest has filed an application to register the mark, or a portion or composite of the mark, with the United States Patent and Trademark Office.

9. Manner mark is used

List the manner in which the mark is used or communicated to the consuming public, such as tags or labels attached to goods; or newspapers, brochures or signs advertising services. If the application is for more than one (1) class, list the manner in which the mark is used in each class.

| | |
|--|--|
| <input type="checkbox"/> 10. Appropriate specimens | <p>Three (3) identical (meaning: three of the same) original specimens supporting the goods/ services described and supporting the manner in which the mark is used must be attached to the application. Check the box for each type of specimen included. Include at least one (1) specimen for each class. If color is claimed as a feature of the mark, include the specimens showing the mark in color. The specimens must be flat and no larger than 8½” x 11”. Original specimens that have been altered or defaced in any manner are not acceptable.</p> <p>Trademarks</p> <p>Acceptable specimens include actual labels, wrappers or tags affixed to, or containers used with, the goods. A photograph of an actual display that appears in immediate proximity to the goods (“point-of-sale” display) is also an acceptable specimen. Brochures that advertise the product are not sufficient.</p> <p>Service marks</p> <p>Acceptable specimens include actual materials used in selling or advertising the services, such as menus, newspaper advertisements, coupons, brochures, flyers, business cards and the like. To serve as specimens, advertising materials must contain some understandable reference to the services described in the application and contact information to obtain the services. Envelopes, letterhead and invoices are not acceptable.</p> |
| <input type="checkbox"/> 11. Declaration of ownership | <p>See statement on application of applicant claiming ownership of the mark.</p> |
| <input type="checkbox"/> 12. Signature | <p>The applicant/owner named must sign the application. An application made by a business entity must be signed by an authorized person. Before signing, carefully review the application.</p> |

Examination Process

An application for trade or service mark registration undergoes an examination process similar to the federal registration process. A “trademark examiner” reviews the application to ascertain whether the proposed mark is registrable under Kansas law, federal statutory law (upon which the Kansas trademark statute is based), and federal case law. Examining procedures similar to those used by the United States Patent and Trademark Office (USPTO) are used by the Secretary of State to examine applications.

During the course of the examination process, the trademark examiner may require the applicant to disclaim an unregistrable component of a mark that is otherwise registrable. The purpose of a disclaimer is to permit the registration of a mark that is registrable as a whole but contains matter that would not be registrable standing alone. A disclaimer amounts to a statement that, insofar as the particular registration is concerned, no rights are being asserted in the disclaimed component standing alone, but rights are asserted in the mark as a whole. Generally, components that are generic or descriptive of the goods or services would be disclaimed (e.g., an outline of the state, a geographic term of origin, or words that are commonly used to describe the goods or services). A disclaimer may be included in an original application. An application cannot disclaim all elements of the proposed mark.

If the application for registration is approved, we will return a Certificate of Registration to the applicant/owner, or upon request, to the submitter. Not all applications submitted to the Secretary of State are approved for registration. If an application is rejected, we will notify the submitter of the objections to registration.

The trademark examiners cannot provide legal advice with regard to trademark law applicable to a particular circumstance. Because trademark law is quite complex, the Secretary of State recommends that persons seeking to register a mark consult with a private attorney.

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THIS SPACE FOR OFFICE USE ONLY.

Please check one:

Trademark Service mark

1. Applicant/owner name

Owner of mark—individual, corporation, or other entity.

[Empty text box for applicant/owner name]

2. Business address

Address will be used to send official mail from the Kansas Secretary of State's Office.

Do not leave blank.

| | | | |
|---------|-------|-----|---------|
| Address | | | |
| City | State | Zip | Country |

3. Business structure of applicant/owner

Check one and complete.

| | |
|--|-----------------------|
| <input type="checkbox"/> Corporation | State of Organization |
| <input type="checkbox"/> Limited Liability Company | State of Organization |
| <input type="checkbox"/> Limited Partnership | State of Organization |
| <input type="checkbox"/> Limited Liability Partnership | State of Organization |
| <input type="checkbox"/> Other Business Entity | State of Organization |

Names of general partners if applicant is a partnership

Attach additional sheet if necessary.

| | |
|------|------|
| Name | Name |
| Name | Name |
| Name | Name |

4. Name of mark

This is how the mark will be searched with the Kansas Secretary of State's office.

[Empty text box for name of mark]

5. Description of mark

For design, provide a brief written description that can be pictured in the mind without reference to the specimens. Do not draw the design on the application.

6. Disclaimer

(If Applicable)

No claim is made to the exclusive right to use the words below apart from the mark as shown.

7a. Classification number(s)

See classification schedule attached.

7b. If a trademark, list specific goods.

