

§ 2.42 Concurrent use.

An application for registration as a lawful concurrent user shall specify and contain all the elements required by the preceding sections. The applicant in addition shall state in the application the area, the goods, and the mode of use for which applicant seeks registration; and also shall state, to the extent of the applicant's knowledge, the concurrent lawful use of the mark by others, setting forth their names and addresses; registrations issued to or applications filed by such others, if any; the areas of such use; the goods on or in connection with which such use is made; the mode of such use; and the periods of such use.

[54 FR 34897, Aug. 22, 1989]

§ 2.43 Service mark.

In an application to register a service mark, the application shall specify and contain all the elements required by the preceding sections for trademarks, but shall be modified to relate to services instead of to goods wherever necessary.

(Sec. 3, 60 Stat. 429; 15 U.S.C. 1052)

§ 2.44 Collective mark.

(a) In an application to register a collective mark under section 1(a) of the Act, the application shall specify and contain all applicable elements required by the preceding sections for trademarks, but shall, in addition, specify the class of persons entitled to use the mark, indicating their relationship to the applicant, and the nature of the applicant's control over the use of the mark.

(b) In an application to register a collective mark under section 1(b), section 44 or section 66(a) of the Act, the application shall specify and contain all applicable elements required by the preceding sections for trademarks, but shall also specify the class of persons intended to be entitled to use the mark, indicating what their relationship to the applicant will be, and the nature of the control applicant intends to exercise over the use of the mark.

[54 FR 37590, Sept. 11, 1989, as amended at 73 FR 67769, Nov. 17, 2008]

§ 2.45 Certification mark.

(a) In an application to register a certification mark under section 1(a) of the Act, the application shall include all applicable elements required by the preceding sections for trademarks. In addition, the application must: Specify the conditions under which the certification mark is used; allege that the applicant exercises legitimate control over the use of the mark; allege that the applicant is not engaged in the production or marketing of the goods or services to which the mark is applied; and include a copy of the standards that determine whether others may use the certification mark on their goods and/or in connection with their services.

(b) In an application to register a certification mark under section 1(b), section 44 or section 66(a) of the Act, the application shall include all applicable elements required by the preceding sections for trademarks. In addition, the application must: specify the conditions under which the certification mark is intended to be used; allege that the applicant intends to exercise legitimate control over the use of the mark; and allege that the applicant will not engage in the production or marketing of the goods or services to which the mark is applied. When the applicant files an allegation of use under § 2.76 or § 2.88, the applicant must submit a copy of the standards that determine whether others may use the certification mark on their goods and/or in connection with their services.

[64 FR 48920, Sept. 8, 1999, as amended at 73 FR 67769, Nov. 17, 2008]

§ 2.46 Principal Register.

All applications will be treated as seeking registration on the Principal Register unless otherwise stated in the application. Service marks, collective marks, and certification marks, registrable in accordance with the applicable provisions of section 2 of the Act, are registered on the Principal Register.

§ 2.47 Supplemental Register.

(a) In an application to register on the Supplemental Register under section 23 of the Act, the application shall

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so indicate and shall specify that the mark has been in use in commerce.

(b) In an application to register on the Supplemental Register under section 44 of the Act, the application shall so indicate. The statement of lawful use in commerce may be omitted.

(c) An application under section 66(a) of the Act is not eligible for registration on the Supplemental Register.

(d) A mark in an application to register on the Principal Register under section 1(b) of the Act is eligible for registration on the Supplemental Register only after an acceptable amendment to allege use under § 2.76 or statement of use under § 2.88 has been timely filed.

(e) An application for registration on the Supplemental Register must conform to the requirements for registration on the Principal Register under section 1(a) of the Act, so far as applicable.

[54 FR 37590, Sept. 11, 1989, as amended at 68 FR 55763, Sept. 26, 2003; 73 FR 67769, Nov. 17, 2008]

§ 2.48 Office does not issue duplicate registrations.

If two applications on the same register would result in registrations that are exact duplicates, the Office will permit only one application to mature into registration, and will refuse registration in the other application.

[73 FR 67769, Nov. 17, 2008]

DRAWING

AUTHORITY: Secs. 2.51 to 2.55 also issued under sec. 1, 60 Stat. 427; 15 U.S.C. 1051.

§ 2.51 Drawing required.

(a) In an application under section 1(a) of the Act, the drawing of the mark must be a substantially exact representation of the mark as used on or in connection with the goods and/or services.

(b) In an application under section 1(b) of the Act, the drawing of the mark must be a substantially exact representation of the mark as intended to be used on or in connection with the goods and/or services specified in the application, and once an amendment to allege use under § 2.76 or a statement of use under § 2.88 has been filed, the

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drawing of the mark must be a substantially exact representation of the mark as used on or in connection with the goods and/or services.

(c) In an application under section 44 of the Act, the drawing of the mark must be a substantially exact representation of the mark as it appears in the drawing in the registration certificate of a mark duly registered in the applicant's country of origin.

(d) In an application under section 66(a) of the Act, the drawing of the mark must be a substantially exact representation of the mark as it appears in the international registration.

[68 FR 55763, Sept. 26, 2003]

§ 2.52 Types of drawings and format for drawings.

A drawing depicts the mark sought to be registered. The drawing must show only one mark. The applicant must include a clear drawing of the mark when the application is filed. There are two types of drawings:

(a) *Standard character (typed) drawing.* Applicants who seek to register words, letters, numbers, or any combination thereof without claim to any particular font style, size, or color must submit a standard character drawing that shows the mark in black on a white background. An applicant may submit a standard character drawing if:

(1) The application includes a statement that the mark is in standard characters and no claim is made to any particular font style, size, or color;

(2) The mark does not include a design element;

(3) All letters and words in the mark are depicted in Latin characters;

(4) All numerals in the mark are depicted in Roman or Arabic numerals; and

(5) The mark includes only common punctuation or diacritical marks.

(b) *Special form drawing.* Applicants who seek to register a mark that includes a two or three-dimensional design; color; and/or words, letters, or numbers or the combination thereof in a particular font style or size must submit a special form drawing. The drawing should show the mark in black on a white background, unless the mark includes color.