

**T020000000746**  
**Rosenman**  
ROSENMAN & COLIN LLP

Rosenman & Colin LLP  
575 Madison Avenue  
New York NY 10022-2585

Telephone: (212) 940-8800  
Facsimile: (212) 940-8776  
Facsimile server: (212) 940-6400  
web site: www.rosenman.com

January 30, 2002

DIRECT DIAL  
(212) 940-8663  
E-MAIL ADDRESS  
SBOCK@ROSENMAN.COM

Registration Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Re: Trademark/Service Mark Application for the word  
"Navigators" (36)  
Our Ref Number: 057125-87361

000004852610--7  
-02/01/02--01029--002  
\*\*\*\*\*87.50 \*\*\*\*\*87.50

Dear Sirs:

Please find enclosed the following documents for the Registration of a Service Mark in the State of Florida.

- Application for the Registration of a Trademark or Service Mark;
- Three original specimens of the Service Mark; *T02-746*
- A check in the amount of \$87.50 payable to the Secretary of State.

If there are any other comments please contact me at (212) 940-8663 or by e-mail at sbock@rosenman.com.

Very truly yours,

*Simon Bock*  
Simon Bock

SB:rjt

Enclosures:

*15*  
*copy not qual.*

*No Navigator*

*2462389*

*672*

*789 / 751 / 2933 / 1708*

*855 / 534 / 2933 / 672*

*OK per BLT up 3/19/02*

*JUN 24 AM 7:51*

*02 JUN -7 PM 12:30*



**FLORIDA DEPARTMENT OF STATE**

**Katherine Harris**  
Secretary of State

February 14, 2002

**SIMON BOCK, ESQUIRE**  
**ROSENMAN & COLIN LLP**  
**575 MADISON AVENUE**  
**NEW YORK, NY 10022-2585**

**SUBJECT: NAVIGATORS**  
**Ref. Number: W02000004480**

We have received your document for NAVIGATORS and your check(s) totaling \$87.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

We must deny registration pursuant to sections 495.021(1)(f) and 495.181, Florida Statutes. There is a federal registration on file with the U.S. Patent and Trademark Office for NAVIGATOR, Registration Number 2,462,389, for the same or similar name and class(es).

Enclosed is an application for refund. Please sign and return and allow at least 60 to 90 days for the refund to be processed.

If you have any questions concerning the filing of your document, please call (850) 245-6918.

**Nanette Causseaux**  
**Corporate Specialist Supervisor**

**Letter Number: 002A00009255**



March 6, 2002

Rosenman & Colin LLP  
575 Madison Avenue  
New York NY 10022-2585

Telephone: (212) 940-8800  
Facsimile: (212) 940-8776  
Facsimile server: (212) 940-6400  
web site: www.rosenman.com

**Via Express Mail**

Nanette Causseaux  
Corporate Specialist Supervisor  
Division of Corporations  
P.O. Box 6327  
Tallahassee, Florida 32314

DIRECT DIAL  
(212) 940-8663  
E-MAIL ADDRESS  
SBLOCK@ROSENMAN.COM  
DIRECT FAX NUMBER  
(212) 940-8671

Re: Response to Denial of Service Mark Registration  
Mark: NAVIGATORS & Design  
Owner: The Navigators Group, Inc.  
Ref. No. W02000004480  
Letter No. 002A000009255  
Our File No.: 057125-87361

Dear Ms. Causseaux:

We have received your letter (Letter Number 002A000009255) dated February 14, 2002 denying registration to the service mark application filed in the State of Florida for the mark NAVIGATORS, owned by The Navigators Group, Inc. (the "Application"). Specifically, registration was denied pursuant to Florida Statutes sections 495.021(1)(f) and 495.181 due to U.S. Registration No. 2,462,389 for the mark NAVIGATOR & Design (the "'389 Registration", of which a copy from the U.S. Patent and Trademark Office's TARR web site is attached hereto as Exhibit A). A copy of your letter is attached hereto as Exhibit B. For all of the reasons detailed herein, we respectfully submit that the Application is entitled to registration.