If a service mark, list specific services

7c. Date the mark was first used in Kansas

| | | |
|-------|-----|------|
| Month | Day | Year |
|-------|-----|------|

7d. Date the mark was first used anywhere

| | | |
|-------|-----|------|
| Month | Day | Year |
|-------|-----|------|

8. USPTO trademark registration/application

Complete the following if the applicant or a predecessor in interest filed an application to register the mark or portions of the mark with the United States Patent and Trademark Office.

Check if this item does not apply

Filing date

| | | |
|-------|-----|------|
| Month | Day | Year |
|-------|-----|------|

Serial/File No.

Status of application

| | |
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| | |
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If refused, why?

9. Manner in which the mark is used

If more than one (1) class, list the manner in which the mark is used in each class.

10. Specimens

Check the applicable boxes and enclose three (3) original identical specimens supporting the goods/services described in question 7.

Include at least one (1) specimen for each class.

For Trademarks Only

(Specimen must show the mark clearly affixed to the product.)

- Actual Labels/Stickers on Products
- Actual Tags or Wrappers
- Photographs of Goods/Containers Showing the Mark
- Front Panels of a Paper Container Bearing the Mark

For Service Marks Only

(Specimen must show the mark and reference services and contact information to obtain services.)

- Advertising Leaflets
- Advertising Brochures
- Webpage Showing the URL Address
- Menus Showing the Mark
- Business Card that References Services

11. Declaration of ownership

Applicant declares that the applicant is the owner of the mark, that the mark is in use, and that to the knowledge of the person verifying the application, no other person has registered the mark, either federally or in this state, or is entitled to use the mark in this state, either in the identical form used by the applicant or in a form that is likely, when used on or in connection with the goods or services of the other person, to cause confusion or mistake, or to deceive, because of its resemblance to the mark.

12. I state that I am the applicant, a member of the firm applying, or an officer of the corporation or association applying, and declare under penalty of perjury that the foregoing application is true and correct.

Signature of Applicant / Owner

X

Name of Applicant / Owner (printed or typed)

Phone Number

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■ **International Schedule of Classes of Goods**

Class 1 (Chemicals): Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins; unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2 (Paints): Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

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

Class 4 (Lubricants and fuels): Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

Class 5 (Pharmaceuticals): Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6 (Metal Goods): Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

Class 7 (Machinery): Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.

Class 8 (Hand tools): Hand tools and implements (hand-operated); cutlery; side arms; razors.

Class 9 (Electrical and scientific apparatus): Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus.

Class 10 (Medical apparatus): Surgical, medical, dental, and veterinary apparatus and instruments, artificial limbs, eyes, and teeth; orthopedic articles; suture materials.

Class 11 (Environmental control apparatus): Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes.

Class 12 (Vehicles): Vehicles; apparatus for locomotion by land, air, or water.

Class 13 (Firearms): Firearms; ammunition and projectiles; explosives; fireworks.

Class 14 (Jewelry): Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

Class 15 (Musical Instruments): Musical instruments.

Class 16 (Paper goods and printed matter): Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus);

■ International Schedule of Classes of Goods (Cont'd.)

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with the application.

plastic materials for packaging (not included in other classes); printers' type; printing blocks.

Class 17 (Rubber goods): Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18 (Leather goods): Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19 (Nonmetallic building materials): Building materials (non-metallic); nonmetallic rigid pipes for building; asphalt, pitch and bitumen; nonmetallic transportable buildings; monuments, not of metal.

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

Class 21 (Housewares and glass): Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel-wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22 (Cordage and fibers): Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23 (Yarns and threads): Yarns and threads, for textile use.

Class 24 (Fabrics): Textiles and textile goods, not included in other classes; beds and table covers.

Class 25 (Clothing): Clothing, footwear, headgear.

Class 26 (Fancy goods): Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27 (Floor coverings): Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28 (Toys and sporting goods): Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29 (Meats and processed foods): Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

Class 30 (Staple foods): Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

Class 31 (Natural agricultural products): Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt.

Class 32 (Light beverages): Beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33 (Wine and spirits): Alcoholic beverages (except beers).

Class 34 (Smokers' articles): Tobacco; smokers' articles; matches.

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■ **International Schedule of Classes of Services**

Class 35 (Advertising and business): Advertising; business management; business administration; office functions.

Class 36 (Insurance and financial): Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37 (Building construction and repair): Building construction; repair; installation services.

Class 38 (Telecommunications): Telecommunications.

Class 39 (Transportation and storage): Transport; packaging and storage of goods; travel arrangement.

Class 40 (Treatment of materials): Treatment of materials.

Class 41 (Education and entertainment): Education; providing of training; entertainment; sporting and cultural activities.

Class 42 (Computer and scientific): Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

Class 43 (Hotels and restaurants): Services for providing food and drink; temporary accommodations.

Class 44 (Medical, beauty & agricultural): Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45 (Personal): Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.