

CHAPTER 36

CORPORATIONS AND ASSOCIATIONS

HOUSE BILL 06-1140

BY REPRESENTATIVE(S) McCluskey, Berens, Kerr, and Witwer;
also SENATOR(S) Veiga, and Evans.**AN ACT****CONCERNING THE REGISTRATION OF TRADEMARKS.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** Article 70 of title 7, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:**ARTICLE 70**
Trademarks**7-70-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CLASS" MEANS ONE OF THE CLASSES LISTED IN THE "INTERNATIONAL CLASSIFICATION OF GOODS AND SERVICES FOR THE PURPOSES OF THE REGISTRATION OF MARKS", PUBLISHED BY THE WORLD INTELLECTUAL PROPERTY ORGANIZATION, AS ADOPTED AND CODIFIED BY THE UNITED STATES PATENT AND TRADEMARK OFFICE OF THE UNITED STATES DEPARTMENT OF COMMERCE AT 37 CFR 6.1, AS AMENDED FROM TIME TO TIME, OR IN ANY SUCCESSOR CLASSIFICATION LIST AS DETERMINED BY THE SECRETARY OF STATE.

(2) "DRAWING" MEANS A PICTORIAL REPRESENTATION OF A SPECIAL FORM TRADEMARK.

(3) "REGISTRANT" MEANS:

(a) A PERSON WHO IS IDENTIFIED AS THE REGISTRANT IN THE STATEMENT OF TRADEMARK REGISTRATION FILED UNDER THIS ARTICLE; OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) FOLLOWING THE FILING OF A STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION, A PERSON WHO IS IDENTIFIED AS THE TRANSFEREE IN THE STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION.

(4) "SPECIAL FORM TRADEMARK" MEANS ANY TRADEMARK THAT IS NOT A STANDARD CHARACTER TRADEMARK, SUCH AS A TRADEMARK MADE UP OF, OR CONTAINING, IN WHOLE OR IN PART, ONE OR MORE SPECIAL CHARACTERISTICS SUCH AS A LOGO, PICTURE, DESIGN ELEMENT, COLOR, OR STYLE OF LETTERING.

(5) "SPECIMEN" MEANS A SAMPLE OF USE OF THE TRADEMARK, ON OR IN A MEDIUM ACCEPTABLE TO THE SECRETARY OF STATE. A SPECIMEN FOR A TRADEMARK FOR GOODS MUST SHOW THE TRADEMARK AS USED ON OR IN CONNECTION WITH THE GOODS IN COMMERCE IN THIS STATE, SUCH AS A LABEL, TAG, OR CONTAINER FOR THE GOODS; A DISPLAY ASSOCIATED WITH THE GOODS; OR AN IMPRINT ON THE GOODS, SUCH AS A STAMPING. A SPECIMEN FOR A TRADEMARK FOR SERVICES MUST SHOW THE TRADEMARK AS USED IN CONNECTION WITH THE SALE OR ADVERTISING OF THE SERVICES IN COMMERCE IN THIS STATE.

(6) "STANDARD CHARACTER TRADEMARK" MEANS A TRADEMARK:

(a) IN WHICH THE TRADEMARK IS EXPRESSED ONLY IN ENGLISH LETTERS, ROMAN OR ARABIC NUMERALS, OR PUNCTUATION MARKS AS MAY BE ACCEPTABLE TO THE SECRETARY OF STATE; AND

(b) IN WHICH NO STYLIZATION OF LETTERING OR NUMBERS IS CLAIMED.

(7) "TRADEMARK" MEANS A WORD, NAME, SYMBOL, DEVICE, OR ANY COMBINATION THEREOF, INCLUDING PACKAGING, CONFIGURATION OF GOODS, OR OTHER TRADE DRESS, USED BY A PERSON TO IDENTIFY AND DISTINGUISH THE PERSON'S GOODS OR SERVICES FROM THOSE MANUFACTURED, SOLD, OR RENDERED BY OTHERS AND TO INDICATE THE SOURCE OF THE GOODS OR SERVICES, EVEN IF THAT SOURCE IS UNKNOWN.

(8) "TRANSFER" INCLUDES AN ASSIGNMENT AND A TRANSFER BY OPERATION OF LAW, BUT DOES NOT INCLUDE A SECURITY INTEREST OR A LICENSE.

(9) "USE IN COMMERCE" MEANS A BONA FIDE USE OF A TRADEMARK IN THE ORDINARY COURSE OF TRADE, AND NOT MADE MERELY TO RESERVE A RIGHT IN A TRADEMARK.

