

70-3a-302 Application for registration.

- (1)
- (a) Subject to the limitations in this chapter, any person who uses a mark may file with the division an application for registration of that mark.
 - (b) The registration described in Subsection (1)(a) shall be filed in accordance with rules:
 - (i) made by the division in accordance with Section 70-3a-201; and
 - (ii) that are consistent with this section.
 - (c) The application shall:
 - (i) state:
 - (A) the name and business address of the person applying for registration;
 - (B) if a corporation, the state of incorporation; and
 - (C) if a partnership:
 - (I) the state where the partnership is organized; and
 - (II) the names of the general partners, as specified by the division;
 - (ii) specify:
 - (A) the goods or services on or in connection with which the mark is used;
 - (B) the mode or manner in which the mark is used on or in connection with those goods or services; and
 - (C) the class defined pursuant to Section 70-3a-308 in which those goods or services fall;
 - (iii) state:
 - (A) the date when the mark was first used anywhere;
 - (B) the date when the mark was first used in this state by the applicant or a predecessor in interest;
 - (C) that the applicant is the owner of the mark;
 - (D) that the mark is in use; and
 - (E) that to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use that mark:
 - (I) in the mark's identical form; or
 - (II) in such near resemblance to the mark as to be likely, when applied to the goods or services of the other person, to cause confusion, mistake, or to deceive;
 - (iv) be signed, including by any signature consistent with the requirement for an electronic signature under 15 U.S.C. Sec. 7001, under penalty of perjury by:
 - (A) the applicant; or
 - (B) if the applicant is not an individual:
 - (I) an officer of the applicant; or
 - (II) a partner of a partnership;
 - (v) be filed with the division;
 - (vi) be accompanied by two specimens showing the mark as actually used; and
 - (vii) be accompanied by a fee as determined by the division in accordance with Section 70-3a-203.
 - (d) In addition to the information required by Subsection (1)(c), the division may require the applicant to provide:
 - (i) a statement as to whether an application to register the mark, or portions or a composite of the mark, has been filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office; or
 - (ii) a drawing of the mark, complying with the requirements the division may specify.

- (2) If the division requires the statement under Subsection (1)(d)(i), the applicant shall provide full information with respect to any application filed with the United States Patent and Trademark Office including:
 - (a) the filing date and serial number of the application;
 - (b) the status of the application; and
 - (c) if any application was finally refused registration or has otherwise not resulted in a registration, the reasons for the refusal or lack of registration.
- (3) Any materials, information, or signatures required to file an application for a mark may be provided through the database created under Section 70-3a-501.

Amended by Chapter 368, 2009 General Session