



SD Secretary of State Trademark Application Instructions

Submission info:

- **Paper Submission:** A blank application is included at the end of these instructions. You may also request an application by email at trademark@state.sd.us or by phone (605)773-2797. The application must be printed in ink or computer generated and mailed along with the required filing fee to the Secretary of State's office at: 500 East Capitol Ave, Pierre, SD 57501.
- **Walk-in:** A blank application may be obtained in person at the Secretary of State's Business Services Office at: 215 East Prospect Ave, Pierre, SD 57501.

Applications must be accurately completed in their entirety. Applications that are inaccurate, incomplete or illegible will be rejected.

Application info:

1. The application must be printed in ink or computer generated.
2. **Filing fee:** the filing fee for the application is \$125. Make check, cashier's check or money order payable to the South Dakota Secretary of State. Applications submitted without the proper filing fee will be rejected.
3. **One sample showing the mark must accompany this application:** Failure to include a sample will result in rejection of the application.
 - The sample must be no larger than 8 ½ inches by 11 inches and should be flat.
 - For trademarks, examples of acceptable samples are tabs or labels, invoices, brochures, catalogs, letterhead or business cards. If it is impractical to send actual samples because of size, photographs or other acceptable reproductions that show the mark may be sent.
 - For service marks, examples of are signs, brochures, advertisements, business cards or letterhead.
4. **Applicant Name:**
 - **If the applicant is a BUSINESS - Name and South Dakota Business ID of Applicant:** Enter the name of the business entity applying for the trademark. If the applicant is a registered South Dakota business entity, enter the South Dakota business ID.
 - **If the applicant is an INDIVIDUAL - Name of Applicant:** Enter the name of individual applying for the trademark.
5. **Business Address of Applicant:** Enter the complete business address of the individual person or business entity applying for the trademark. The address must include a street address and a mailing address if the mailing address is different from the street address. Please also provide a telephone number so that you may be contacted if there are questions regarding your application, and an email address so that we may send you reminders of when your mark registration will expire.

6. **If the applicant is a registered business entity, list the name of the state or other jurisdiction under whose laws it is organized:** Enter the state of incorporation or organization if the applicant is a business entity. If the applicant is an individual, leave this space blank.
7. **Name of the mark:** Provide a name for the mark being registered. If the mark is a standard character mark (just words), list only those words. If the mark is a design/special form mark, you must provide a name for the mark in this space. For example, if the mark is a logo for XYZ LLC, you could list the name as "XYZ Logo".
8. **Description of the mark in words (required for design mark):** Enter a complete and accurate description of the overall mark, for example "a stylized letter M." If the mark contains both words and a design element, the description must include both, for example "the wording XYZ LLC with a daisy". If a mark is in color, include a description of the portions of the mark that are in color and the corresponding color, for example "a daisy with yellow petals and a green stem in a blue vase." If the description is not accurate, either incomplete or including elements not actually appearing in the sample image, the application will be rejected and the applicant will be required to amend the description of the mark.
9. **Description of Goods or Services connected with mark:** Enter a description of the goods and services in connection with which the mark will be used. For example, "restaurant", "business consultant", "magazine", "nonprofit organization", etc. If the form does not allow enough space, enter "see attached" and list the goods or services on a separate sheet of paper.
10. **Mode or Manner in which the mark is used:** List how the applicant is using the mark. For example, "business cards", "letterhead", "advertising", "website", etc. If the form does not allow enough space, enter "see attached" and list the goods or services on a separate sheet of paper.
11. **Classification of Goods or Services Number:** Enter the appropriate number of the class under which such goods or services fall. Class numbers are listed in SDCL 37-6-12 and are also listed at the end of the instructions. Each application may only list one (1) classification.
12. **Date the mark was first used by applicant or predecessor:** Both dates must be completed for every application. If the mark has only been used in South Dakota, then the date the mark was first used "anywhere" is the same date as the date the mark was first used in South Dakota. Since the mark must be in use prior to registration, both dates must reflect a time prior to the signature date of the application.
13. **Signature and notarization:**
 - Printed Name of Authorized Person and Title: Failure to type or print the signature name and title of the signer (if the applicant is a business entity) will result in the application being rejected.
 - The application must be signed by the applicant. By signing the application, the applicant verifies under penalty of perjury that all the statements on the application are true and correct. Failure to sign the application will result in the application being rejected.
 - The signature of the applicant must be notarized. Proper notarization includes: 1) the original signature of the applicant, 2) the date the applicant signed the application, 3) the signature of the Notary Public, 4) the registered seal of the Notary Public, and 5) the commission expiration date of the Notary Public. Improper notarization will result in the application being rejected.