7-70-102. Statement of trademark registration. (1) A PERSON WHO ADOPTS AND MAKES USE IN COMMERCE OF A TRADEMARK IN THIS STATE MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRADEMARK REGISTRATION TO WHICH A SPECIMEN AND, IF THE TRADEMARK IS A SPECIAL FORM TRADEMARK, A DRAWING IS ATTACHED.

(2) A STATEMENT OF TRADEMARK REGISTRATION SHALL STATE:

(a) THE TRUE NAME OF THE REGISTRANT;

(b) IF THE REGISTRANT IS AN ENTITY, THE FORM OF ENTITY AND THE JURISDICTION

UNDER THE LAW OF WHICH THE ENTITY IS FORMED;

(c) IF THE REGISTRANT IS AN INDIVIDUAL, THE STREET ADDRESS OF THE INDIVIDUAL'S PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE IF THE INDIVIDUAL HAS ONE, OR OUTSIDE THIS STATE IF THE INDIVIDUAL HAS NO PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE, AND, IF DIFFERENT, THE MAILING ADDRESS OF THE INDIVIDUAL;

(d) IF THE REGISTRANT IS AN ENTITY OTHER THAN A REPORTING ENTITY, THE STREET ADDRESS OF THE ENTITY'S USUAL PLACE OF BUSINESS IN THIS STATE IF IT HAS ONE, OR OUTSIDE THIS STATE IF IT HAS NO USUAL PLACE OF BUSINESS IN THIS STATE, AND, IF DIFFERENT, THE MAILING ADDRESS OF THE ENTITY;

(e) IF THE REGISTRANT IS NEITHER AN INDIVIDUAL RESIDENT OF THIS STATE NOR AN ENTITY THAT IS REQUIRED TO MAINTAIN A REGISTERED AGENT PURSUANT TO PART 7 OF ARTICLE 90 OF THIS TITLE, EITHER OF THE FOLLOWING:

(I) IF THE REGISTRANT DESIRES TO APPOINT A REGISTERED AGENT PURSUANT TO SECTION 7-70-108, THE REGISTERED AGENT NAME, THE REGISTERED AGENT ADDRESS, AND A STATEMENT THAT THE PERSON APPOINTED AS THE REGISTERED AGENT FOR THE REGISTRANT HAS CONSENTED TO BEING SO APPOINTED; OR

(II) THE MAILING ADDRESS TO WHICH SERVICE OF PROCESS IN ANY PROCEEDING BASED ON A CAUSE OF ACTION WITH RESPECT TO THE STATEMENT OF TRADEMARK REGISTRATION MAY BE MAILED PURSUANT TO SECTION 7-70-108;

(f) IF THE TRADEMARK IS A STANDARD CHARACTER TRADEMARK, THE CHARACTERS CONSTITUTING THE TRADEMARK;

(g) IF THE TRADEMARK IS A SPECIAL FORM TRADEMARK, A DESCRIPTION OF THE ATTACHED DRAWING;

(h) A DETAILED DESCRIPTION OF THE GOODS OR SERVICES IN CONNECTION WITH WHICH THE TRADEMARK IS USED AND THE CLASS INTO WHICH SUCH GOODS OR SERVICES FALL;

(i) A DESCRIPTION OF THE ATTACHED SPECIMEN SUFFICIENT TO IDENTIFY THE NATURE OF THE SPECIMEN;

(j) THE DATE OF FIRST USE IN COMMERCE OF THE TRADEMARK IN THIS STATE BY THE REGISTRANT OR THE REGISTRANT'S PREDECESSOR IN INTEREST; AND

(k) THAT THE REGISTRANT IS CURRENTLY USING THE TRADEMARK IN COMMERCE IN THIS STATE AND THAT THE REGISTRANT BELIEVES, IN GOOD FAITH, THAT:

(I) THE REGISTRANT HAS THE RIGHT TO USE THE TRADEMARK IN CONNECTION WITH THE GOODS OR SERVICES LISTED PURSUANT TO PARAGRAPH (h) OF THIS SUBSECTION (2); AND

(II) THE REGISTRANT'S USE OF THE TRADEMARK DOES NOT INFRINGE THE RIGHTS OF ANY OTHER PERSON IN THAT TRADEMARK.

(3) A STATEMENT OF TRADEMARK REGISTRATION SHALL NOT STATE A DELAYED EFFECTIVE DATE.

