

T05000000783

(Requestor's Name)

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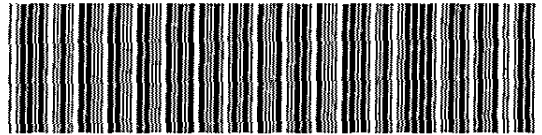
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304
789/743/672
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02/22/05--01020--015* **175.00

T05-783
~~W05-9161~~
17

Corp Name Not
Same



SECRETARY OF STATE
TALLAHASSEE, FLORIDA

05 JUN 21 AM 10:02

FILED



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

February 22, 2005

MATTHEW FORNARO, ESQUIRE
700 SOUTH ANDREWS AVENUE, #200
FT. LAUDERDALE, FL 33316

SUBJECT: ACCIDENTATTORNEYS.COM, AUTOACCIDENTLAWYERS.COM,
AVIATIONATTORNEYS.COM, BANKRUPTCYLAWFIRMS.COM,
DIVORCELAWFIRMS.COM, DRUNKDRIVINGLAWYERS.COM,
ENVIRONMENTALLAWYERS.COM
Ref. Number: W05000009161

We have received your document for ACCIDENTATTORNEYS.COM,
AUTOACCIDENTLAWYERS.COM, AVIATIONATTORNEYS.COM,
BANKRUPTCYLAWFIRMS.COM, DIVORCELAWFIRMS.COM,
DRUNKDRIVINGLAWYERS.COM, ENVIRONMENTALLAWYERS.COM and
your check(s) totaling \$1225.00. However, the enclosed document has not been
filed and is being returned for the following correction(s):

We must deny registration pursuant to section 495.021(1), Florida Statutes,
because the mark is merely descriptive. The mark must be in use five years prior
to registration.

Once the mark has been in use for five years you may resubmit the application
with proof of substantially exclusive and continuous use and the Department of
State will reconsider registration.

This will apply to all of the above marks.

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

Nanette Causseaux
Document Specialist Supervisor

Letter Number: 805A00012431



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

February 22, 2005

MATTHEW FORNARO, ESQUIRE
700 SOUTH ANDREWS AVENUE, #200
FT. LAUDERDALE, FL 33316

SUBJECT: PRODUCTLIABILITYLAWYER.COM,
REALESTATELAWYERS.COM, CRIMINALDEFENSELAWYER.COM,
DISABILITYLAWYERS.COM, EMPLOYMENTLAWFIRMS.COM,
MEDICALMALPRACTICE.COM, WORKERSCOMPENSATIONLAWFIRM.COM,
CARACCIDENT
Ref. Number: W05000009164

We have received your document for PRODUCTLIABILITYLAWYER.COM,
REALESTATELAWYERS.COM, CRIMINALDEFENSELAWYER.COM,
DISABILITYLAWYERS.COM, EMPLOYMENTLAWFIRMS.COM,
MEDICALMALPRACTICE.COM, WORKERSCOMPENSATIONLAWFIRM.COM,
CARACCIDENT and your check(s) totaling \$175.00. However, the enclosed
document has not been filed and is being returned for the following correction(s):

We must deny registration pursuant to section 495.021(1), Florida Statutes,
because the mark is merely descriptive. The mark must be in use five years prior
to registration.

Once the mark has been in use for five years you may resubmit the application
with proof of substantially exclusive and continuous use and the Department of
State will reconsider registration.

This will apply to all of the above marks and
"CARACCIDENTATTORNEYS.COM."

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

Nanette Causseaux
Document Specialist Supervisor

Letter Number: 705A00012434



FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State

March 31, 2005

MATTHEW FORNARO, ESQUIRE
700 SOUTH ANDREWS AVENUE, #200
FT. LAUDERDALE, FL 33316

SUBJECT: ACCIDENTATTORNEYS.COM, AUTOACCIDENTLAWYERS.COM,
AVIATIONATTORNEYS.COM, BANKRUPTCYLAWFIRMS.COM,
DIVORCELAWFIRMS.COM, DRUNKDRIVINGLAWYERS.COM,
ENVIRONMENTALLAWYERS.COM AND SEVERAL OTHERS
Ref. Number: W05000009161

We have received your document for ACCIDENTATTORNEYS.COM,
AUTOACCIDENTLAWYERS.COM, AVIATIONATTORNEYS.COM,
BANKRUPTCYLAWFIRMS.COM, DIVORCELAWFIRMS.COM,
DRUNKDRIVINGLAWYERS.COM, ENVIRONMENTALLAWYERS.COM AND
SEVERAL OTHERS. However, the document has not been filed and is being
returned for the following:

After review will grant registration only with the following corrections. A
logo/design is added for each mark, along with a disclaimer for the web address.

