

RCW 19.77.020 Registration of certain trademarks prohibited.

(1) A trademark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if it:

(a) Consists of or comprises immoral, deceptive, or scandalous matter; or

(b) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute; or

(c) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(d) Consists of or comprises the name, portrait, or signature identifying a particular living individual who has not consented in writing to its registration; or

(e) Consists of or comprises a trademark which so resembles a trademark registered in this state, or a trademark or trade name used in this state by another prior to the date of the applicant's or applicant's predecessor's first use in this state and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive.

(2) Registration under this title does not constitute prima facie evidence that a mark is not merely descriptive, deceptively misdescriptive, or geographically descriptive or deceptively misdescriptive of the goods or services with which it is used, or is not primarily merely a surname, unless the applicant has made substantially exclusive and continuous use thereof as a trademark in this state or elsewhere in the United States for the five years next preceding the date of the filing of the application for registration.

(3) A trade name is not registrable under this chapter. However, if a trade name also functions as a trademark, it is registrable as a trademark.

(4) The secretary of state shall make a determination of registerability by considering the application record and the marks previously registered and subsisting under this chapter. [2003 c 34 § 2; 1989 c 72 § 2; 1955 c 211 § 2.]