7-70-103. Effect of filing statement of trademark registration. (1) A STATEMENT OF TRADEMARK REGISTRATION FILED BY THE SECRETARY OF STATE SHALL BE NOTICE OF THE CLAIMS MADE IN THE STATEMENT OF TRADEMARK REGISTRATION FROM AND AFTER THE DATE AND TIME THE STATEMENT OF TRADEMARK REGISTRATION IS FILED.

(2) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, FILING OF A STATEMENT OF TRADEMARK REGISTRATION DOES NOT CONFER UPON THE REGISTRANT ANY SUBSTANTIVE RIGHT OR CREATE ANY REMEDY NOT OTHERWISE AVAILABLE. ALL SUBSTANTIVE RIGHTS AND REMEDIES CREATED BY THE LAWS OF THIS STATE WITH RESPECT TO TRADEMARKS ARE CREATED EXCLUSIVELY BY COMMON LAW.

(3) EXCEPT AS PROVIDED IN SUBSECTION (1) OF THIS SECTION, FILING OF A STATEMENT OF TRADEMARK REGISTRATION DOES NOT ENLARGE OR OTHERWISE AFFECT RIGHTS WITH RESPECT TO THE TRADEMARK THAT ARE CREATED BY THE COMMON LAW OF THIS STATE OR ANY OTHER LAWS. THE LACK OF FILING OF A STATEMENT OF TRADEMARK REGISTRATION DOES NOT IMPAIR OR OTHERWISE AFFECT SUCH RIGHTS.

(4) THIS ARTICLE DOES NOT CONFER THE RIGHT TO USE THE PHRASE "REGISTERED IN THE UNITED STATES PATENT AND TRADEMARK OFFICE", THE ABBREVIATION "REG. U.S. PAT. & TM. OFF.", OR ANY OTHER ABBREVIATION OF SUCH PHRASE OR VARIANT THEREOF, OR THE LETTER R ENCLOSED WITHIN A CIRCLE, OR ® IN CONNECTION WITH A TRADEMARK WITH RESPECT TO WHICH A STATEMENT OF TRADEMARK REGISTRATION HAS BEEN FILED BY THE SECRETARY OF STATE.

7-70-104. Duration and renewal. (1) UNLESS WITHDRAWN IN ACCORDANCE WITH SECTION 7-70-105, A STATEMENT OF TRADEMARK REGISTRATION SHALL BE EFFECTIVE FOR A TERM OF FIVE YEARS FROM THE DATE ON WHICH THE STATEMENT OF TRADEMARK REGISTRATION IS FILED BY THE SECRETARY OF STATE. A STATEMENT OF TRADEMARK REGISTRATION, WITH RESPECT TO WHICH A STATEMENT OF WITHDRAWAL OF TRADEMARK REGISTRATION HAS BEEN FILED BY THE SECRETARY OF STATE OR WITH RESPECT TO WHICH A STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION HAS NOT BEEN FILED BY THE SECRETARY OF STATE WITHIN THE TIME PROVIDED IN THIS SECTION, DOES NOT PROVIDE NOTICE UNDER SECTION 7-70-103 (1).

(2) THE EFFECTIVENESS OF A STATEMENT OF TRADEMARK REGISTRATION MAY BE RENEWED BY THE REGISTRANT FOR SUCCESSIVE TERMS OF FIVE YEARS BY DELIVERING TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION:

(a) NO EARLIER THAN ONE HUNDRED EIGHTY DAYS BEFORE THE EXPIRATION OF THE CURRENT TERM OF EFFECTIVENESS OF THE STATEMENT OF TRADEMARK REGISTRATION; AND

(b) NO LATER THAN THE DATE OF EXPIRATION OF THE CURRENT TERM OF

EFFECTIVENESS OF THE STATEMENT OF TRADEMARK REGISTRATION.

(3) THE STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION SHALL:

(a) STATE THE TRUE NAME OF REGISTRANT;

(b) IDENTIFY THE STATEMENT OF TRADEMARK REGISTRATION IN A MANNER SATISFACTORY TO THE SECRETARY OF STATE;

(c) STATE ANY CHANGE IN A STATEMENT MADE PURSUANT TO SECTION 7-70-102 (2) (c), (2) (d), OR (2) (e) IN THE STATEMENT OF TRADEMARK REGISTRATION, OR IN ANY PREVIOUSLY FILED STATEMENT RELATED TO THE STATEMENT OF TRADEMARK REGISTRATION, THAT IS NECESSARY TO MAKE THE STATEMENT OR STATEMENTS MADE PURSUANT TO SECTION 7-70-102 (2) (c), (2) (d), OR (2) (e) CORRECT AS OF THE DATE THE STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION IS DELIVERED FOR FILING;

