

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

<b>DEXAS INTERNATIONAL, LTD.,</b>	§	
	§	
Plaintiff,	§	
	§	Civil Action No.
vs.	§	
	§	
<b>HANGZHOU RENA</b>	§	
<b>PET PRODUCTS CO., LTD and</b>	§	
<b>MIDWEST MARKETPLACE OKC, INC.</b>	§	
<b>dba HEARTLAND TEES,</b>	§	
	§	JURY DEMANDED
Defendants.	§	

**ORIGINAL COMPLAINT WITH REQUEST FOR  
PERMANENT INJUNCTIVE RELIEF AND DAMAGES AND JURY DEMAND**

Plaintiff, Dexas International, Ltd. (“Dexas”), for its complaint against Defendants Hangzhou Rena Pet Products Co., Ltd. (Hangzhou) and Midwest Marketplace OKC, Inc. dba Heartland Tees, (Heartland Tees) alleges as follows:

**I. NATURE OF THE CASE**

1. This is an action at law and in equity for patent infringement arising under the Patent Act, 35 U.S.C. § 271 *et seq.*, and for trademark infringement and unfair competition arising under the Lanham Act, 15 U.S.C. § 1051, *et seq.*

2. Dexas is the creator of an innovative and popular line of pet care and pet travel products known as Popware<sup>®</sup> for Pets. This line includes, among other distinctive designs, the Dexas MUDBUSTER<sup>™</sup> portable dog paw cleaner, which is at issue in this case. The MUDBUSTER<sup>™</sup> design is protected by United States Design Patent No. D799,126 (“the ‘126 Patent”). MUDBUSTER<sup>™</sup> is a common law trademark used in commerce by Dexas.

3. Hangzhou and Heartland Tees are substantially copying without authorization the Dexas distinctive MUDBUSTER<sup>™</sup> design, and are manufacturing, importing, offering for sale,

and/or selling a product (Accused Product) that is confusingly similar to the MUDBUSTER™ product design. Heartland Tees also made an exact copy of a portion of a Texas MUDBUSTER™ advertising video showing the MUDBUSTER™ product and using the MUDBUSTER™ trademark, and spliced it into a Heartland Tees advertising video that also shows the Accused Product. The resulting Heartland Tees advertising video shows both the Texas MUDBUSTER™ product and trademark, and the Heartland Tees Accused Product, and represents that they are the same product. Hangzhou and Heartland Tees also are using an image of the Texas MUDBUSTER Product in their Internet advertising and marketing for the Accused Product. Hangzhou and Heartland Tees are infringing on the '126 Patent, infringing on the MUDBUSTER™ trademark, and/or committing unfair competition, for which Texas seeks damages and an injunction.

## **II. THE PARTIES**

4. Texas is a limited partnership with its principal place of business at 585 South Royal Lane, Suite 200, Coppell, TX 75019-3807.

5. On information and belief, Hangzhou is a corporation organized and existing under the laws of Zhejiang Province, Mainland China, with a principal place of business at Rm. 503, Developing Building, Nanyuan Yuhang District, Hangzhou, Zhejiang, China (310000).

6. On information and belief, Defendant Midwest Marketplace OKC dba Heartland Tees (“Heartland Tees”) is a corporation organized and existing under the laws of the State of Oklahoma, with a principal place of business at 3600 SW 123<sup>rd</sup> Ct, Oklahoma City, OK 73170.

## **III. JURISDICTION AND VENUE**

7. This is an action for patent infringement, trademark infringement, unfair competition, and false designation of origin. This action arises under the Patent Act, 35 U.S.C. § 1, et seq. and the Trademark Act of 1946, 15 U.S.C. § 1051, et seq. (“the Lanham Act”).

8. This Court has subject matter jurisdiction over this action pursuant to at least 28 U.S.C. §§ 1331, 1338(a) & (b), and 1367(a).

9. The Court has personal jurisdiction over Hangzhou because Hangzhou has purposefully used intermediators to sell one or more Accused Products in the State of Texas through the stream of commerce and purposefully directed its activities at Texas residents and the residents of this Judicial District by placing Accused Products into established distribution channels with expectation that they would be sold throughout the United States, including Texas and this Judicial District. Further, Hangzhou offers for sale Accused Products and uses images of the Dexas MUDBUSTER™ product to advertise, market, and offer for sale the Accused Product at: (all links in this complaint were last accessed on January 26, 2018).

