

By: Brimer

S.B. No. 1532

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the filing of an application for registration of a
3 trademark or service mark, and other trademark instruments with the
4 secretary of state.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 16.09, Business & Commerce Code is
7 amended by deleting subsection (c) and (d) and by amending the title
8 of the section, and amending subsection (a) and (b) so that Section
9 16.09 reads as follows:

10 Sec. 16.09. CLASSIFICATION [~~CLASSES~~] OF GOODS AND SERVICES.

11 (a) The secretary of state shall adopt rules establishing a
12 classification of goods and services for the convenient
13 administration of this chapter. The classifications established do
14 not limit or expand an applicant's or registrant's rights. To the
15 extent practicable, the classification of goods and services should
16 conform to the classification adopted by the United States Patent
17 and Trademark Office. [~~An applicant may include in a single~~
18 application for registration of a mark all goods or services in
19 connection with which the mark is actually being used and which are
20 in a single class. An applicant may not include in a single
21 application for registration goods or services which are not in a
22 single class.]

23 (b) An applicant may include in a single application for
24 registration of a mark all goods or services in connection with

1 which the mark is actually being used and which are in a single
2 class. An applicant may not include in a single application for
3 registration goods or services which are not in a single class.

4 [~~The classes of goods are:~~

- 5 ~~(1) Class 1: Chemicals,~~
- 6 ~~(2) Class 2: Paints,~~
- 7 ~~(3) Class 3: Cosmetics and cleaning preparations,~~
- 8 ~~(4) Class 4: Lubricants and fuels,~~
- 9 ~~(5) Class 5: Pharmaceuticals,~~
- 10 ~~(6) Class 6: Metal goods,~~
- 11 ~~(7) Class 7: Machinery,~~
- 12 ~~(8) Class 8: Hand tools,~~
- 13 ~~(9) Class 9: Electrical and scientific apparatus,~~
- 14 ~~(10) Class 10: Medical apparatus,~~
- 15 ~~(11) Class 11: Environmental control apparatus,~~
- 16 ~~(12) Class 12: Vehicles,~~
- 17 ~~(13) Class 13: Firearms,~~
- 18 ~~(14) Class 14: Jewelry,~~
- 19 ~~(15) Class 15: Musical instruments,~~
- 20 ~~(16) Class 16: Paper goods and printed matter,~~
- 21 ~~(17) Class 17: Rubber goods,~~
- 22 ~~(18) Class 18: Leather goods,~~
- 23 ~~(19) Class 19: Nonmetallic building materials,~~
- 24 ~~(20) Class 20: Furniture and articles not otherwise~~
25 ~~classified,~~
- 26 ~~(21) Class 21: Housewares and glass,~~
- 27 ~~(22) Class 22: Cordage and fibers,~~

- 1 ~~(23) Class 23: Yarns and threads,~~
- 2 ~~(24) Class 24: Fabrics,~~
- 3 ~~(25) Class 25: Clothing,~~
- 4 ~~(26) Class 26: Fancy goods,~~
- 5 ~~(27) Class 27: Floor coverings,~~
- 6 ~~(28) Class 28: Toys and sporting goods,~~
- 7 ~~(29) Class 29: Meats and processed foods,~~
- 8 ~~(30) Class 30: Staple foods,~~
- 9 ~~(31) Class 31: Natural agricultural products,~~
- 10 ~~(32) Class 32: Light beverages,~~
- 11 ~~(33) Class 33: Wines and spirits, and~~
- 12 ~~(34) Class 34: Smokers' articles.~~

13 ~~(c) The classes of services are:~~

- 14 ~~(1) Class 35: Advertising and business,~~
- 15 ~~(2) Class 36: Insurance and financial,~~
- 16 ~~(3) Class 37: Construction and repair,~~
- 17 ~~(4) Class 38: Communication,~~
- 18 ~~(5) Class 39: Transportation and storage,~~
- 19 ~~(6) Class 40: Material treatment,~~
- 20 ~~(7) Class 41: Education and entertainment, and~~
- 21 ~~(8) Class 42: Miscellaneous.~~

22 ~~(d) The classes of goods and services enumerated in~~
23 ~~Subsections (b) and (c) of this section are established for the~~
24 ~~convenient administration of this chapter and do not limit or~~
25 ~~expand an applicant's or registrant's rights. The secretary of~~
26 ~~state may amend the classes of goods and services to conform to~~
27 ~~those now or later established by the U.S. Patent Office.~~

1 SECTION 2. Section 16.20, Texas Business & Commerce Code,
2 is amended to read as follows:

3 Sec. 16.20. TRANSFER OF MARK; CHANGE OF REGISTRANT'S NAME;
4 CHANGE OF ADDRESS. (a) If ownership of a registered mark is
5 transferred or a registrant's name is changed during the unexpired
6 term of a registration, a new certificate of registration may be
7 issued for the remainder of the unexpired term of the mark's
8 registration in the name of the transferee or in the new name of the
9 registrant upon the filing of an instrument under Section 16.19 of
10 this code [~~at the request of the registrant or transferee~~].

11 (b) The secretary of state may amend the trademark records
12 of an effective registration to reflect a change of registrant
13 address upon receipt of a statement signed by the registrant or the
14 registrant's agent. The statement must set forth the name of the
15 registrant of record, a description of the registered mark, the
16 registration number issued by the secretary of state, and the
17 registrant's new address. [~~A request for a new certificate must be~~
18 ~~signed by the registrant or transferee and accompanied by a fee in~~
19 ~~the amount set by Section 405.031(a), Government Code, for an~~
20 ~~official certification.~~]

21 SECTION 3. Subchapter B, Chapter 16, Business & Commerce
22 Code, is amended by adding Section 16.22 to read as follows:

23 Sec. 16.22. ELECTRONIC FILINGS AND REPRODUCTIONS. (a) An
24 application for renewal of trademark registration, an assignment
25 under Section 16.17, a transfer of ownership or change of
26 registrant name under Section 16.19, may be submitted in an
27 electronic format that is approved by the secretary of state. An

1 instrument that is filed in accordance with this subsection is
2 deemed to have complied with:

3 (1) the filing requirements of the section pursuant to
4 which it is filed; and

5 (2) any requirement that the document be submitted as
6 an originally signed instrument.

7 (b) All electronic acknowledgments and certificates
8 required to be issued by the secretary of state for the instruments
9 filed pursuant to subsection (a) shall be considered issued or
10 provided by the secretary of state on the initial transmission by
11 the secretary of state of the acknowledgment or certificate
12 required to be filed.

13 (c) Any certificate issued by the secretary of state
14 concerning any instrument filed under this subchapter need not be
15 on paper or reduced to printed form.

16 (d) If permitted by the rules adopted by the secretary of
17 state, an original instrument required or authorized to be filed
18 with the secretary of state under this subchapter may be a
19 photographic, photostatic, facsimile, or similar reproduction of
20 an signed instrument.

21 (e) All civil and criminal penalties applicable to the
22 filing of documents under this chapter apply to all documents filed
23 pursuant to this section.

24 SECTION 4. This Act takes effect September 1, 2003.

25 SECTION 5. The importance of this legislation and the
26 crowded condition of the calendars in both houses create an
27 emergency and an imperative public necessity that the

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1 constitutional rule requiring bills to be read on three several
2 days in each house be suspended, and this rule is hereby suspended.