(d) IDENTIFY ANY GOODS OR SERVICES DESCRIBED IN THE STATEMENT OF TRADEMARK REGISTRATION, OR IN ANY PREVIOUSLY FILED STATEMENT RELATED TO THE STATEMENT OF TRADEMARK REGISTRATION, WITH RESPECT TO WHICH THE TRADEMARK IS NO LONGER USED;

(e) STATE THAT THE REGISTRANT IS CURRENTLY USING THE TRADEMARK IN COMMERCE IN THIS STATE IN CONNECTION WITH THE GOODS OR SERVICES DESCRIBED IN THE STATEMENT OF TRADEMARK REGISTRATION, EXCLUDING ANY GOODS OR SERVICES IDENTIFIED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (3);

(f) STATE THAT THE REGISTRANT BELIEVES, IN GOOD FAITH, THAT:

(I) THE REGISTRANT HAS THE RIGHT TO USE THE TRADEMARK IN COMMERCE IN THIS STATE IN CONNECTION WITH THE GOODS OR SERVICES, EXCLUDING ANY GOODS OR SERVICES IDENTIFIED IN PARAGRAPH (d) OF THIS SUBSECTION (3); AND

(II) THE REGISTRANT'S USE OF THE TRADEMARK DOES NOT INFRINGE THE RIGHTS OF ANY OTHER PERSON IN THAT TRADEMARK;

(g) HAVE A CURRENT SPECIMEN ATTACHED; AND

(h) CONTAIN SUCH OTHER INFORMATION AS THE SECRETARY OF STATE MAY REQUIRE.

(4) NO EARLIER THAN ONE HUNDRED EIGHTY DAYS AND NO LATER THAN SIXTY DAYS BEFORE THE EXPIRATION OF THE THEN-CURRENT TERM OF EACH STATEMENT OF TRADEMARK REGISTRATION, THE SECRETARY OF STATE SHALL DELIVER TO THE REGISTRANT NOTICE REGARDING RENEWAL OF THE EFFECTIVENESS OF THE STATEMENT OF TRADEMARK REGISTRATION IN A FORM PRESCRIBED BY THE SECRETARY OF STATE. THE NOTICE REGARDING RENEWAL SHALL BE DELIVERED TO THE LAST-KNOWN MAILING ADDRESS OF THE REGISTRANT; EXCEPT THAT THE SECRETARY OF STATE SHALL NOT BE REQUIRED TO DELIVER TO A REGISTRANT A NOTICE REGARDING RENEWAL FOR ANY STATEMENT OF TRADEMARK REGISTRATION FOR WHICH A STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION HAS

PREVIOUSLY BEEN FILED PURSUANT TO SUBSECTION (2) OF THIS SECTION FOR THE CURRENT RENEWAL PERIOD. THE FAILURE OF THE SECRETARY OF STATE TO DELIVER A NOTICE REGARDING RENEWAL WITH RESPECT TO ANY STATEMENT OF TRADEMARK REGISTRATION SHALL NOT AFFECT THE REQUIREMENT THAT A STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION BE FILED TO MAINTAIN THE EFFECTIVENESS OF THE STATEMENT OF TRADEMARK REGISTRATION, AND NO PERSON SHALL HAVE A CAUSE OF ACTION IF THE NOTICE IS NOT DELIVERED.

(5) A STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION SHALL NOT STATE A DELAYED EFFECTIVE DATE.

7-70-105. Statement of withdrawal of trademark registration. (1) A STATEMENT OF TRADEMARK REGISTRATION MAY BE WITHDRAWN BY THE REGISTRANT BY DELIVERING TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF WITHDRAWAL OF TRADEMARK REGISTRATION.

(2) A STATEMENT OF WITHDRAWAL OF TRADEMARK REGISTRATION SHALL:

(a) STATE THE TRUE NAME OF THE REGISTRANT;

(b) IDENTIFY THE STATEMENT OF TRADEMARK REGISTRATION IN A MANNER SATISFACTORY TO THE SECRETARY OF STATE;

(c) STATE THAT THE STATEMENT OF TRADEMARK REGISTRATION IS WITHDRAWN; AND

(d) INCLUDE SUCH OTHER INFORMATION AS THE SECRETARY OF STATE MAY REQUIRE.

