

(5) consists of a mark which, (A) when applied to the goods of the applicant, is merely descriptive or deceptively misdescriptive of them, or (B) when applied to the goods 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 paragraph shall prevent the registration of a mark used in this State by the applicant which has become distinctive of the applicant's goods. The Secretary of State may accept as evidence that the mark has become distinctive, as applied to the applicant's goods, proof of continuous use thereof as a mark by the applicant in this State or elsewhere for the five years next preceding the date of the filing of the application for registration; or

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

87C. (Application for Registration.) (a) Subject to the limitations set forth in this sub-heading, any person who adopts and uses a trade-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 trade-mark setting forth, but not limited to, the following information:

(1) the name and business address of the person applying for such registration; and, if a corporation, the state of incorporation,

(2) the goods in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods and the class in which such goods fall,

(3) the date when the trade-mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business, and

(4) a statement that the applicant is the owner of the trade-mark and that no other person has the right to use such trade-mark in this State either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

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