<https://www.aliexpress.com/item/New-Pet-Foot-Washer-Cup-Dog-Foot-Wash-Tools-Soft-Gentle-Silicone-Bristles-Pet-Brush-Quickly/32829736721.html>

and residents of the State of Texas and this Judicial District can and have viewed the Accused Product at this website address. The Hangzhou website indicates that many Accused Products have been sold and shipped to the United States, including at least one into the State of Texas and this Judicial District. The website address indicates that the Accused Product can be shipped for free into the United States, and Hangzhou therefore advertises and markets the Accused Product with the knowledge and intent that it can be sold and shipped to the United States, including the State of Texas and this Judicial District.

10. The Court has personal jurisdiction over Heartland Tees because Heartland Tees advertises, markets, and offers for sale an Accused Product that look substantially similar to the Dexas MUDBUSTER™ product on the world wide web at:

<https://heartlandtees.com/products/pet-foot-washer-cup>

and Heartland Tees uses images of the Dexas MUDBUSTER™ product and/or MUDBUSTER™

trademark to advertise, market, and offer for sale the Accused Product at:

<https://www.youtube.com/watch?v=VQy6SQ8gZlY&feature=youtu.be> and

<https://heartlandtees.com/products/pet-foot-washer-cup>

Both of these website locations can and have been accessed by residents of the State of Texas and this Judicial District, and Heartland Tees has sold the Accused Product for delivery into the State of Texas and this Judicial District. Heartland Tees advertises and markets the Accused Product with the knowledge and intent that it be distributed and sold within the United States, including this Judicial District.

11. Venue is proper in this District against Hangzhou under 28 U.S.C. § 1391(c)(3) because Hangzhou is a foreign corporation not resident in any district in the United States. Venue is proper against Heartland Tees pursuant to 28 U.S.C. § 1391.

#### **IV. FACTUAL ALLEGATIONS**

12. Dexas is a Texas-based designer and manufacturer of cutting boards, kitchen tools and gadgets, storage clipboard cases, and pet care and pet travel products. Dexas provides these innovative product designs to the world's leading retailers.

13. Based on the design innovation of the popular Dexas Popware<sup>®</sup> collapsible strainers and colanders kitchen products, Dexas created the Popware<sup>®</sup> for Pets line of pet care and pet travel products. These products include the MUDBUSTER<sup>™</sup> portable dog paw cleaner, an adjustable pet feeder, collapsible travel cup, BrushBuster<sup>™</sup> pet brush, collapsible kennel bowl, collapsible KlipScoop<sup>™</sup> food scoop, and Pooch Pouch<sup>™</sup> carrier.

14. Dexas invests great time and expense to bring their customers innovative and well-designed products for their personal use. To protect this investment, a core component of the Dexas business model is patent and intellectual property protection and enforcement.

15. On October 3, 2017, the United States Patent and Trademark Office duly and

legally issued Design Patent No. D799,126 entitled "Pet Paw Washer," ("the '126 Patent"). A true and correct copy of the '126 Patent is attached hereto as **Exhibit 1**. The '126 Patent covers the Dexas MUDBUSTER™ portable dog paw cleaner and all substantially similar copies.

16. Dexas is the exclusive licensee of the '126 Patent. The exclusive license includes the right to manufacture, import, export, sell and offer for sale, products which are covered by the '126 Patent, and all rights to sue, including but not limited to injunctive relief and recovery of monetary damages for infringement, for any past or future infringement of the '126 Patent.

17. Dexas markets and advertises the MUDBUSTER™ portable dog paw cleaner under the MUDBUSTER™ trademark.

18. Heartland Tees advertises the Accused Product on the World Wide Web at:

<https://www.youtube.com/watch?v=VQy6SQ8gZIY&feature=youtu.be>

A still image from a marketing and advertising video posted, sponsored, and/or authorized by Heartland Tees at:

<https://www.youtube.com/watch?v=VQy6SQ8gZIY&feature=youtu.be>

showing the Accused Product is set forth below and attached to this complaint as **Exhibit 2**.