**Argument**

The Application was denied based on your contention that the Application consists of or comprises a mark which so resembles the '389 Registration so as to be likely, when applied to the services of the Applicant, to cause confusion or mistake or to deceive. See 2001 Florida Statute section 495.021(1)(f) and pursuant to Florida Statute section 495.181 which states that "it is the intent of the Legislature that, in construing this chapter, due consideration and great weight be given to the interpretations of the federal courts relating to comparable provisions of the Trademark Act of 1946, as amended (15 U.S.C. ss. 1051 et seq.)." However, according to the Trademark Act, the United States Patent and Trademark Office would not find the Application to be confusingly similar to the '389 Registration and therefore entitled to registration.

1. Purchasers are Sophisticated and Therefore, There Will Be No Confusion.

In testing for likelihood of confusion under Sec. 2(d), important factors to be considered are "the conditions under which and buyers to whom sales are made, i.e. 'impulse' vs. 'careful, sophisticated purchasing.'" TMEP § 1207.01. In the case at hand, the consumer population of the products and services offered by the Applicant are not "impulse" buyers rather are highly sophisticated parties. The consumer populations for the Applicant's services are major companies who investigate the services offered to determine which company provides such services at the best value. Therefore, the inquiry into whether consumers are confused must be targeted to those sophisticated parties that are actually using Applicant's services provided under the NAVIGATORS mark and not the general public. The consumers for the goods relating to the '389 Registration are specifically limited to insurance agents, and not the general public, who are likewise sophisticated users and purchasers.

The companies that make up the consumers of the Applicant's services are among the most highly sophisticated corporations in the world. The likelihood that any consumer would confuse registrant American Agrisure, Inc.'s computer software used in connection with the '389 Registration with Applicant's insurance underwriting company is therefore extremely low if nonexistent.

Based on the foregoing, it appears that the level of sophistication of the consumers would negate any likelihood of confusion.

2. The '389 Registration and the Application Contain Different Designs.

Any likelihood of confusion between the '389 Registration and the Application is further obviated by the fact that the two marks incorporate very different design elements. "If one feature of a mark is more significant than another feature, it is proper to give greater force and effect to that dominant feature for purposes of determining likelihood of confusion." See TMEP § 1207.01(b)(iv). In the issue at hand, the dominant features of the '389 Registration and the Application are their respective unique designs. The '389 Registration consists of the word mark displayed in a stylized font with the first letter being much larger than the other letters. The Application, on the other hand, consists of the word mark with the first letter having an elevated portion with three wavy lines underneath it. Accordingly, since the characteristics of the designs contained in the Application and the '389 Registration are so unique and distinct from one another, there can be no other conclusion except that there will be no likelihood of confusion fostered between the two design marks.

3. The '389 Registration Co-Exists With Various NAVIGATOR Formative Marks.

The '389 Registration co-exists with the following other NAVIGATOR formative marks.

- U.S. Registration No. 1,776,068 for the mark NAVI-GATOR, issued June 8, 1983 to Mitsui O.S.K. Lines, Ltd. for "computer services; namely, providing access to a database featuring transportation schedules, booking information, bills of lading,

Nanette Causseaux

March 6, 2002.

Page 3

manifests and other transportation documents and electronic tracking and tracing of cargo."

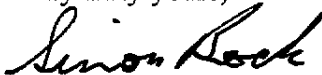
- U.S. Registration No. 1,831,646 for the mark NAVI-GATOR & Design, issued April 19, 1994 to Mitsui O.S.K. Lines, Ltd. for "computer services; namely, providing access to a database featuring transportation schedules, booking information, bills of lading, manifests and other transportation documents and electronic tracking and tracing of cargo."
- U.S. Registration No. 2,323,579 for the mark NAVIGATOR GROUP, issued February 29, 2000 to Navigator Group, P.A. for "personnel management consultation, and business management consultation, namely, organization development consulting and product and service planning; and industrial psychology, namely, psychological counseling and consultation; mental health care services and behavioral health care services in the nature of employee assistance programs."