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
Document Specialist Supervisor

Letter Number: 005A00022036

RANDY ROSENBLUM*
*Also admitted in New Jersey

ROSENBLUM
&
ROSENBLUM
professional association
ATTORNEYS AT LAW

COLLEEN RICCI ROSENBLUM
MATTHEW FORNARO

April 13, 2005

Florida Department of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314
Attention: Nanette Causseaux

Ref. Number: V/05000009161
Ref. Number: W05000009164


RE:

SecurityLawFirms.com
PersonalInjuryLawyer.com
EmploymentLawFirms.com
TechnologyLawyers.com
MedicalMalpractice.com
DisabilityLawyers.com
CriminalDefenseLawyer.com
WorkersCompensationLawFirms.com
CarAccidentAttorneys.com
DrunkDrivingLawyers.com
AviationAttorneys.com
AutoAccidentLawyers.com
DivorceLawFirms.com
BankruptcyLawFirms.com
ProductLiabilityLawyer.com
RealEstateLawyers.com
EnvironmentalLawyers.com
AccidentAttorneys.com

Dear Ms. Causseaux,

Enclosed please find SWI Digital INC.'s updated trademark applications in response to your March 31, 2005 correspondence. Please do not hesitate to contact me if you require any assistance. Thank you.

Respectfully yours,


Matthew Fornaro
MF



FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State

April 28, 2005

MATTHEW FORNARO, ESQUIRE
700 SOUTH ANDREWS AVENUE, #200
FT. LAUDERDALE, FL 33316

SUBJECT: ACCIDENTATTORNEYS.COM, AUTOACCIDENTLAWYERS.COM,
AVIATIONATTORNEYS.COM, BANKRUPTCYLAWFIRMS.COM,
DIVORCELAWFIRMS.COM, DRUNKDRIVINGLAWYERS.COM,
ENVIRONMENTALLAWYERS.COM
Ref. Number: W05000009161

We have received your document for ACCIDENTATTORNEYS.COM,
AUTOACCIDENTLAWYERS.COM, AVIATIONATTORNEYS.COM,
BANKRUPTCYLAWFIRMS.COM, DIVORCELAWFIRMS.COM,
DRUNKDRIVINGLAWYERS.COM, ENVIRONMENTALLAWYERS.COM.
However, the document has not been filed and is being returned for the following:

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

In Part III of each application you must give a brief written description of your logo/design. (ALL IN 25 WORDS OR LESS)

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



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

May 6, 2005

MATTHEW FORNARO, ESQUIRE
700 SOUTH ANDREWS AVENUE, #200
FT. LAUDERDALE, FL 33316

SUBJECT: ACCIDENTATTORNEYS.COM, AUTOACCIDENTLAWYERS.COM,
AVIATIONATTORNEYS.COM, BANKRUPTCYLAWFIRMS.COM,
DIVORCELAWFIRMS.COM, DRUNKDRIVINGLAWYERS.COM,
ENVIRONMENTALLAWYERS.COM, LAWFIRMS.COM, SECURITYLAWF
Ref. Number: W05000009161

We have received your document for ACCIDENTATTORNEYS.COM,
AUTOACCIDENTLAWYERS.COM, AVIATIONATTORNEYS.COM,
BANKRUPTCYLAWFIRMS.COM, DIVORCELAWFIRMS.COM,
DRUNKDRIVINGLAWYERS.COM, ENVIRONMENTALLAWYERS.COM,
LAWFIRMS.COM, SECURITYLAWF and your check(s) totaling \$175.00. However,
the enclosed document has not been filed and is being returned for the following
correction(s):

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

If the mark includes a logo or design, a brief written description must be provided.

