

CHAPTER 02 – TRADEMARK REGISTRATION

SECTION .0100 - GENERAL PROVISIONS

18 NCAC 02 .0101 FUNCTIONS

History Note: Authority G.S. 143A-8; 143A-9; 147-36;
 Eff. February 1, 1976;
 Repealed Eff. September 1, 1988.

18 NCAC 02 .0102 SECRETARY OF STATE (TRANSFERRED TO 18 NCAC 01 .0101 EFF. APRIL 1, 2024) 18 NCAC 02 .0103 DEPUTY SECRETARY OF STATE

History Note: Authority G.S. 80-3; 160A-9.4; 160A-29; 160A-39; 160A-51;
 Eff. February 1, 1976;
 Amended Eff. September 1, 1988;
 Repealed Eff. May 1, 2003.

18 NCAC 02 .0104 AGENT FOR SERVICE OF PROCESS 18 NCAC 02 .0105 LAWS AND JOURNALS

History Note: Authority G.S. 1A-1, Rule 4(j)(4); 120-27; 120-29; 147-39;
 Eff. February 1, 1976;
 Amended Eff. September 1, 1988;
 Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0200 - LOBBYING AND INFLUENCING OPINION

18 NCAC 02 .0201 REGISTRATION OF LEGISLATIVE AGENTS 18 NCAC 02 .0202 WRITTEN AUTHORIZATION 18 NCAC 02 .0203 REPORTS OF EXPENDITURES 18 NCAC 02 .0204 INFLUENCING PUBLIC OPINION OR LEGISLATION

History Note: Authority G.S. 120-47.2; 120-47.3; 120-47.4; 120-47.6; 120-47.7; 120-49; 120-50;
 Eff. February 1, 1976;
 Amended Eff. September 1, 1988; January 1, 1977;
 Repealed Eff. August 1, 2000.

SECTION .0300 - TRADEMARKS

18 NCAC 02 .0301 DEFINITIONS

As used in this Section the word "mark" shall include both trademarks and service marks, and the word "Department" shall mean the Department of the Secretary of State.

History Note: Authority G.S. 80-1;
 Eff. February 1, 1976;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

18 NCAC 02 .0302 FORMS

Applications for registration and renewal of marks must be on a current form supplied by the Secretary of State. Requests for forms shall be directed to the Department of the Secretary of State, P.O. Box 29622, Raleigh, North Carolina 27626-0622. The forms are titled "Application for Registration of Trademark or Service Mark" and "Application for Renewal of Registration of Trademark or Service Mark", and both forms contain instructions which must be followed in completing them.

History Note: Authority G.S. 80-3; 80-5;
Eff. February 1, 1976;
Amended Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

18 NCAC 02 .0303 REGISTRATION

- (a) Multiple Registrations. Only one mark in one class may be included on each application for registration. A separate application and filing fee is required for each class in which registration is desired.
- (b) Description of Mark. A description of the mark, other than merely a word mark, must be set forth in the application including a written description of any designs sought to be registered. All extraneous matter must be omitted.
- (c) Description of Goods or Services. The description of the goods or services set forth in the application must contain specific goods or services rather than broad categories of goods or services.
- (d) Classification. The classification of goods and services set forth in G.S. 80-9 is established for the convenience of administration. Applications which state a classification which is not appropriate will be changed to the appropriate classification prior to registration.
- (e) Specimens. The function of the specimens submitted with the application is to show the mark in use. Actual specimens from one of the methods or modes of use listed in the application must be submitted. Where submission of an actual specimen is not practical due to the size or manner of use, a photograph of the mark in use or a facsimile of the mark showing the mark as used may be submitted.

History Note: Authority G.S. 80-3; 80-9;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

18 NCAC 02 .0304 ASSIGNMENT

- (a) Any form of assignment of a mark and its registration which meets the requirements of G.S. 80-6 and contains the name and business address of the assignee may be recorded. Suggested forms will be furnished on request to the Department of the Secretary of State.
- (b) An executed and properly acknowledged copy of the assignment must be submitted. The assignment will not be returned unless requested.

History Note: Authority G.S. 80-6;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

18 NCAC 02 .0305 AUTOMATIC TRANSFER

The merger or consolidation of a corporate registrant will be recognized as an automatic transfer of the registration of any mark to the surviving or resulting corporation. Notation in the trademark records of the Department of the Secretary of State of the automatic transfer will be made upon written request from the surviving or resulting corporation subject to the following:

- (1) If the articles of merger or consolidation are on file in the corporation records of the department, no additional filing and no recording fee is due.
- (2) If the articles of merger or consolidation are not on file in the corporation records of the department, a copy of the articles of merger or consolidation duly certified by the proper official of the state of incorporation must be submitted with the request for automatic transfer of the registration. A recording fee of ten dollars (\$10.00) is required.

History Note: Authority G.S. 80-7;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

18 NCAC 02 .0306 NAME CHANGE

If the name of a corporate registrant is changed by amendment to its charter, proper notation of the change will be made in the trademark records upon written request from the registrant subject to the following:

- (1) If the charter document effecting the change is on file in the corporation records of the department, no additional filing is required.
- (2) If the charter document effecting the change is not on file in the corporation records of the department, a copy of the charter document duly certified by the proper official of the state of incorporation must be submitted with the request.

*History Note: Authority G.S. 80-7;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

18 NCAC 02 .0307 RENEWALS

(a) Notice of expiration of the registration of a mark will be mailed to the last known address of the registrant at the beginning of the sixth month prior to expiration. A current form "Application for Renewal of Registration of Trademark or Service Mark" will be enclosed with the notice. A separate application must be submitted for each registration for which renewal is sought.

(b) A mark registered under the law in effect prior to January 1, 1968 must be renewed according to the current classification of goods or services. Where the goods or services described in the original application for registration fall in more than one class under the current classification, a separate application for renewal and filing fee must be submitted for each class under which renewal is desired.

(c) The registration of a mark which has been materially changed in use since the original registration may not be renewed, but a new application for registration must be submitted.

*History Note: Authority G.S. 80-5;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

18 NCAC 02 .0308 OTHER CHANGES

Changes in the address of the registrant, and a listing of additional goods within the registration classification will be noted in the trademark records of the department upon written request from the registrant.

*History Note: Authority G.S. 80-7;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*