

§482-8 Revocation of trade name registration. (a) Any person claiming to be the owner of a trade name or mark whose common law rights are infringed upon, or any entity registered or authorized to transact business under the laws of this State whose common law right to its entity name are infringed upon, by a trade name for which a certificate of registration pursuant to this chapter has been issued to any other person may file a petition in the office of the director for the revocation of the registration of that trade name. The petition shall set forth the facts and authority supporting the claim that the petitioner has common law rights of ownership of the trade name, mark, or entity name, that these rights are being infringed upon by the other registered trade name that is confusingly similar to the petitioner's trade name, mark, or entity name, and that the certificate of registration should be revoked.

(b) Any person with a registered trade name in this State, or any entity registered or authorized to transact business under the laws of this State, claiming that another subsequently registered trade name is substantially identical to its registered trade name or entity name, respectively, may file a petition in the office of the director for the revocation of the registration of the subsequently registered trade name. The petition shall set forth the facts and authority supporting the claim that the petitioner's registered trade name or entity name is substantially identical to the subsequently registered trade name, the petitioner's trade name or entity name was registered before the subsequently registered trade name, and the registration of the subsequently registered trade name should be revoked.

(c) 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 for a hearing in accordance with chapter 91.

(d) 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 1941, c 75, §1(7456-A); RL 1945, §9292; RL 1955, §204-8; am L Sp 1959 2d, c 1, §15; am L 1963, c 114, §3; HRS §482-8; am L 1980, c 26, §9; am L 1982, c 204, §8; am L 1983, c 124, §17; gen ch 1985; am L 2001, c 15, §10; am L 2003, c 124, §89; am L 2008, c 108, §10]

Case Notes

The Hawaii Uniform Trade Secrets Act preempts non-contract civil claims based upon the alleged acquisition, disclosure, or use of confidential information that does not rise to the level of a statutorily-defined trade secret. 123 H. 314, 235 P.3d 310 (2010).

To the extent that a claim is "based upon wrongful conduct, independent of the misappropriation of trade secrets", it will not be preempted by the Hawaii Uniform Trade Secrets Act. 123 H. 314, 235 P.3d 310 (2010).

When tort, restitutionary, and other laws of this State conflict with the Hawaii Uniform Trade Secrets Act, they are preempted to the extent that they are based upon misappropriation of a trade secret; that is, if proof of a non-Hawaii Uniform Trade Secrets Act claim would also simultaneously establish a claim for misappropriation of trade secrets,

it is preempted irrespective of whatever surplus elements of proof were necessary to establish it. 123 H. 314, 235 P.3d 310 (2010).

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