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.

March 7, 2005

Florida Department of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314
Attention: Nanette Causseaux

Ref. Number: W05000010778
Ref. Number: W05000010781
Ref. Number: W05000010797

RE:
LawFirms.com
SecurityLawFirms.com
PersonalInjuryLawyer.com

The Florida Department of State has initially denied registration of SWI Digital's ("Applicant") trademarks on the basis that they are merely descriptive. Applicant respectfully disagrees with the finding and respectfully requests that the Florida Department of State reconsider this decision.

DESCRIPTIVENESS

Applicant asserts that the functions and use of the language from the trademarks, "Advertising, marketing, and commercial information services, via the Internet for attorneys and legal service providers" and "Designing websites for advertising, marketing, and commercial information purposes for attorneys and legal service providers" are not described by any of the individual terms: LawFirms.com, SecurityLawFirms.com, and PersonalInjuryLawyer.com; and that the mark should not therefore be held to be merely descriptive of the services.

Further, for a mark to rise to the level of being merely descriptive, it must describe significant aspects of the service; it must immediately convey to a consumer what the service does. TMEP § 1209.01(a), (b). Applicant's marks are at least suggestive of the services with which they are used,

requiring imagination, thought, or perception on the part of a consumer to determine the services.

Applicant's marks do not immediately conjure up the thought of Applicant's services. Simply hearing the name gives virtually no idea of the Applicant's services except that they include something to do with the law and with the Internet. The marks themselves do not convey information about Applicant's services or its intended customers; rather it requires imagination to connect the components of Applicant's marks to the various types of services performed by Applicant. Accordingly, LawFirms.com, SecurityLawFirms.com, and PersonalInjuryLawyer.com are not natural product names for Applicant's services. Instead the terms merely suggest that the services involve law and the Internet. It does not with any remote degree of particularity describe the nature, character, function, or use of the Applicant's services.

Thus, in looking at Applicant's marks, consumers experience a mental pause, removing them from the realm of descriptive marks. This mental pause renders the mark suggestive, and causes a consumer to see it as indicative of source rather than a description of the services.

**CONSIDERED AS A UNITARY COMPOSITE MARK,
ALL OF APPLICANT'S MARKS ARE SUGGESTIVE**

A mark must be considered for registerability as a whole. The mark should not be broken down into component words to determine whether each word is registerable. *See In re Hutchinson Technology Inc.*, 7 USPQ2d 1490 (Fed. Cir. 1988). Even where the words are individually descriptive, a position that the Applicant disputes, the combination is not necessarily descriptive. Rather, a combination of two words may become suggestive. *See In re Calspan Technology Products, Inc.*, 197 USPQ 647 (TTAB 1977). To show that the marks as a whole are unregistrable (an assertion that the Applicant strongly disagrees with), it is necessary to show that the marks as a

whole have a recognizable meaning which immediately imparts a description of the services to the consumer. Consequently, the Florida Department of State has allowed registration of marks whose components have been otherwise unregistrable.

Applicant further asserts that each of its aforementioned marks are unitary marks and should not be broken down into component parts for the purposes of determining inherent distinctiveness, and that the marks, when viewed properly as a whole, are a joinder of words and the “.com” suffix that are suggestive of the services with which they will be used, and are not at all descriptive. Additionally, Applicant asserts that even if the marks are improperly broken down into their components, the components themselves are capable of multiple meanings and require an intuitive leap before the services with which the marks are to be used can be determined. Further, Applicant asserts that a plethora of marks using components of LawFirms.com, SecurityLawFirms.com, and PersonalInjuryLawyer.com have been allowed registration by the Florida Department of State as inherently distinctive marks, many of which are more descriptive than Applicant’s mark.