The reason that the '389 Registration can co-exist with the above-referenced NAVIGATOR formative marks is that the '389 Registration contains a distinct design which creates a unique commercial impression with consumers. Such distinction obviates any likelihood of confusion. Similarly, the Application contains a unique design mark. Additionally, the '389 Registration is further differentiated from the Application based on the fact that only the Application uses a plural that aids in creating the unique commercial impression needed to distinguish the Applicant's services. Accordingly, if the '389 Registration can co-exist on the Principal Register with other NAVIGATOR formative marks without a likelihood of confusion, then the Application can also co-exist without a risk of confusion.

#### Conclusion

Based upon our response that the Application is not confusingly similar to the '389 Registration, it is respectfully submitted that there is no likelihood of confusion between the Application and the '389 Registration. Having addressed the reason for the denial of registration of the Application cited in your February 14, 2002 letter, Applicant respectfully requests that its application for the mark NAVIGATORS is in condition for prompt registration and favorable action is requested.

Very truly yours,

  
Simon Bock

Enclosure



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

March 19, 2002

SIMON BOCK, ESQUIRE  
ROSENMAN & COLIN LLP  
575 MADISON AVENUE  
NEW YORK, NY 10022-2585

SUBJECT: NAVIGATORS  
Ref. Number: W02000004480

We have received your document for NAVIGATORS and your check(s) totaling \$87.50. However, the document has not been filed and is being retained in this office for the following:

After review of your letter of March 6, 2002 we will grant registration.

The specimens provided this office are not acceptable; we need three permanent specimens, which may be the same or different. We do not accept photocopies or camera ready copies. We do not accept specimens which have been altered or defaced in any manner. In order to register your service mark, we need specimens from which we can determine the services being rendered. We will accept brochures, newspaper, or magazine advertisements, or business cards. If business cards are used, we must be able to determine from the business card the services offered. The mere mark, address, city, etc., on the business card, brochure, or advertisement is not acceptable -- we must be able to look at the specimens provided and be able to determine the services being rendered. We need specimens for each class of registration. We DO NOT accept letterhead, stationery, envelopes, invoices or mailing labels.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6918.

Nanette Causseaux  
Corporate Specialist Supervisor

Letter Number: 802A00016320

# Rosenman

ROSENMAN & COLIN LLP

Rosenman & Colin LLP  
575 Madison Avenue  
New York NY 10022-2585

Telephone: (212) 940-8800  
Facsimile: (212) 940-8776  
Facsimile server: (212) 940-6400  
web site: [www.rosenman.com](http://www.rosenman.com)

March 26, 2002

**VIA Express Mail**  
**No. EL818389897US**

Registration Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314  
Attention: Nanette Causseaux

**DIRECT DIAL**  
**(212) 940-8663**  
**E-MAIL ADDRESS**  
**SBOCK@ROSENMAN.COM**

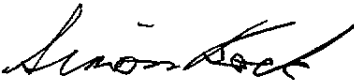
Re: Trademark/Service Mark Application for the word  
"Navigators"  
Your Ref. Number: W02000004480  
Our Ref Number: 057125-87361

Dear Nanette Causseaux:

In response to the letter dated March 19, 2002 from your office please find enclosed the three (3) specimens for the above referenced Application of the Registration of a Service Mark in the State of Florida.

If there are any other comments please contact me at (212) 940-8663 or by e-mail at [sbock@rosenman.com](mailto:sbock@rosenman.com).

Very truly yours,

  
Simon Bock

SB:rjt

Enclosures:



FLORIDA DEPARTMENT OF STATE

Katherine Harris  
Secretary of State

April 4, 2002

SIMON BOCK, ESQUIRE  
ROSENMAN & COLIN LLP  
575 MADISON AVENUE  
NEW YORK, NY 10022-2585

SUBJECT: NAVIGATORS  
Ref. Number: W02000004480

We have received your document for NAVIGATORS and your check(s) totaling \$87.50. However, the document has not been filed and is being retained in this office for the following:

You failed to make the correction(s) requested in our previous letter.

