

1-1 By: Brimer S.B. No. 1532  
1-2 (In the Senate - Filed March 14, 2003; March 20, 2003, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 2, 2003, reported favorably by the following vote: Yeas 8,  
1-5 Nays 0; April 2, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the filing of an application for registration of a  
1-9 trademark or service mark and other trademark instruments with the  
1-10 secretary of state.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 16.09, Business & Commerce Code, is  
1-13 amended to read as follows:

1-14 Sec. 16.09. CLASSIFICATION [CLASSES] OF GOODS AND SERVICES.

1-15 (a) The secretary of state shall adopt rules establishing a  
1-16 classification of goods and services for the convenient  
1-17 administration of this chapter. The classifications established do  
1-18 not limit or expand an applicant's or registrant's rights. To the  
1-19 extent practicable, the classification of goods and services should  
1-20 conform to the classification adopted by the United States Patent  
1-21 and Trademark Office.

1-22 (b) An applicant may include in a single application for  
1-23 registration of a mark all goods or services in connection with  
1-24 which the mark is actually being used and which are in a single  
1-25 class. An applicant may not include in a single application for  
1-26 registration goods or services which are not in a single class.

1-27 [~~(b) The classes of goods are:~~

- 1-28 [~~(1) Class 1: Chemicals,~~
- 1-29 [~~(2) Class 2: Paints,~~
- 1-30 [~~(3) Class 3: Cosmetics and cleaning preparations,~~
- 1-31 [~~(4) Class 4: Lubricants and fuels,~~
- 1-32 [~~(5) Class 5: Pharmaceuticals,~~
- 1-33 [~~(6) Class 6: Metal goods,~~
- 1-34 [~~(7) Class 7: Machinery,~~
- 1-35 [~~(8) Class 8: Hand tools,~~
- 1-36 [~~(9) Class 9: Electrical and scientific apparatus,~~
- 1-37 [~~(10) Class 10: Medical apparatus,~~
- 1-38 [~~(11) Class 11: Environmental control apparatus,~~
- 1-39 [~~(12) Class 12: Vehicles,~~
- 1-40 [~~(13) Class 13: Firearms,~~
- 1-41 [~~(14) Class 14: Jewelry,~~
- 1-42 [~~(15) Class 15: Musical instruments,~~
- 1-43 [~~(16) Class 16: Paper goods and printed matter,~~
- 1-44 [~~(17) Class 17: Rubber goods,~~
- 1-45 [~~(18) Class 18: Leather goods,~~
- 1-46 [~~(19) Class 19: Nonmetallic building materials,~~
- 1-47 [~~(20) Class 20: Furniture and articles not otherwise~~

1-48 classified,

- 1-49 [~~(21) Class 21: Housewares and glass,~~
- 1-50 [~~(22) Class 22: Cordage and fibers,~~
- 1-51 [~~(23) Class 23: Yarns and threads,~~
- 1-52 [~~(24) Class 24: Fabrics,~~
- 1-53 [~~(25) Class 25: Clothing,~~
- 1-54 [~~(26) Class 26: Fancy goods,~~
- 1-55 [~~(27) Class 27: Floor coverings,~~
- 1-56 [~~(28) Class 28: Toys and sporting goods,~~
- 1-57 [~~(29) Class 29: Meats and processed foods,~~
- 1-58 [~~(30) Class 30: Staple foods,~~
- 1-59 [~~(31) Class 31: Natural agricultural products,~~
- 1-60 [~~(32) Class 32: Light beverages,~~
- 1-61 [~~(33) Class 33: Wines and spirits, and~~
- 1-62 [~~(34) Class 34: Smokers' articles.~~