Classifications of Goods and Services:

37-6-12. Classification of goods and services for mark registration--Registration limited to single class. The following general classes of goods and services are established for the convenience of the administration of §§ 37-6-4 to 37-6-27, inclusive, but not to limit or extend the applicant's or registrant's rights. A single application for registration of a mark may include any goods or services upon which the mark is actually being used which are comprised in a single class, but a single application may not include goods or services which fall within different classes of goods or services. The classes of goods are as follows:

- (1) Chemical products used in industry, science, photography, agriculture, horticulture, forestry; artificial and synthetic resins; plastics in the form of powders, liquids or pastes, for industrial use; manures (natural and artificial); fire extinguishing compositions; tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry;
- (2) Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colouring matters, dyestuffs; mordants; natural resins; metals in foil and powder form for painters and decorators;
- (3) Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring, and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices;
- (4) Industrial oils and greases (other than oils and fats and essential oils); lubricants; dust laying and absorbing compositions; fuels (including motor spirit) and illuminants; candles, tapers, night lights, and wicks;
- (5) Pharmaceutical, veterinary, and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax, disinfectants; preparations for killing weeds and destroying vermin;
- (6) Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains (except driving chains for vehicles); cables and wires (nonelectric); locksmith's work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in nonprecious metal not included in other classes; ores;
- (7) Machines and machine tools; motors (except for land vehicles); machine couplings and belting (except for land vehicles); large size agricultural implements; incubators;
- (8) Hand tools and instruments; cutlery, forks, and spoons; side arms;
- (9) Scientific, nautical, surveying, and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), lifesaving, and teaching apparatus and instruments; coin or counterfeit apparatus; talking machines; cash registers; calculating machines; fire extinguishing apparatus;
- (10) Surgical, medical, dental, and veterinary instruments and apparatus (including artificial limbs, eyes, and teeth);
- (11) Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes;
- (12) Vehicles; apparatus for locomotion by land, air, or water;
- (13) Firearms; ammunition and projectiles; explosive substances; fireworks;
- (14) Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks, and spoons); jewelry, precious stones, horological, and other chronometric instruments;
- (15) Musical instruments (other than talking machines and wireless apparatus);

