

TRADE MARKS: Under Sec. 12449, R. S. Missouri, 1939  
a separate application must be filed for  
each name, mark or device used.

September 19, 1939

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Hon. Dwight H. Brown  
Secretary of State  
Jefferson City, Missouri

Dear Sir:

We are in receipt of your request for an opinion,  
under date of September 18th, 1939, which reads as follows:

"This department is today in receipt of an application from the Borden Company, a corporation duly organized and existing under the laws of the State of New Jersey but doing business in the State of Missouri. This company desires to register a number of receptacles under Section 12449 of the R. S. of Mo., 1929.

"We find the above named company submitted a number of names to be fixed upon the receptacles used by them and we would appreciate your opinion as to whether one registration is sufficient to cover all names submitted or whether it will be necessary that a separate application be filed for each name or receptacle."

On December 5th, 1933, this office rendered you an opinion in regard to the construction of Section 14329 R. S. Mo. 1929, which section provides that anyone wishing to register a trade mark, trade name, or emblem,

"may write out a description of such name, term, design or device, describing the same accurately, and sign and acknowledge the same before some officer competent to take acknow-

ledgment of deeds, and file same, together with a facsimile of the same, term, design, or device for registration, in the office of the secretary of state; said secretary shall deliver to said mechanic, manufacturer, association or union of workmen, or other persons so filing the same, a duly attested certificate of the filing of the same, for which he shall receive a fee of one dollar;"

In that opinion it was held by this office that under Section 14329, no more than one trade name or design could be registered in one application. We refer you to the copy of that opinion which we are enclosing.

Section 12449 R. S. Missouri, 1929, reads in part as follows:

"Any person engaged in manufacturing, bottling, or selling milk, buttermilk, cream or ice cream in any kind of receptacle, having the name of such person or other mark or device printed, stamped, engraved, etched, blown, painted or otherwise permanently fixed upon the same, may file in the office of the secretary of state for record a description of the name, mark or device so used; and cause such description to be printed once each week for three successive weeks in a newspaper published in the county in which the principal place of business of such person is located, or if the principal place of business of such person is located in another state, then in the county wherein the principal office or depot of such person within the state of Missouri is located. \* \* \*"

Note the similarity and sameness of terms as used in Section 14329 and Section 12449, and that in both Section 12449 and Section 14329 the terms used are in the singular.

#### CONCLUSION

It is therefore the opinion of this office that under Section 12449 R. S. Missouri, 1929, a separate ap-

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plication must be filed for each name, mark or device used.

Respectfully submitted,

W. J. BURKE  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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