7-70-106. Statement of transfer of trademark registration. (1) FOLLOWING THE TRANSFER OF A TRADEMARK TO ANOTHER PERSON BY THE REGISTRANT OR BY OPERATION OF LAW, THE REGISTRANT OR THE TRANSFEREE MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION.

(2) A STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION SHALL:

(a) STATE THE TRUE NAME OF THE REGISTRANT PRIOR TO THE TRANSFER;

(b) STATE THE TRUE NAME OF THE TRANSFEREE;

(c) IF THE TRANSFEREE IS AN ENTITY, STATE THE FORM OF ENTITY AND THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED;

(d) IF THE TRANSFEREE IS AN INDIVIDUAL, STATE THE STREET ADDRESS OF THE INDIVIDUAL'S PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE IF THE INDIVIDUAL HAS ONE, OR OUTSIDE THIS STATE IF THE INDIVIDUAL HAS NO PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE, AND, IF DIFFERENT, THE MAILING ADDRESS OF THE INDIVIDUAL;

(e) IF THE TRANSFEREE IS AN ENTITY OTHER THAN A REPORTING ENTITY, STATE THE STREET ADDRESS OF THE ENTITY'S USUAL PLACE OF BUSINESS IN THIS STATE IF IT HAS ONE, OR OUTSIDE THIS STATE IF IT HAS NO USUAL PLACE OF BUSINESS IN THIS STATE, AND, IF DIFFERENT, THE MAILING ADDRESS OF THE ENTITY;

(f) IF THE TRANSFEREE IS NEITHER AN INDIVIDUAL RESIDENT OF THIS STATE NOR AN ENTITY THAT IS REQUIRED TO MAINTAIN A REGISTERED AGENT PURSUANT TO PART 7 OF ARTICLE 90 OF THIS TITLE, STATE EITHER:

(I) IF THE TRANSFEREE DESIRES TO APPOINT A REGISTERED AGENT PURSUANT TO SECTION 7-70-108, THE REGISTERED AGENT NAME, THE REGISTERED AGENT ADDRESS, AND A STATEMENT THAT THE PERSON APPOINTED AS THE REGISTERED AGENT FOR THE REGISTRANT HAS CONSENTED TO BEING SO APPOINTED; OR

(II) THE MAILING ADDRESS TO WHICH SERVICE OF PROCESS IN ANY ACTION RELATING TO THE STATEMENT OF TRADEMARK REGISTRATION MAY BE MAILED PURSUANT TO SECTION 7-70-108;

(g) IDENTIFY THE STATEMENT OF TRADEMARK REGISTRATION IN A MANNER SATISFACTORY TO THE SECRETARY OF STATE;

(h) STATE THAT THE REGISTRANT HAS TRANSFERRED TO THE TRANSFEREE, OR THAT THE TRANSFEREE HAS BY OPERATION OF LAW SUCCEEDED TO, THE RIGHTS TO THE TRADEMARK, INCLUDING ALL ASSOCIATED GOODWILL, TO WHICH THE STATEMENT OF TRADEMARK REGISTRATION PERTAINS; AND

(i) INCLUDE SUCH OTHER INFORMATION AS THE SECRETARY OF STATE MAY REQUIRE.

(3) THE FILING OF, OR THE FAILURE TO FILE, A STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION SHALL NOT AFFECT THE VALIDITY OR EFFECTIVENESS OF THE UNDERLYING TRANSFER OF THE TRADEMARK.

7-70-107. Judicial cancellation of statement of trademark registration. (1) A STATEMENT OF TRADEMARK REGISTRATION OR ANY DOCUMENT AFFECTING A STATEMENT OF TRADEMARK REGISTRATION FILED BY THE SECRETARY OF STATE MAY BE CANCELLED IN A PROCEEDING IN A COURT OF COMPETENT JURISDICTION IF IT IS ESTABLISHED:

(a) BY A PERSON THAT A STATEMENT OF TRADEMARK REGISTRATION, OR ANY DOCUMENT AFFECTING A STATEMENT OF TRADEMARK REGISTRATION, FILED BY THE SECRETARY OF STATE IN THE NAME OF THE PERSON, WAS NOT DULY AUTHORIZED BY THE PERSON OR WAS FILED WITHOUT THE PERSON'S KNOWLEDGE OR CONSENT; OR

(b) BY A PERSON WHO IS HARMED BY A STATEMENT OF TRADEMARK REGISTRATION, OR ANY DOCUMENT AFFECTING A STATEMENT OF TRADEMARK REGISTRATION, THAT IT WAS DELIVERED FOR FILING BY A PERSON OTHER THAN THE PERSON WHO IS HARMED AND CONTAINS A MATERIAL MISSTATEMENT, WAS DELIVERED FOR FILING IN BAD FAITH, OR IS FRAUDULENT.

