

§ 80-8. Cancellation.

The Secretary shall cancel from the register, in whole or in part:

- (1) Repealed by Session Laws 1991, c. 626, s. 8.
- (2) Any registration concerning which the Secretary shall receive a voluntary request for cancellation thereof from the registrant or the assignee of record.
- (3) All registrations granted under this Article and not renewed in accordance with the provisions hereof.
- (4) Any registration concerning which a court of competent jurisdiction shall find:
 - a. That the registered mark has been abandoned or has become incapable of serving as a mark;
 - b. That the registrant is not the owner of the mark;
 - c. That the registration was granted improperly;
 - d. That the registration was obtained fraudulently;
 - e. That the registration is for a mark that is or has become the generic name for the goods or services for which it has been registered or for a portion of the goods or services for which it has been registered;
 - f. That the registration was obtained by means of materially false statements in the application for registration; or
 - g. That the registration is so similar to another mark used in the State as to be likely to cause confusion or mistake or to deceive if (i) the other mark was registered by another person in the United States Patent and Trademark Office prior to the date of the applicant's first use of the mark that is the subject of the application for registration, and (ii) the other mark has not been abandoned. However, if the registrant proves that the registrant is the owner of a concurrent registration of a mark in the United States Patent and Trademark Office covering an area including the entire State, the registration shall not be cancelled.
- (5) Any registration when a court of competent jurisdiction shall order cancellation thereof.
- (6), (7) Repealed by Session Laws 1997-476, s. 10. (1967, c. 1007, s. 1; 1991, c. 626, s. 8; 1997-476, s. 10.)