The specimens provided this office are not acceptable; we need three permanent specimens, which may be the same or different. We do not accept photocopies or camera ready copies. We do not accept specimens which have been altered or defaced in any manner. In order to register your service mark, we need specimens from which we can determine the services being rendered. We will accept brochures, newspaper, or magazine advertisements, or business cards. If business cards are used, we must be able to determine from the business card the services offered. The mere mark, address, city, etc., on the business card, brochure, or advertisement is not acceptable -- we must be able to look at the specimens provided and be able to determine the services being rendered. We need specimens for each class of registration. We DO NOT accept letterhead, stationery, envelopes, invoices or mailing labels.

The "2000 ANNUAL REPORT" is not acceptable. We will accept business cards, brochures or newspaper ads. (3 OF THE SAME IS O-KAY)

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6918.

Nanette Causseaux  
Corporate Specialist Supervisor

Letter Number: 502A00019775



**KMZ Rosenman**  
KATTEN MUCHIN ZAVIS ROSENMAN

575 Madison Avenue  
New York, NY 10022-2585  
212.940.8800 office 212.940.8776 fax

May 28, 2002

VIA EXPRESS MAIL

Nanette Causseaux  
Corporate Specialist Supervisor  
Florida Department of State  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

SIMON BOCK  
simon.bock@kmzr.com  
(212) 940-8663

Re: Trademark/Service Mark Application for the word "Navigators"  
Your Ref. Number: W02000004480  
Our Ref Number: 057125-87361

Dear Ms. Causseaux:

In response to the letter dated April 4, 2002 from your office, a copy of which is attached, please find enclosed the three (3) specimens for the above referenced Application of the Registration of a Service Mark in the State of Florida.

If there are any other comments please contact me at (212) 940-8663 or by e-mail at [simon.bock@kmzr.com](mailto:simon.bock@kmzr.com).

Best regards,



Simon Bock

SB:rjt  
Enclosures



FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

June 10, 2002

SIMON BOCK, ESQUIRE  
ROSENMAN & COLIN LLP  
575 MADISON AVENUE  
NEW YORK, NY 10022-2585

SUBJECT: NAVIGATORS  
Ref. Number: W02000004480

We have received your document for NAVIGATORS and your check(s) totaling \$87.50. However, the document has not been filed and is being retained in this office for the following:

Please accept our apology for failing to mention this in our previous letter.

Every business entity transacting business in Florida must have an active registration/filing on file with this office. Enclosed please find a copy of section 607.1501, 617.1501, or 608.501, Florida Statutes, which lists those activities that do not constitute transacting business in Florida. If, after reviewing this section, you determine the applicant of the mark is not transacting business within the state of Florida, please complete the enclosed affidavit form and return it to this office. If, however, you determine the applicant of the mark is transacting business in Florida, you must complete the enclosed application/form and return to this office with the appropriate filing fee(s) before your mark application can be processed.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6918.

Nanette Causseaux  
Corporate Specialist Supervisor

Letter Number: 902A00037947

**KMZ Rosenman**  
**KATTEN MUCHIN ZAVIS ROSENMAN**

575 Madison Avenue  
New York, NY 10022-2585  
212.940.8800 office 212.940.8776 fax

June 21, 2002

VIA EXPRESS MAIL

Nanette Causseaux  
Corporate Specialist Supervisor  
Florida Department of State  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

SIMON BOCK  
simon.bock@kmzr.com  
(212) 940-8663

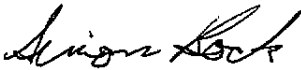
Re: Trademark/Service Mark Application for the word "Navigators"  
Your Ref. Number: W02000004480  
Our Ref Number: 057125-87361

Dear Ms. Causseaux:

We are in receipt of your letter dated June 10, 2002 relating to the above referenced Application of the Registration of a Service Mark in the State of Florida, a copy of which is attached. As requested, we enclose the Statement Concerning Authority to Transact Business in Florida by a Foreign Business from The Navigator Group, Inc.

If there are any other comments please contact me at (212) 940-8663 or by e-mail at [simon.bock@kmzr.com](mailto:simon.bock@kmzr.com).

