

[\$482-28.5] Revocation of a mark. (a) Any person claiming to be the owner of a trademark or service mark for which a certificate of registration has been issued to another person pursuant to this part may file a verified petition in the office of the director for the revocation of the registration of the mark on the basis that:

- (1) The registered mark has been abandoned;
- (2) The registered mark has not been used by the registrant in accordance with the declaration either in this State or elsewhere in the United States for a period of three hundred sixty-five consecutive days and has not been registered in the name of the registrant in the United States Patent and Trademark Office;
- (3) The registration was granted improperly;
- (4) The registration was obtained fraudulently;
- (5) The registered mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered; or
- (6) The registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office prior to the date of filing the application for registration under this part; provided that if a registrant proves that the registrant is the owner of a concurrent registration of a mark registered in the United States Patent and Trademark Office that covers an area including this State, the registration shall not be revoked for such an area.

The petition shall set forth facts in support of the petitioner's ownership of the mark and the claim for revocation.

(b) The petitioner, at the petitioner's expense, shall notify the registrant of the hearing in the manner prescribed by the director and section 91-9.5, and the registrant shall be given the opportunity of a full hearing in accordance with chapter 91.

(c) After granting an opportunity for hearing to the petitioner and the registrant, the director shall grant or deny the petition for revocation, as the facts shall warrant. [L 2003, c 124, §4]