1-63 [~~(c) The classes of services are:~~

- 1-64 [~~(1) Class 35: Advertising and business,~~

- 2-1 ~~[(2) Class 36: Insurance and financial,~~
- 2-2 ~~[(3) Class 37: Construction and repair,~~
- 2-3 ~~[(4) Class 38: Communication,~~
- 2-4 ~~[(5) Class 39: Transportation and storage,~~
- 2-5 ~~[(6) Class 40: Material treatment,~~
- 2-6 ~~[(7) Class 41: Education and entertainment, and~~
- 2-7 ~~[(8) Class 42: Miscellaneous.~~

2-8 ~~[(d) The classes of goods and services enumerated in~~  
 2-9 ~~Subsections (b) and (c) of this section are established for the~~  
 2-10 ~~convenient administration of this chapter and do not limit or~~  
 2-11 ~~expand an applicant's or registrant's rights. The secretary of~~  
 2-12 ~~state may amend the classes of goods and services to conform to~~  
 2-13 ~~those now or later established by the U.S. Patent Office.]~~

2-14 SECTION 2. Section 16.20, Business & Commerce Code, is  
 2-15 amended to read as follows:

2-16 Sec. 16.20. TRANSFER OF MARK; CHANGE OF REGISTRANT'S NAME;  
 2-17 CHANGE OF ADDRESS. (a) If ownership of a registered mark is  
 2-18 transferred or a registrant's name is changed during the unexpired  
 2-19 term of a registration, a new certificate of registration may be  
 2-20 issued for the remainder of the unexpired term of the mark's  
 2-21 registration in the name of the transferee or in the new name of the  
 2-22 registrant upon the filing of an instrument under Section 16.19 ~~[at~~  
 2-23 ~~the request of the registrant or transferee].~~

2-24 (b) The secretary of state may amend the trademark records  
 2-25 of an effective registration to reflect a change of registrant  
 2-26 address upon receipt of a statement signed by the registrant or the  
 2-27 registrant's agent. The statement must set forth the name of the  
 2-28 registrant of record, a description of the registered mark, the  
 2-29 registration number issued by the secretary of state, and the  
 2-30 registrant's new address [A request for a new certificate must be  
 2-31 signed by the registrant or transferee and accompanied by a fee in  
 2-32 the amount set by Section 405.031(a), Government Code, for an  
 2-33 official certificate].

2-34 SECTION 3. Subchapter B, Chapter 16, Business & Commerce  
 2-35 Code, is amended by adding Section 16.22 to read as follows:

2-36 Sec. 16.22. ELECTRONIC FILINGS AND REPRODUCTIONS. (a) An  
 2-37 application for renewal of trademark registration, an assignment  
 2-38 under Section 16.17, or a transfer of ownership or change of  
 2-39 registrant name under Section 16.19 may be submitted in an  
 2-40 electronic format that is approved by the secretary of state. An  
 2-41 instrument that is filed in accordance with this subsection is  
 2-42 deemed to have complied with:

2-43 (1) the filing requirements of the section pursuant to  
 2-44 which it is filed; and

2-45 (2) any requirement that the document be submitted as  
 2-46 an originally signed instrument.

2-47 (b) All electronic acknowledgments and certificates  
 2-48 required to be issued by the secretary of state for the instruments  
 2-49 filed pursuant to Subsection (a) shall be considered issued or  
 2-50 provided by the secretary of state on the initial transmission by  
 2-51 the secretary of state of the acknowledgment or certificate  
 2-52 required to be filed.

2-53 (c) Any certificate issued by the secretary of state  
 2-54 concerning any instrument filed under this subchapter need not be  
 2-55 on paper or reduced to printed form.

2-56 (d) If permitted by the rules adopted by the secretary of  
 2-57 state, an original instrument required or authorized to be filed  
 2-58 with the secretary of state under this subchapter may be a  
 2-59 photographic, photostatic, facsimile, or similar reproduction of a  
 2-60 signed instrument.

2-61 (e) All civil and criminal penalties applicable to the  
 2-62 filing of documents under this chapter apply to all documents filed  
 2-63 pursuant to this section.

2-64 SECTION 4. This Act takes effect September 1, 2003.

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