



## Ohio Revised Code

### Section 1329.54 Registration of trademarks, service marks definitions.

Effective: September 1, 1998

Legislation: House Bill 464 - 122nd General Assembly

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As used in sections 1329.54 to 1329.67 of the Revised Code:

(A) "Trademark" means any word, name, symbol, device, or combination of any word, name, symbol, or device, that is adopted and used by a person to identify and distinguish the goods of that person, including a unique product, from the goods of other persons, and to indicate the source of the goods, even if that source is unknown.

(B) "Service mark" means any word, name, symbol, device, or combination of any word, name, symbol, or device, that is adopted and used by a person to identify and distinguish the services of that person, including a unique service, from the services of other persons and to indicate the source of the services, even if that source is unknown. "Service mark" includes titles, character names used by a person, and other distinctive features of radio or television programs even if a radio or television program or a title, character name, or other distinctive feature of a radio or television program advertises the goods of the sponsor of that radio or television program.

(C) "Mark" means any trademark or service mark that is entitled to registration under sections 1329.54 to 1329.67 of the Revised Code whether or not it is registered.

(D) "Person" means any individual, firm, partnership, limited liability partnership, limited liability company, corporation, association, union, or other organization that is capable of suing or being sued in a court of record in this state.

(E) "Applicant" means the person filing an application for registration of a mark under sections 1329.54 to 1329.67 of the Revised Code and the person's legal representatives, successors, or assigns.

(F) "Registrant" means the person to whom the registration of a mark is issued under sections 1329.54 to 1329.67 of the Revised Code and the person's legal representatives, successors, or



assigns.

(G) "Use" means the bona fide use of a mark in the ordinary course of trade and not the making use of a mark merely to reserve a right in a mark.

(H) A trademark shall be considered "used" in this state when either of the following applies:

(1) The trademark is placed in any manner on goods or their containers, on displays associated with goods or their containers, or on the tags or labels affixed to goods or their containers, and the goods are sold or transported in commerce in this state.

(2) If the nature of goods makes the types of placement described in division (H)(1) of this section impracticable, the trademark is placed in any manner on documents associated with the goods or the sale of the goods, and the goods are sold or transported in commerce in this state.

(I) A service mark shall be considered "used" in this state when both of the following apply:

(1) The service mark is used to identify the services of one person and to distinguish them from the services of other persons.

(2) The services of that person are sold or otherwise rendered in this state.

(J) A mark shall be considered "abandoned" when either of the following occurs:

(1) Its use has been discontinued with the intent not to resume that use. An "intent not to resume that use" may be inferred from the circumstances, and nonuse of a mark for three consecutive years constitutes prima-facie evidence of that intent.

(2) Any course of conduct by the owner of the mark, including actions and omissions, causes the mark to lose its significance as a mark.