



Ohio Revised Code

Section 1329.55 Limitations on trademark or service mark registration.

Effective: September 1, 1998

Legislation: House Bill 464

A trademark or service mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of other persons shall not be registered if it consists of or comprises one or more of the following:

(A) Immoral, deceptive, or scandalous matter;

(B) Matter that may disparage or falsely suggest a connection with living or dead persons, institutions, beliefs, or national symbols or bring them into contempt or disrepute;

(C) The flag, coat of arms, or other insignia of the United States, of any state or municipality, or of any foreign nation or any simulation of a flag, coat of arms, or other insignia of those natures;

(D) The name, signature, or portrait of any living individual, except with the individual's written consent;

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, a mark to which any of the following applies:

(a) When used on or in connection with the goods or services of the applicant, the mark is merely descriptive or deceptively misdescriptive of those goods or services.

(b) When used on or in connection with the goods or services of the applicant, the mark is primarily geographically descriptive or deceptively misdescriptive of those goods or services.

(c) The mark is primarily merely a surname.

(2) Division (E) of this section does not prevent the registration of a mark used in this state by the applicant if that mark has become distinctive of the applicant's goods or services. The secretary of



state 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 substantially exclusive and continuous use of the mark as a mark by the applicant in this state or elsewhere for the five years next preceding the date of the filing of the application for registration.

(3) Division (E)(1) of this section does not prevent the registration of a mark that, when used on or in connection with the goods or services of the applicant, is primarily geographically deceptively misdescriptive of the goods or services if the mark became distinctive of the applicant's goods or services in commerce prior to December 8, 1993, the date of enactment of the "North American Free Trade Agreement Implementation Act," 107 stat. 2057 (1993), 19 U.S.C. 3301 et seq.

(F) A trademark or service mark that so resembles a trademark or service mark registered in this state or a trademark, or service mark previously used in this state by another person and not abandoned by that person, as likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive;

(G)(1) Except as provided in division (G)(2) of this section, a trademark or service mark that so resembles a trademark or service mark registered in the United States patent and trademark office by another person and not abandoned by that person, or a trademark or service mark that is the subject of a pending intent to use application filed in the United States patent and trademark office by another person, 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.

(2) If the applicant proves that the applicant is the owner of a concurrent registration in the United States patent and trademark office of the applicant's trademark or service mark covering an area including this state, the applicant may register the applicant's trademark or service mark in accordance with sections 1329.54 to 1329.67 of the Revised Code.