In many instances, the Florida Department of State, the TTAB, and various courts have held that a mark composed of descriptive words can be a suggestive mark. For example, in *In re Harrington*, 219 USPQ 854 (TTAB 1983), the TTAB agreed that each word in the mark COLLEGE ACADEMY was clearly descriptive; however, because there was no proof of either use in the field or a recognized meaning of the composite term, the court found such a mark suggestive. In the instant cause, LawFirms.com, SecurityLawFirms.com, and PersonalInjuryLawyer.com have no officially recognized and uniform meaning, nor is there any evidence that anyone other than Applicant has ever used any of the aforementioned marks in the stream of commerce. Further, each of Applicant’s marks have diverse meanings and definitions. When combined with the “.com”

suffix, the resulting terms are indefinite and indeterminate in meaning, even in the context of Applicant's services.

No matter how narrowly the field and customers are defined, consumers would still be unable to immediately identify the nature or functionality of the services when encountering Applicant's marks. Instead the marks would lead the average consumer to a number of different impressions. LawFirms.com, SecurityLawFirms.com, and PersonalInjuryLawyer.com are therefore at least suggestive of Applicant's services, not descriptive.

APPLICANT'S MARKS HAVE ACQUIRED SECONDARY MEANING

Assuming, *arguendo*, that all of Applicant's marks are merely descriptive, each of Applicant's marks have acquired secondary meaning. Secondary meaning is defined as the connection in the consumer's mind between the mark and the provider of the service. *See Investacorp, Inc. v. Aradian Investment Banking Corporation (Investcorp) E.C.*, 931 F.2d 1519 (11th Cir. 1991). Absent consumer survey evidence, four factors can be considered in determining whether a particular mark has acquired a secondary meaning: 1) the length and manner of its use; 2) the nature and extent of advertising promotion; 3) the efforts made by the applicant to promote a conscious connection in the public's mind between the name and the applicant's business; and 4) the extent to which the public actually identifies the name with the applicant's services. *Id.* In the instant case, the Applicant has certainly bolstered the connection in the consumer's mind among LawFirms.com, SecurityLawFirms.com, and PersonalInjuryLawyer.com and the Applicant itself. Applicant has rightfully owned and actively used the marks for a significant period of time, the Applicant has expended vast sums of money in a variety of different mediums in order to promote the marks, the Applicant has actively promoted the connection between itself and the marks and

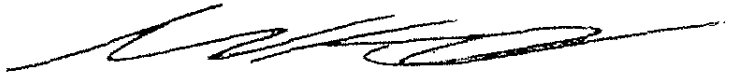
services that the marks constitute, and there is indeed genuine public identification with the Applicant and the Applicant's marks. As such, the Applicant's marks are worthy of registration since they have acquired secondary meaning.

CONCLUSION

For the above cited reasons and argument, Applicant's trademark applications should be considered, and Applicant's marks should be registered.

Respectfully submitted,

ROSENBLUM & ROSENBLUM, P.A.
Attorneys for Applicant
700 South Andrews Avenue
Suite 200
Ft. Lauderdale, Florida 33316
(954) 524-9944 Telephone
(954) 524-6664 Facsimile



RANDY ROSENBLUM, ESQ.
Florida Bar No. 0983527
MATTHEW FORNARO, ESQ.
Florida Bar No. 0650641

RANDY ROSENBLUM*
*Also admitted in New Jersey

ROSENBLUM
&
ROSENBLUM
professional association
ATTORNEYS AT LAW

COLLEEN RICCI ROSENBLUM
MATTHEW FORNARO

June 2, 2005

Florida Department of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314
Attention: Nanette Causseaux

Ref. Number: W05000009161
Ref. Number: W05000009164

Dear Ms. Causseaux,

In response to your letter dated April 28, 2005, enclosed please find all original applications regarding the above styled prospective trademarks, along with three permanent specimens for each prospective trademark. Please do not hesitate to contact me if you require any assistance. Thank you.

Respectfully yours,


Matthew Fornaro
MF

cc Anthony McDermott

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:

Matthew Fornaro, Esquire

700 South Andrews Avenue, #200

Fort Lauderdale, Florida 33316

(954) 524-9944

Daytime Telephone number

PART I

FILED
05 JUN 21 AM 10:02
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

1. (a) Applicant's name: SWI Digital, Inc.

