

HOUSE OF REPRESENTATIVES

Olympia Washington

Bill Analysis

Bill No. HB 1250

Regulating trademarks

Public Arg: 1/28/97

Brief title

Reps. Wensman/Costa (Reg. Sec. of State)

Staff Contact Bill Lynch

Sponsor

Comm. on Govt. Admin.

Phone: 786-7092

BACKGROUND:

A trademark is any word, name, symbol, or device that is used by a person to identify goods made or sold by that person. A trademark also includes any word, name, symbol, or device and any title, designation, logo, character, name, and distinctive feature of radio or television programs used in the sale or advertising of services to identify the services of one person. Trademarks are registered with the secretary of state's office and are subject to public examination. Registration of a trademark is effective for six years and is renewable.

Trademarks are registered by filing a form furnished by the secretary of state. This form includes the name and business address of the applicant, the particular goods or services in connection with which the trademark is used, and the class in which the goods or services fall. The manner in which the trademark is used, the date when the trademark was first used with such goods or services in Washington State, and the date it was first used anywhere else, a statement that the trademark is currently being used in Washington State, a statement that the applicant believes that he or she is the owner of the trademark and that no one else has the right to use it, and other information required by the secretary of state. The application must be signed by the applicant, a member or officer of the applicant organization.

A single application to register a trademark may specify all goods or services in a single class but cannot specify goods or services in different classes. An application must be accompanied by three specimens or facsimiles of the trademark for at least one, rather than each, of the goods or services for which registration is requested. There is no process established for an applicant to correct or amend an application to register a trademark previously filed with the secretary of state. The secretary of state sets the amount of the filing fee by rule, but there is no express statutory authority for the secretary of state to vary the amount of the fee based upon the number of categories listed in the application.

Continued

SUMMARY:

A single application to register a trademark may specify goods or services in different classes. An application to register a trademark must be accompanied by at least three specimens or facsimiles of the trademark for each of the goods or services for which registration is requested.

A person may correct an application already filed with the secretary of state to register a trademark by filing a form provided by the secretary of state within 90 days of the original filing. The form to correct an original application may only be filed if the original application contains an incorrect statement or was improperly executed, signed or acknowledged. The correction may not change the mark itself. The form must be accompanied by a filing fee set in rule by the secretary of state. A corrected application is effective as of the date when the original application was filed, except that it is effective as of the date the correction is filed as to any persons relying upon the uncorrected document and adversely affected by the correction.

A person may also amend an application previously filed with the secretary of state if the applicant changes categories in which he or she does business. The applicant may amend a previous application by filing a form provided by the secretary of state accompanied by three specimens or facsimiles of the trademark for any additional goods or services for which the amendment is requested. The form must be accompanied by a filing fee established by the secretary of state in rule. The amendment may not change the mark itself and is effective as of the date it is filed.

The secretary of state may vary the amount of the filing fee based upon the number of categories listed in an application.

FISCAL NOTE: Not requested.

EFFECTIVE DATE: Ninety days after adjournment of session in which bills passed.