Best regards,

  
Simon Bock

SB:rjt  
Enclosures

STATEMENT CONCERNING AUTHORITY TO TRANSACT BUSINESS IN  
FLORIDA BY A FOREIGN BUSINESS ENTITY

The Navigators Group, Inc. has not received a certificate of  
authority from the Florida Department of State to transact business in Florida pursuant to  
s. 607.1501, 617.1501, or 608.501, Florida Statutes.

I, Bradley D. Wiley, the undersigned, do hereby  
certify that I am aware that The Navigators Group, Inc. has  
not received a valid certificate of authority to transact business in Florida as required by  
s. 607.1501, 617.1501, or 608.501, Florida Statutes.

The Navigators Group, Inc. does not presently transact  
business in Florida within the meaning of s. 607.1501, 617.1501, or 608.501, Florida  
Statutes, and is not required to receive a certificate of authority to transact business in  
Florida.

Bradley D. Wiley  
Signature of Officer/Director/Manager/Managing Member

Bradley D. Wiley, Senior Vice President & Chief Financial Officer  
Typed or Printed Name and Capacity of Persons Signing

June 16, 2002  
Date

02 JUN 24 AM 7:51  
DIVISION OF REVENUE  
SECRETARY OF REVENUE

**APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK**

PURSUANT TO CHAPTER 495, FLORIDA STATUTES

**TO: Division of Corporations  
Post Office Box 6327  
Tallahassee, FL 32314**

Name & address to whom acknowledgment should be sent:

Simon Bock

Rosenman & Colin LLP

575 Madison Avenue, New York, NY 10022

( 212 ) 849-8663

Daytime Telephone number

**PART I**

1. (a) Applicant's name: The Navigators Group, Inc.

(b) Applicant's business address: One Penn Plaza

New York, NY 10119

City/State/Zip

(c) Applicant's telephone number: ( 212 ) 244-2333

☐ Individual

☒ Corporation

☐ Joint Venture

☐ Other: \_\_\_\_\_

☐ General Partnership

☐ Limited Partnership

☐ Union

If other than an individual,

(1) Florida registration number: \_\_\_\_\_ (2) Domicile State: Delaware

(3) Federal Employer Identification Number: 13-3138397

2. (a) If the mark to be registered is a service mark, the services in connection with which the mark is used:  
(i.e., furniture moving services, diaper services, house painting services, etc.)

Insurance Underwriting Services

(b) If the mark to be registered is a trademark, the goods in connection with which the mark is used:  
(i.e., ladies sportswear, cat food, barbecue grills, shoe laces, etc.)

(c) The mode or manner in which the mark is used: (i.e., labels, decals, newspaper advertisements, brochures, etc.)

General (business cards, brochures, letterhead, advertising, etc.)

(Continued)

**Class 36 Insurance and financial**

1. Date first used by the applicant, predecessor, or a related company (must include month, day and year):

8

1. The mark to be registered is: (If logo/design is included, please give brief written description which must be 25 words or less.)

SEVEN  
DIVISION  
02 JUL 72  
12 44 30

2. **DISCLAIMER** (if applicable)

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM " 980  
" APART FROM THE MARK AS SHOWN.

Sr. Vice President, Chief Financial Officer

Typed or printed name of applicant

Typed or printed name of applicant  
Buddy L. Kirk Sr & CFO  
Applicant's signature or authorized person's signature  
(List name and title)

STATE OF New York

COUNTY OF New York.

On this 17<sup>th</sup> day of January, 2002, Bradley D. Wiley personally appeared before me,

☒ who is personally known to me      ☐ whose identity I proved on the basis of \_\_\_\_\_

**SIMON BOCK**  
**Notary Public, State of New York**  
**No. 02BO5023467**  
**Qualified in Nassau County**  
**Commission Expires February 7, 2002**

Simon Beck  
Notary Public Signature

Simon Beck  
Notary's Printed Name

My Commission Expires: 2-7-02

**FEE: \$87.50 per class**



**Marilynn M. Gallo**  
Human Resources Manager

Tel (212) 613-4203  
Fax (212) 613-4242  
E-Mail [mgallo@navg.com](mailto:mgallo@navg.com)

Navigators Management Company, Inc.  
One Penn Plaza  
New York, NY 10119

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