(b) Applicant's business address: 100 W. Cypress Creek Road, Suite 1050

Fort Lauderdale, Florida 33309

City/State/Zip

(c) Applicant's telephone number: (800) 631-5158

Individual

Corporation

Joint Venture

Other:

General Partnership

Limited Partnership

Union

If other than an individual,

(1) Florida registration number: 045933201

81-122067

(2) Domicile State: FL

(3) Federal Employer Identification Number: 260002554

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.)

Advertising, marketing, and commercial information services, via the Internet for attorneys and legal service providers. Designing websites for advertising, marketing, and commercial information purposes for attorneys and legal service providers.

(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.)
The Internet, individual websites, print and electronic advertisements, brochures, stationary, business livery.

(Continued)

(d) The class(es) in which goods or services fall:

Class 35, Class 42

PART II

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

(a) Date first used anywhere: 09/01/2003 (b) Date first used in Florida: 09/01/2003

PART III

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

AccidentAttorneys.com

English Translation _____

2. DISCLAIMER (if applicable)

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

I, Matthew Fornaro, being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and no other person except a related company has the right to use such mark in Florida either in the identical form or in such near resemblance as to be likely to deceive or confuse or to be mistaken therefor. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct

SWI Digital, Inc.

Typed or printed name of applicant

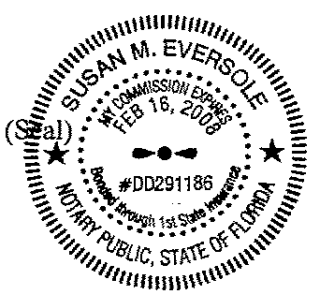
[Signature]
Applicant's signature or authorized person's signature
(List name and title) Matthew Fornaro Attorney

STATE OF Florida

COUNTY OF Broward

On this 17th day of FEBRUARY, 05, Matthew Fornaro personally appeared before me,

who is personally known to me whose identity I proved on the basis of _____



[Signature]
Notary Public Signature

SUSAN M. EVERSOLE
Notary's Printed Name

My Commission Expires: 02.16.08

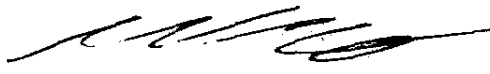
FEE: \$87.50 per class

AMENDMENT TO TRADEMARK APPLICATION
REFERENCE NUMBER W05000009161

This is an amendment to the mark described below, and pursuant to Letter Number: 005A00022036 dated March 31, 2005.


2. DISCLAIMER

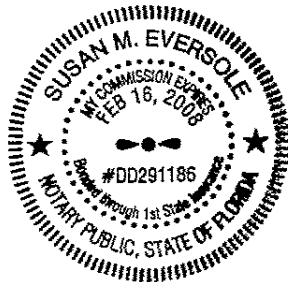
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM "AccidentAttorneys.com" APART FROM THE MARK AS SHOWN.



The foregoing instrument was acknowledged before me this 13th day of APRIL 2005, by MATTHEW FORNARO, attorney for applicant SWI Digital, INC., who is personally known to me or has produced _____ as identification.

[NOTARY SEAL]

Notary: 
Print Name: SUSAN M. EVERSOLE
Notary Public, State of Florida
My Commission Expires 02.16.08

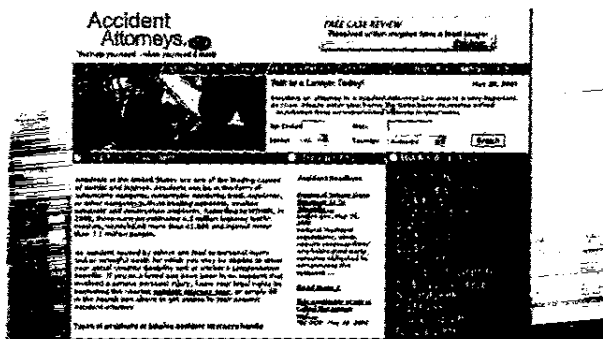


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05 JUN 21 AM 10:02
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TALLAHASSEE, FLORIDA

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Exclusive Listing (user-friendly zipcode program) to eliminate the competition between law firms around the country.

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