

March 29, 1939.

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Harry M. Moore,
Secretary of State,
Phoenix, Arizona.

Attention Mr. Dan E. Carvey,
Assistant Secretary

Dear Sir:

Your letter of March 24, 1939, requesting an opinion from this office has been handed to me for answer. You ask the following question:

"Before issuing a certificate of registration of trade-mark we would like to have an opinion from your office as to legality of same and whether this office should issue trade-mark certificates when there has been filed a similar fac-simile and a certificate thereon having been issued to another person."

We are of the opinion that the provisions of our law regulating the filing of trade-marks, etc. with the Secretary of State and his issuing a certificate of the record of the same only applies to associations, unions or corporations that adopt a label, trade-mark, or form of advertisement.

We are further of the opinion that the Secretary of State has no discretion in determining whether or not a label, trade-mark or form of advertisement presented to him for filing conflicts with or is the same fac-simile of one he has already filed. The law does not give him any discretion in the matter and he apparently acts only as a recording officer. The remedy that a party might have would be in the courts to protect his property interest in the use of the label, trade-mark or form of advertisement, or to prevent a fraud being perpetrated upon the public.

Yours very truly,

JOE CONWAY
Attorney General

LIN ORME, JR.
Assistant Attorney General

EARL ANDERSON ✓
Special Assistant
Attorney General