

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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REGISTRATION CONTROL

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC-2009-00067

Ex Parte: In the matter of Adopting
a Revision to the Rules Governing
the Trademark and Service Mark Act

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction. Section 59.1-92.19 of the Virginia Trademark and Service Mark Act ("Act"), § 59.1-92.1 *et seq.* of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of the Act.

The rules and regulations issued by the Commission pursuant to the Act are set forth in Title 21 of the Virginia Administrative Code. A copy also may be found at the Commission's website: www.scc.virginia.gov/case.

The Division of Securities and Retail Franchising ("Division") has submitted to the Commission proposed revisions to Chapter 120 of Title 21 of the Virginia Administrative Code entitled "Rules and Forms Governing Virginia Trademark and Service Mark Act" ("Rules").

Proposed amendment to Rule 21 VAC 5-120-100 modifies the class of services with which a mark can actually be used to include services for providing food and drink, medical services, veterinary services, hygienic and beauty care services, agricultural, horticulture and

forestry services, legal services, security services for the protection of property and individuals, and personal and social services rendered by others to meet the needs of individuals.

The Division has recommended to the Commission that the proposed revisions should be considered for adoption with a proposed effective date of November 15, 2009. The Division also has recommended to the Commission that a hearing should be held only if requested by those interested parties who specifically indicate that a hearing is necessary and the reasons therefor.

A copy of the proposed revisions may be requested by interested parties from the Division by telephone, mail, or e-mail request and also can be found at the Division's website: www.scc.virginia.gov/srf. Any comments to the proposed rules must be received by August 31, 2009. If a hearing is requested, the hearing must be scheduled on September 29, 2009.

IT IS THEREFORE ORDERED THAT:

- (1) The proposed revisions are appended hereto and made a part of the record herein.
- (2) Comments or requests for hearing on the proposed revisions must be submitted in writing to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before August 31, 2009. Requests for hearing shall state why a hearing is necessary and why the issues cannot be adequately addressed in written comments. All correspondence shall contain reference to Case No. SEC-2009-00067. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(3) If the Commission grants any request for hearing in connection with the proposed amendments to the Rules, it will enter a subsequent order scheduling the hearing on September 29, 2009, and that order will be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at

<http://www.scc.virginia.gov/srf>. If no request for hearing is received, the Commission may consider the matter and enter an order based upon the papers filed herein.

(4) On or before September 15, 2009, the Division shall file a response to any comments that are filed in this proceeding and that response will be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>.

(5) The proposed revisions shall be posted on the Commission's website at <http://www.scc.virginia.gov/case> and on the Division's website at <http://www.scc.virginia.gov/srf>. Interested persons may also request a copy of the proposed revisions from the Division by telephone, mail, or e-mail.

AN ATTESTED COPY HEREOF, together with a copy of the proposed revisions, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Division's Director, who shall forthwith provide notice of this Order via U.S. mail and e-mail to any interested persons as he may designate.

STATE CORPORATION COMMISSION, DIVISION OF SECURITIES AND RETAIL
FRANCHISING

CH 0120 Trademark Service mark rule change 2009

Part III

Classification of Goods and Services

21VAC5-120-100. Classification of goods and services.

The application for registration or renewal of registration of a mark shall identify the ~~class(es)~~ class or classes of goods or services with which the mark is actually being used. The following classes of goods and services are established for convenience of administration of the Act:

Goods.

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins; unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; and adhesives used in industry.
2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; and metals in foil and powder form for painters, decorators, printers, and artists.
3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; and perfumery, essential oils, cosmetics, hair lotions; and dentifrices.

4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; and candles, and wicks for lighting.

5. Pharmaceutical, and veterinary and preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; and fungicides, and herbicides.

6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; and ores.

7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; and incubators for eggs.

8. Hand tools and implements (hand operated); cutlery; side arms; and razors.

9. Scientific, nautical, surveying, ~~electric~~, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; and fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopedic articles; and suture materials.

11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; and apparatus for locomotion by land, air, or water.

13. Firearms; ammunition and projectiles; explosives; and fireworks.

14. Precious metals and their alloys and goods in precious metals or coated ~~therewith~~ in precious metals, not included in other classes; jewelry, precious stones; and horological and chronometric instruments.

15. Musical instruments.

16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); ~~playing-cards~~ plastic materials for packaging (not included in other classes); printer's type; and printing blocks.

17. Rubber, gutta-percha, gum asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; and flexible pipes not of metal.

18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins; hides; trunks and travelling bags; umbrellas, parasols and walking sticks; and whips, harness and saddlery.

19. Building materials (nonmetallic); nonmetallic rigid pipes for building; asphalt, pitch and bitumen; nonmetallic transportable buildings; and monuments, not of metal.

20. Furniture; mirrors; and picture frames; and goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

21. Household or kitchen utensils and containers (~~not of precious metal or coated therewith~~); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semiworked glass (except glass used in building); and glassware, porcelain and earthenware not included in other classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); and raw fibrous textile materials.

23. Yarns and ~~thread~~ threads for textile use.

24. Textiles and textile goods, not included in other classes; and bed and table covers.

25. Clothing, footwear, and headgear.

26. Lace and embroidery; ribbons and braid; buttons, hooks and eyes, pins and needles; and artificial flowers.

27. Carpets, rugs, mats and matting; linoleum and other materials for covering existing floors; and wall hangings (nontextile).

28. Games and playthings; gymnastic and sporting articles not included in other classes; and decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, ~~fruit sauces~~ compotes; eggs, milk and milk products; and edible oils and fats.

