

**RCW 19.77.010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Alien" when used with reference to a person means a person who is not a citizen of the United States.

(2) "Applicant" means the person filing an application for registration of a trademark under this chapter, his or her legal representatives, predecessors, successors, or assigns of record with the secretary of state.

(3) "Domestic" when used with reference to a person means a person who is a citizen of the United States.

(4) The term "colorable imitation" includes any mark which so resembles a registered mark as to be likely to cause confusion or mistake or to deceive.

(5) A "counterfeit" is a spurious mark which is identical with, or substantially indistinguishable from, a registered mark.

(6) "Dilution" means the lessening of the capacity of a famous mark to identify and distinguish goods or services through use of a mark by another person, regardless of the presence or absence of (a) competition between the owner of the famous mark and other parties, or (b) likelihood of confusion, mistake, or deception arising from that use.

(7) "Person" means any individual, firm, partnership, corporation, association, union, or other organization capable of suing and being sued in a court of law.

(8) "Registered mark" means a trademark registered under this chapter.

(9) "Registrant" means the person to whom the registration of a trademark under this chapter is issued, his or her legal representatives, successors, or assigns of record with the secretary of state.

(10) "Trademark" or "mark" means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him or her and to distinguish them from goods made or sold by others, and any word, name, symbol, or device, or any combination thereof, and any title, designation, slogan, character name, and distinctive feature of radio or television programs, used by a person in the sale or advertising of services to identify the services provided by him or her and to distinguish them from the services of others.

(11) A trademark shall be deemed to be "used" in this state when it is placed in the ordinary course of trade and not merely to reserve a right in a mark in any manner on the goods or their containers, or on tabs or labels affixed thereto, or displayed in connection with such goods, and such goods are sold or otherwise distributed in this state, or when it is used or displayed in the sale or advertising of services rendered in this state.

(12) "Trade name" means any name used by a person to identify a business or vocation of such a person.

(13) A mark shall be deemed to be "abandoned":

(a) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for three consecutive years shall be prima facie evidence of abandonment; or

(b) When any course of conduct of the registrant, including acts of omission as well as commission, causes the mark to become the generic name for the goods or services or causes the mark to lose its

significance as an indication of source or origin. Purchaser motivation shall not be a test for determining abandonment under this subsection. [2003 c 34 s 1; 1994 c 60 s 6; 1989 c 72 s 1; 1955 c 211 s 1.]

**Effective date—1955 c 211:** "This act shall be in force and take effect on September 1, 1955." [1955 c 211 s 19.]