

**721—40.5(548) Registration and protection of marks.**

**40.5(1) Classification.** The following general classes of goods and services are established, but do not limit or extend the applicant's or registrant's rights, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used comprised in a single class, but in no event shall a single application include goods or services upon which the mark is being used which fall within different classes of goods or services.

The said classes are as follows:

GOODS	
Class	Title
1	Raw or partly prepared materials
2	Receptacles
3	Baggage, animal equipments, portfolio, and pocketbooks
4	Abrasives and polishing materials
5	Adhesives
6	Chemicals and chemical compositions
7	Cordage
8	Smokers' articles, not including tobacco products
9	Explosives, firearms, equipments, and projectiles
10	Fertilizers
11	Inks and inking materials
12	Construction materials
13	Hardware, plumbing, and steam-fitting supplies
14	Metals and metal castings and forgings
15	Oils and greases
16	Paints and painters' materials
17	Tobacco products
18	Medicines and pharmaceutical preparations
19	Vehicles
20	Linoleum and oiled cloth
21	Electrical apparatus, machines, and supplies
22	Games, toys, and sporting goods
23	Cutlery, machinery, and tools, and parts thereof
24	Laundry appliances and machines
25	Locks and safes
26	Measuring and scientific appliances
27	Clocks, watches, and other horological instruments
28	Jewelry and precious-metal ware
29	Brooms, brushes, and dusters
30	Crockery, earthenware, and porcelain
31	Filters and refrigerators
32	Furniture and upholstery
33	Glassware
34	Heating, lighting, and ventilating apparatus
35	Belting, hose, machinery packing, and nonmetallic tires
36	Musical instruments and supplies
37	Paper and stationery
38	Prints and publications
39	Clothing
40	Fancy goods, furnishings, and notions
41	Canes, parasols, and umbrellas
42	Knitted, netted, and textile fabrics, and substitutes thereof
43	Thread and yarn
44	Dental, medical, and surgical appliances
45	Soft drinks and carbonated waters

46	Foods and ingredients of foods
47	Wines
48	Malt beverages and liquors
49	Distilled alcoholic liquors
50	Cosmetics and toilet preparations
51	Detergents and soaps
52	Digital products and software applications
53	Goods not otherwise classified

## SERVICES

Class	Title
100	Services not otherwise classified
101	Advertising and business
102	Insurance and financial
103	Construction, maintenance, and repair
104	Communication
105	Transportation and storage
106	Material treatment, recycling, and waste disposal
107	Education and entertainment
108	Software as a service
109	Medical
110	Hair and cosmetic
111	Restaurant and bar
112	Real estate sales and property management
113	Retail sales

**40.5(2)** *Assistance in applications.* The secretary of state cannot give legal advice as to the nature and extent of the protection afforded by law nor advise as to the registrability of a specific mark except as questions may arise in connection with pending applications.

**40.5(3)** *Incomplete or defective applications.* An application will not be filed unless the application and accompanying facsimiles or specimens are in proper form, comply with the statutory requirements and are accompanied by the fee established by rule. Specimens which are metal need not be submitted, a facsimile being preferable in order to avoid filing problems. Documents not filed will be returned with a statement of the reasons therefor.

**40.5(4)** *Registration dates.* The registration date is the date the registration application is stamped received by the office of the secretary of state, if, after the application has been examined, it is allowed for registration.

**40.5(5)** *Form of application.* The application shall be on a current form supplied by the secretary of state, be completed in the English language and plainly written or typed. If the mark or any part thereof is not in the English language, it must be accompanied by a sworn translation.

**40.5(6)** *Withdrawal of application.* Prior to actual registration of the mark, the applicant, by written request, may withdraw the application.

**40.5(7)** *Plurality of goods in single application.* A single application may recite a plurality of goods, or a plurality of services, comprised in a single class, provided the particular identification of each of the goods or services be stated and the mark is used or has been actually used on or in connection with all of the goods or in connection with all of the services specified.

**40.5(8)** *Single class in one application.* A single application to register a mark for both goods and services or for goods or services in different classes will be rejected. Applications must be restricted to goods or services comprised in a single class.

**40.5(9)** *Conflicts.* Whenever application is made for registration of a mark or trade name which so resembles a mark registered in this state or a mark previously used in this state by another and not abandoned, so as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, a conflict shall be declared to exist and registration denied.

**40.5(10)** *Conflicts between applications.* Conflicts between pending applications will be resolved on the basis of the claimed date of first use. The secretary of state may require affidavits and other proof of first use.

**40.5(11)** *Record change on automatic transfer.* In the event of mergers or consolidations of corporations, a certified copy of such documents may be accepted to transfer ownership of marks.

If the name of the owner of record of a mark is changed, and request for a change of the records is made, then written proof of such change can be made by sworn affidavit showing the manner or mode by which the change of ownership was made.

**40.5(12)** *Change of address.* If the registered owner of a mark changes the address set forth on the registration, then written notice of such change of address must be given to the secretary of state. Such notice must clearly identify the mark or marks involved and must request that the change of address be noted on the records of the registration on file.

[ARC 7059C, IAB 8/23/23, effective 9/27/23]