(2)(a) IF IT IS DETERMINED IN THE PROCEEDING THAT ONE OR MORE GROUNDS FOR

CANCELLATION DESCRIBED IN SUBSECTION (1) OF THIS SECTION EXIST, AN ORDER SHALL BE ISSUED CANCELLING THE STATEMENT OF TRADEMARK REGISTRATION OR ANY OTHER DOCUMENT FILED BY THE SECRETARY OF STATE AFFECTING THE STATEMENT OF TRADEMARK REGISTRATION. UPON ISSUANCE OF SUCH ORDER, THE PERSON REQUESTING CANCELLATION MAY DELIVER A CERTIFIED COPY OF THE ORDER TO THE SECRETARY OF STATE FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE.

(b) UPON GOOD CAUSE SHOWN, IT MAY ALSO BE ORDERED THAT AFTER CANCELLATION, THE FILED STATEMENT OF TRADEMARK REGISTRATION OR THE FILED DOCUMENT AFFECTING THE STATEMENT OF TRADEMARK REGISTRATION BE REMOVED FROM THE PUBLICLY ACCESSIBLE RECORDS OF THE SECRETARY OF STATE. IN SUCH A CASE THE SECRETARY OF STATE MAY RETAIN THE ORIGINAL OR A COPY OF THE FILED STATEMENT OF TRADEMARK REGISTRATION OR THE FILED DOCUMENT AFFECTING THE STATEMENT OF TRADEMARK REGISTRATION, BUT SUCH ORIGINAL OR COPY SHALL NOT BE OPENED FOR INSPECTION, AND COPIES OR PRINTOUTS OF THE FILED STATEMENT OF TRADEMARK REGISTRATION OR THE FILED DOCUMENT AFFECTING THE STATEMENT OF TRADEMARK REGISTRATION SHALL NOT BE FURNISHED, EXCEPT UPON APPLICATION TO THE SECRETARY OF STATE AND ONLY FOR GOOD CAUSE SHOWN, NOTWITHSTANDING ANY PROVISION OF PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., OR ANY OTHER PROVISION OF LAW.

(3) THIS SECTION DOES NOT PROVIDE THE ONLY GROUNDS FOR CANCELLATION OF A STATEMENT OF TRADEMARK REGISTRATION OR ANY DOCUMENT AFFECTING A STATEMENT OF TRADEMARK REGISTRATION FILED BY THE SECRETARY OF STATE, AND ANY COURT OF COMPETENT JURISDICTION MAY ORDER THE CANCELLATION OF A STATEMENT OF TRADEMARK REGISTRATION OR ANY DOCUMENT AFFECTING A STATEMENT OF TRADEMARK REGISTRATION FILED BY THE SECRETARY OF STATE WHEN THE COURT DETERMINES THAT SUCH CANCELLATION IS APPROPRIATE RELIEF IN ANY ACTION.

(4) IN ANY PROCEEDING UNDER THIS SECTION, THE COURT, IN EXCEPTIONAL CASES, MAY AWARD REASONABLE ATTORNEY FEES TO THE PREVAILING PARTY.

7-70-108. Service of process on a registrant. (1) A REGISTRANT WHO IS NEITHER AN INDIVIDUAL RESIDENT OF THIS STATE NOR AN ENTITY THAT IS REQUIRED TO MAINTAIN A REGISTERED AGENT PURSUANT TO PART 7 OF ARTICLE 90 OF THIS TITLE SHALL EITHER:

(a) CONTINUOUSLY MAINTAIN A REGISTERED AGENT IN THIS STATE TO ACCEPT SERVICE ON ITS BEHALF IN ANY PROCEEDING BASED ON A CAUSE OF ACTION WITH RESPECT TO THE STATEMENT OF TRADEMARK REGISTRATION; OR

