

548.101 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Abandoned*” means the occurrence of any of the following in relation to a mark:
 - a. The use of the mark has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment.
 - b. A course of conduct of the owner of the mark, including acts of omission as well as commission, causes the mark to lose its significance as a mark.
2. “*Applicant*” means a person filing an application for registration of a mark under this chapter, and the person’s legal representative, successor, or assignee.
3. “*Dilution*” means the lessening of the capacity of a mark to identify and distinguish goods or services, regardless of the presence or absence of any of the following:
 - a. Competition between parties.
 - b. Likelihood of confusion, mistake, or deception.
4. “*Mark*” means a trademark or service mark, entitled to registration under this chapter, whether registered or not.
5. “*Person*” and any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under this chapter includes a juristic person as well as a natural person. The term “*juristic person*” includes a firm, partnership, corporation, union, association, or other organization capable of suing and being sued in a court of law.
6. “*Registrant*” means a person to whom the registration of a mark under this chapter is issued, and the legal representative, successor, or assignee of such person.
7. “*Secretary*” means the secretary of state or the designee of the secretary charged with the administration of this chapter.
8. “*Service mark*” means a word, name, symbol, or device or any combination of a word, name, symbol, or device, used by a person to identify services and to distinguish the services of that person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of a sponsor.
9. “*Trademark*” means a word, name, symbol, or device or any combination of a word, name, symbol, or device, used by a person to identify and distinguish the goods of that person, including a unique product, from those manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.
10. “*Trade name*” means a name used by a person to identify a business or vocation of such person.
11. “*Use*” means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be in use under any of the following circumstances:
 - a. On goods sold or transported in commerce in this state when the mark is placed in any manner on the goods or containers or associated displays, or on affixed tags or labels, or if the nature of the goods makes the placement on the goods or containers impracticable, on documents associated with the goods or their sale.
 - b. On services when the mark is used or displayed in the sale or advertising of services and the services are rendered in this state.

[C71, 73, 75, 77, 79, 81, §548.1]

94 Acts, ch 1090, §1

C95, §548.101

95 Acts, ch 49, §15; 95 Acts, ch 67, §38, 39