

**548.102 Registrability.**

A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if the mark meets any of the following criteria:

1. Consists of or comprises immoral, deceptive, or scandalous matter.
2. Consists of or comprises matter which may disparage, bring into contempt or disrepute, or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.
3. Consists of or comprises the flag, or coat of arms, or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof.
4. Consists of, or comprises the name, signature, or portrait identifying a particular living individual, except by the individual's written consent.
5. *a.* Consists of a mark which is one of the following:
  - (1) When used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of the goods or services.
  - (2) When used on or in connection with the goods or services of the applicant, is primarily geographically descriptive or geographically misdescriptive of the goods or services.
  - (3) Is primarily merely a surname.
- b.* This subsection 5 does not prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. The secretary may accept as evidence that the mark has become distinctive as used on or in connection with the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state for the five years before the date on which the claim for distinctiveness is made.
6. Consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used by another and not abandoned, so as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake, or to deceive.

[C71, 73, 75, 77, 79, 81, §548.2]

86 Acts, ch 1087, §1, 2; 94 Acts, ch 1090, §2

C95, §548.102

95 Acts, ch 67, §40; 2012 Acts, ch 1023, §157