(b) BE DEEMED TO HAVE AUTHORIZED SERVICE OF PROCESS ON IT IN CONNECTION WITH ANY SUCH CAUSE OF ACTION BY REGISTERED MAIL OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE REGISTRANT AT THE MAILING ADDRESS, IF ANY, FURNISHED PURSUANT TO SECTION 7-70-102 (2) (e) (II), 7-70-104 (3) (c), OR 7-70-106 (2) (f), AS IT MAY HAVE BEEN CORRECTED BY A STATEMENT OF CORRECTION FILED PURSUANT TO SECTION 7-90-305 OR CHANGED IN A STATEMENT OF CHANGE FILED PURSUANT TO SECTION 7-90-305.5, AND, IF NO SUCH ADDRESS HAS BEEN FURNISHED, TO THE REGISTRANT AT:

(I) IF THE REGISTRANT IS AN INDIVIDUAL WHO IS NOT A RESIDENT OF THIS STATE, THE INDIVIDUAL'S MOST RECENT STREET ADDRESS AND, IF DIFFERENT, MAILING ADDRESS FURNISHED IN A STATEMENT FILED PURSUANT TO THIS ARTICLE, AS THE STATEMENT MAY HAVE BEEN CHANGED IN A STATEMENT OF CHANGE FILED PURSUANT TO SECTION 7-90-702 OR CORRECTED IN A STATEMENT OF CORRECTION FILED PURSUANT TO SECTION 7-90-703;

(II) IF THE REGISTRANT HAS ONE, THE REGISTRANT'S PRINCIPAL OFFICE ADDRESS;
AND

(III) IF THE REGISTRANT IS A PERSON OTHER THAN AN INDIVIDUAL OR A REPORTING ENTITY, THE REGISTRANT'S MOST RECENT STREET ADDRESS AND, IF DIFFERENT, MAILING ADDRESS, FURNISHED IN A STATEMENT FILED PURSUANT TO THIS ARTICLE, AS IT MAY HAVE BEEN CHANGED IN A STATEMENT OF CHANGE FILED PURSUANT TO SECTION 7-90-702, OR CORRECTED IN A STATEMENT OF CORRECTION FILED PURSUANT TO SECTION 7-90-703.

(2) SERVICE IS PERFECTED UNDER PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AT THE EARLIEST OF:

(a) THE DATE THE REGISTRANT RECEIVED THE PROCESS;

(b) THE DATE SHOWN ON THE RETURN RECEIPT, IF SIGNED BY OR ON BEHALF OF THE REGISTRANT; OR

(c) FIVE DAYS AFTER MAILING.

(3) A REGISTRANT WHO IS NEITHER AN INDIVIDUAL RESIDENT OF THIS STATE NOR AN ENTITY THAT IS REQUIRED TO MAINTAIN A REGISTERED AGENT PURSUANT TO PART 7 OF ARTICLE 90 OF THIS TITLE MAY APPOINT A REGISTERED AGENT TO ACCEPT SERVICE ON ITS BEHALF IN ANY PROCEEDING BASED ON A CAUSE OF ACTION WITH RESPECT TO THE STATEMENT OF TRADEMARK REGISTRATION BY MAKING THE STATEMENTS SET FORTH IN SECTION 7-70-102 (2) (e) (I) IN A STATEMENT OF TRADEMARK REGISTRATION, IN A STATEMENT OF RENEWAL OF TRADEMARK REGISTRATION OR THE STATEMENTS SET FORTH IN SECTION 7-70-106 (2) (f) (I), IN A STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION, OR IN A STATEMENT OF CHANGE FILED PURSUANT TO SECTION 7-90-305.5, ADDING SUCH STATEMENTS TO A FILED STATEMENT OF TRADEMARK REGISTRATION OR A FILED STATEMENT OF TRANSFER OF TRADEMARK REGISTRATION. THE REGISTERED AGENT SHALL BE:

(a) AN INDIVIDUAL WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHOSE PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IS IN THIS STATE;

(b) A DOMESTIC ENTITY HAVING A USUAL PLACE OF BUSINESS IN THIS STATE; OR

(c) A FOREIGN ENTITY AUTHORIZED TO TRANSACT BUSINESS OR CONDUCT ACTIVITIES IN THIS STATE THAT HAS A USUAL PLACE OF BUSINESS IN THIS STATE.

(4) A REGISTRANT HAVING A USUAL PLACE OF BUSINESS IN THIS STATE MAY SERVE AS ITS OWN REGISTERED AGENT.

(5) THE PROVISIONS OF SECTIONS 7-90-702 AND 7-90-703 SHALL APPLY TO A REGISTERED AGENT APPOINTED BY A REGISTRANT PURSUANT TO SUBSECTION (3) OF THIS SECTION, NOTWITHSTANDING THAT THE REGISTRANT IS NOT AN ENTITY OTHERWISE COVERED BY SECTION 7-90-702 OR 7-90-703, AND TO THE REGISTRANT WHO APPOINTS SUCH A REGISTERED AGENT.

