

### **365.567 Registrability.**

A mark 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 pursuant to KRS 365.567 to 365.581 if it:

- (1) Consists of or comprises immoral, deceptive, or scandalous matter;
- (2) 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;
- (3) Consists of or comprises the flag or coat of arms or other insignia of the United States, any state or municipality, any foreign nation, or any simulation of the insignia;
- (4) Consists of or comprises the name, signature, or portrait of a particular living individual, except by the individual's written consent; or
- (5) Consists of a mark which when used on or in connection with the goods or services of the applicant:
  - (a) Is merely descriptive or deceptively misdescriptive of them;
  - (b) Is primarily geographically descriptive or deceptively misdescriptive of the goods or services; or
  - (c) Is primarily merely a surname.

However, nothing in this subsection shall prevent the registration of an applicant's mark which has become distinctive of the applicant's goods or services. The Secretary may accept proof of continuous use as evidence that the mark has become distinctive if the mark has been used by the applicant in this state for the five (5) years immediately preceding the date on which the claim of distinctiveness is made; or

- (6) Consists of or comprises a mark so resembling a mark registered in this state or a mark or trade name previously used in this state by another that has not been abandoned, as to be likely, when used on or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive.

**Effective:** July 15, 1994

**History:** Created 1994 Ky. Acts ch. 468, sec. 2, effective July 15, 1994.