30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, and artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery; ices; honey; treacle; yeast; baking powder; salt; mustard; vinegar; sauces (condiments); spices; and ice.

31. Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds; natural plants and flowers; foodstuffs for animals; and malt.

32. Beer, mineral and aerated waters and other nonalcoholic drinks, fruit drinks and fruit juices; and syrups and other preparations for making beverages.

33. Alcoholic beverages (except beers).

34. Tobacco, ~~smokers~~ smokers' articles; and matches.

Services.

35. Advertising; business management; business administration; and office functions.

36. Insurance, financial affairs; monetary affairs; and real estate affairs.

37. Building construction; repair, and installation services.

38. Telecommunications.

39. Transport; packaging and storage of goods; and travel arrangement.

40. Treatment of materials.

41. Education; providing of: training; entertainment; and sporting and cultural activities.

42. ~~Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes~~ Scientific and technological services and research and design relating thereto; industrial analysis and research services; and design and development of computer hardware and software.

43. Services for providing food and drink; and temporary accommodations.

44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; and agriculture, horticulture and forestry services.

45. Legal services; security services for the protection of property and individuals; and personal and social services rendered by others to meet the needs of individuals.

FORMS (21VAC5-120)

Form TM 1, Application for Registration of a Trademark or Service Mark (eff. ~~7/98~~ November 15, 2009).

Form TM 2, Application for Renewal of Registration of a Trademark or Service Mark (eff. ~~7/98~~ November 15, 2009).

Form TM 3, Certificate of Name Change of an Applicant or Registrant (eff. ~~7/98~~ November 15, 2009).

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

APPLICATION FOR REGISTRATION OF A TRADEMARK OR SERVICE MARK
(Please type or print)

Applicant (owner) name and address: _____

Contact person name and address: _____

Daytime phone: _____ Fax number: _____

Applicant is a: _____ Applicant's state or jurisdiction of formation: _____
(entity type i.e. corporation, partnership, etc)

Kind of mark (check one): Trademark Service Mark

Identify the trademark or service mark (or attach an exhibit of the exact mark): _____

Class number(s) of goods or services (see 21 VAC 5-120-100): _____

Describe the product(s) or service(s) the mark represents (identifies): _____

Date mark was first used anywhere by applicant or applicant's predecessor: _____

Date mark was first used in Virginia by applicant or applicant's predecessor: _____

PLEASE NOTE: A specimen of the mark must accompany this application.

The applicant asserts that it is the owner of this mark and that the mark is in use in the Commonwealth of Virginia. No other person has registered this mark or has the right to use this mark in Virginia, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such person, to cause confusion or mistake, or to deceive.

(NOTE: The application must be signed in the name of the applicant, either by the applicant or by a person authorized by the applicant. The application must be sworn to by the person who signed the name of the applicant.)

Signature: _____ Date: _____

Signer's Name: _____ Title: _____
(print or type)

State of: _____, County/City of: _____, to-wit:

The foregoing application was subscribed and sworn to before me by _____

on the _____ day of _____, _____.

My Commission Expires: _____ Notary Public: _____

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

APPLICATION FOR RENEWAL OF REGISTRATION OF A TRADEMARK
OR SERVICE MARK
(Please type or print)

Applicant (owner) name and address: _____

Contact person name and address: _____

_____ Daytime phone: _____ Fax number: _____

Applicant is a: _____ Applicant's state or jurisdiction of formation: _____
(entity type i.e. corporation, partnership, etc)

On the _____ day of _____, _____, the mark identified below was registered in the
name of: _____

Identify the trademark or service mark (or attach an exhibit of the exact mark):

Class number(s) of goods or services: _____

Describe the product(s) or service(s) the mark represents (identifies): _____

PLEASE NOTE: A specimen of the mark must accompany this application.

If the applicant is not the registrant named above, the applicant is the assignee to whom a new certificate was issued on the _____ day of _____, _____.

The applicant asserts that it is the owner of this mark and that the mark has been and is still in use in the Commonwealth of Virginia. No other person has the right to use this mark in Virginia, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such person, to cause confusion or mistake, or to deceive.

(NOTE: The application must be signed in the name of the applicant, either by the applicant or by a person authorized by the applicant. The application must be sworn to by the person who signed the name of the applicant.)

Signature: _____ Date: _____

Signer's Name: _____ Title: _____
(print or type)

State of: _____, County/City of: _____, to-wit:

The foregoing application was subscribed and sworn to before me by: _____

on the _____ day of _____, _____.

My Commission Expires: _____ Notary Public: _____

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF SECURITIES AND RETAIL FRANCHISING

CERTIFICATE OF NAME CHANGE OF AN APPLICANT OR REGISTRANT
(Please type or print)

Applicant/Registrant name and address: _____

Contact person name and address: _____

Daytime phone: _____ Fax number: _____

Prior name of applicant/registrant and address: _____

Applicant is a: _____ Applicant's state or jurisdiction of formation: _____
(entity type i.e. corporation, partnership, etc)

Kind of mark (check one): Trademark ___ Service Mark ___ Date name change effective: _____

Identify each trademark or service mark for which the name change is applicable (or attach an exhibit of the exact mark(s)):

Describe the product(s) or service(s) the mark represents (identifies): _____

(NOTE: The certificate must be signed in the name of the applicant, either by the applicant or by a person authorized by the applicant. The certificate must be sworn to by the person who signed the name of the applicant.)

Signature: _____ Date: _____

Signer's Name: _____ Title: _____
(print or type)

State of: _____, County/City of: _____, to-wit:

The foregoing certificate was subscribed and sworn to before me by: _____

on the _____ day of _____, _____.

My Commission Expires: _____ Notary Public: _____