(6) THIS SECTION DOES NOT PRESCRIBE THE ONLY MEANS, OR NECESSARILY THE REQUIRED MEANS, OF SERVING A REGISTRANT IN ANY PROCEEDING BASED ON A CAUSE OF ACTION WITH RESPECT TO THE STATEMENT OF TRADEMARK REGISTRATION. NOTHING IN THIS SECTION SHALL AUTHORIZE SERVICE OF PROCESS ON A REGISTRANT WHO MAINTAINS A REGISTERED AGENT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IN ANY PROCEEDING OTHER THAN A PROCEEDING BASED ON A CAUSE OF ACTION WITH RESPECT TO THE STATEMENT OF TRADEMARK REGISTRATION.

7-70-109. Statements of trademark registration filed prior to repeal and reenactment of article. (1) A STATEMENT OF TRADEMARK REGISTRATION THAT WAS FILED IN ACCORDANCE WITH THIS ARTICLE PRIOR TO THE EFFECTIVE DATE OF ITS REPEAL AND REENACTMENT, AND THAT IS ON FILE IN THE RECORDS OF THE SECRETARY OF STATE AS OF THE DAY BEFORE THE EFFECTIVE DATE OF SUCH REPEAL AND REENACTMENT, SHALL BE DEEMED TO HAVE BEEN FILED PURSUANT TO AND IN ACCORDANCE WITH THIS ARTICLE AS REPEALED AND REENACTED AND SHALL HAVE THE SAME EFFECT AS IF FILED PURSUANT TO THIS ARTICLE AS REPEALED AND REENACTED. EACH SUCH STATEMENT OF TRADEMARK REGISTRATION SHALL REMAIN EFFECTIVE UNTIL THE EXPIRATION DATE FOR THE STATEMENT OF TRADEMARK REGISTRATION UNDER THIS ARTICLE PRIOR TO ITS REPEAL AND REENACTMENT.

(2) REPEAL AND REENACTMENT OF THIS ARTICLE SHALL NOT AFFECT ANY ACTIONS OR CAUSES OF ACTION THAT HAVE ACCRUED UNDER THIS ARTICLE BEFORE ITS REPEAL AND REENACTMENT.

SECTION 2. 7-90-305 (2) (a), Colorado Revised Statutes, is amended to read:

7-90-305. Correcting filed document. (2) A statement of correction:

(a) Shall state the entity name of the entity to which the document relates or, if the entity to which the document relates does not have an entity name, shall state the true name of the entity, or, in the case of a TRADE NAME, SHALL STATE THE TRADE NAME AND THE NAME OF THE PERSON TRANSACTING BUSINESS OR CONDUCTING ACTIVITIES UNDER SUCH NAME, OR, IN THE CASE OF A STATEMENT OF trademark REGISTRATION OR ANY OTHER DOCUMENT RELATING TO A STATEMENT OF TRADEMARK REGISTRATION, shall ~~state the trademark and the true name of the registrant as defined in section 7-70-101 (3)~~; IDENTIFY THE STATEMENT OF TRADEMARK REGISTRATION IN A MANNER SATISFACTORY TO THE SECRETARY OF STATE;

SECTION 3. 7-90-303.5 (2) (a), Colorado Revised Statutes, is amended to read:

7-90-303.5. Statement of change. (2) A filed document is changed by causing to be delivered to the secretary of state, for filing pursuant to this part 3, a statement of change that:

(a) States the entity name of the entity to which the document relates or, if the entity to which the document relates does not have an entity name, states the true name of the entity, or, IN THE CASE OF A TRADE NAME, STATES THE TRADE NAME AND THE NAME OF THE PERSON TRANSACTING BUSINESS OR CONDUCTING ACTIVITIES UNDER SUCH NAME, OR, in the case of a STATEMENT OF trademark ~~states the trademark and the true name of the registrant as defined in section 7-70-101 (3);~~ REGISTRATION OR ANY DOCUMENT RELATING TO A STATEMENT OF TRADEMARK REGISTRATION, IDENTIFIES THE STATEMENT OF TRADEMARK REGISTRATION IN A MANNER SATISFACTORY TO THE SECRETARY OF STATE;

SECTION 4. Effective date - applicability. (1) This act shall take effect May 29, 2007.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to statements of trademark registration and documents relating to such statements filed on or after the applicable effective date of this act.

Approved: March 27, 2006