- (16) Paper and paper articles, cardboard and cardboard articles; printed matter, newspaper and periodicals, books; bookbinding material; photographs; stationery, adhesive materials (stationery); artists' materials; paint brushes; typewriters and office requisites (other than furniture); instructional and teaching material (other than apparatus); playing cards; printers' type and clichés (stereotype);
- (17) Gutta percha, India rubber, balata, and substitutes, articles made from these substances and not included in other classes; plastics in the form of sheets, blocks, and rods, used in manufacture; materials for packing, stopping or insulating; asbestos, mica, and their products; hose pipes (nonmetallic);
- (18) Leather and imitations of leather, and articles made from these materials and not included in other classes; skins, hides; trunks and traveling bags; umbrellas, parasols, and walking sticks; whips, harness, and saddlery;
- (19) Building materials, natural and artificial stone, cement, lime, mortar, plaster, and gravel; pipes of earthenware or cement; roadmaking materials; asphalt, pitch, and bitumen; portable buildings; stone monuments; chimney pots;
- (20) Furniture, mirrors, picture frames; articles (not included in other classes) of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, substitutes for all these materials, or of plastics;
- (21) Small domestic utensils and containers (not of precious metals, or coated therewith); combs and sponges; brushes (other than paint brushes); brushmaking materials; instruments and material for cleaning purposes, steel wool; unworked or semi-worked glass (excluding glass used in building); glassware, porcelain and earthenware, not included in other classes;
- (22) Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding and stuffing materials (hair, kapok, feathers, seaweed, etc.); raw fibrous textile materials;
- (23) Yarns, threads;
- (24) Tissues (piece goods); bed and table covers; textile articles not included in other classes;
- (25) Clothing, including boots, shoes, and slippers;
- (26) Lace and embroidery, ribands, and braid; buttons, press buttons, hooks and eyes, pins and needles; artificial flowers;
- (27) Carpets, rugs, mats, and matting; linoleums and other materials for covering existing floors; wall hangings (nontextile);
- (28) Games and playthings; gymnastic and sporting articles (except clothing); ornaments and decorations for Christmas trees;
- (29) Meats, fish, poultry, and game; meat extracts; preserved, dried, and cooked fruits and vegetables; jellies, jams; eggs, milk, and other dairy products; edible oils and fats; preserves, pickles;
- (30) Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour and preparations made from cereals; bread, biscuits, cakes, pastry and confectionary, ices; honey, treacle; yeast, baking powder; salt, mustard, pepper, vinegar, sauces, spices; ice;
- (31) Agricultural, horticultural, and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; food-stuffs for animals, malt;
- (32) Beer, ale, and porter; mineral and aerated waters and other nonalcoholic drinks; syrups and other preparations for making beverages;
- (33) Wines, spirits, and liqueurs; and
- (34) Tobacco, raw or manufactured; smokers' articles; matches;

The classes of services are as follows:

- (35) Advertising and business;
- (36) Insurance and financial;
- (37) Construction and repair;
- (38) Communication;
- (39) Transportation and storage;
- (40) Material treatment;
- (41) Education and entertainment;
- (42) Computer, scientific, and legal;
- (43) Hotels and restaurants;
- (44) Medical, beauty, and agricultural; and
- (45) Personal.

Source: SL 1955, ch 232, § 9; SDC Supp 1960, § 51.0909; SL 1980, ch 264, § 10; SL 1995, ch 229; SL 2006, ch 203, § 1.

SD Secretary of State Office
500 E Capitol Ave
Pierre, SD 57501
(605)773-4845
trademark@state.sd.us

TRADEMARK REGISTRATION
Initial Application
SDCL 37-6-5

FILING FEE: \$125

Make check payable to **SECRETARY OF STATE**

Application must be accompanied by a **Sample of the Mark**, that must be no larger than 8 ½" by 11" and should be flat.

1. Enter the Applicant's Name:

a. If the applicant is a **business**, Business Name and South Dakota Business ID (*if applicable*) of Applicant:

Name South Dakota Business ID (*if applicable*)

b. If the applicant is an **individual**, Name of Applicant: _____

2. Business Address of Applicant:

Actual Street Address or Rural Route Box Number City State ZIP+4

Mailing Address, if Different from Street Address City State ZIP+4

Email Telephone Number

3. If the applicant is a registered business entity, list the name of the state or other jurisdiction under whose laws it is organized (*if applicable*): _____

4. Name of the Mark: _____

5. Description of the mark in words (required for design mark):

6. Description of Goods or Services connected with the Mark:

7. Mode or Manner in which the Mark is used:

8. Classification of Goods or Services Number (*From SDCL 37-6-12, list only one*): _____

9. Date the Mark was first used by Applicant or Predecessor:

a. Anywhere: / /
Month *Day* *Year*

b. In the State of South Dakota: / /
Month *Day* *Year*

***** This section is to be completed in the presence of a Notary Public *****

State of _____)

)§§

County of _____)

I, _____, _____
Printed Name of Authorized Person Title

of _____
Name of Business as Applicant

do solemnly swear that the above named applicant is the owner of the Mark and that no other person has the right to use such Mark in the State of South Dakota either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

Dated _____, _____
Signature of authorized person

Subscribed and sworn to before me this _____ day of _____, 20 _____.

(Notarial Seal)

Notary Public Signature

My Commission Expires