**Image from Heartland Tees Advertising Video**

19. An additional still image from the same Heartland Tees advertising video is set forth below and attached to this complaint as **Exhibit 3**. This image depicts the Dexas MUDBUSTER™ product that contains the design claimed in the ‘126 Patent. It also shows the URL for Heartland Tees (www.heartlandtees.com) and the Dexas MUDBUSTER™ trademark.



**Image from Heartland Tees Advertising Video showing Dexas MUDBUSTER™ Product**

20. The still image from the Heartland Tees advertising video depicting the Dexas MUDBUSTER™ product is, except for the text and red and blue squares added by Heartland Tees, exactly the same as that shown on the Dexas MUDBUSTER™ advertising video at:

<https://www.youtube.com/watch?v=H773Or9awDQ>,

attached hereto as **Exhibit 4**. The still image from the Heartland Tees video is shown below left and the still image from the Dexas MUDBUSTER™ video is shown below right.



**Heartland Tees Video Image**



**Dexas MUDBUSTER™ Video Image**

21. As shown above, Heartland Tees made an exact copy of a portion of a Dexas MUDBUSTER™ advertising video showing the MUDBUSTER™ product and the MUDBUSTER™ trademark, and then spliced it into a Heartland Tees advertising video that also shows the Accused Product. The resulting Heartland Tees advertising video shows both the Dexas MUDBUSTER™ product, the MUDBUSTER™ trademark, and the Heartland Tees Accused Product, and represents that they are all the same product.

22. Heartland Tees also advertises the Accused Product on the World Wide Web at:

<https://heartlandtees.com/products/pet-foot-washer-cup>.

An image from this Heartland Tees website shows both the Accused Product and the Dexas MUDBUSTER™ product. The image from the Heartland Tees website is set forth below and the full website page is attached to this complaint as **Exhibit 5**.



**Heartland Tees Accused Product Advertising Image**

23. The website indicates that an image from Dexas MUDBUSTER™ product advertising was copied and inserted into the Heartland Tees website. The image of the Dexas MUDBUSTER™ product is shown under the “2 Step” reference just above the words “Gently Rotate.” The image of the human hands holding a dog’s paw also is taken from a Dexas MUDBUSTER™ product advertising image, but the Dexas MUDBUSTER™ product has been replaced with the Accused Product. The image from the Dexas MUDBUSTER™ product advertising at:

[https://www.amazon.com/Dexas-MudBuster-Portable-Cleaner-Large/dp/B01N52Z30T/ref=sr\\_1\\_1\\_sspa?ie=UTF8&qid=1516916127&sr=81spons&keywords=paw+washer&psc=1,](https://www.amazon.com/Dexas-MudBuster-Portable-Cleaner-Large/dp/B01N52Z30T/ref=sr_1_1_sspa?ie=UTF8&qid=1516916127&sr=81spons&keywords=paw+washer&psc=1)

also is set forth below and attached to this complaint as **Exhibit 6.**



Pet Supplies › Dogs › Grooming

Dexas  
**Dexas Petware Mudbuster Portable Dog Paw Cleaner**  
★★★★☆ 268 customer reviews | 34 answered questions

List Price: \$24.99  
Price: **\$21.49** ✓prime  
FREE Shipping on orders over \$25—or get FREE Two-Day Shipping with Amazon Prime  
You Save: \$3.50 (14%)

**In Stock.**  
Want it tomorrow, Jan. 27? Order within **3 hrs 48 mins** and choose **Saturday Delivery** at checkout. [Details](#)  
Ships from and sold by Amazon.com. Gift-wrap available.

Size: **Large**  
Small Medium **Large**

Color: **Blue**  
Blue Green Pink

- The large MudBuster is perfectly sized for large and extra-large sized dogs: it measures 8.85 inches tall and 4.75 inches wide
- To use, add a little water, insert the muddy paw, do the twist, dab the paw dry, repeat for 3 more paws
- The gentle silicone bristles will help remove dirt and mud from your dog's paws- keeping the

### **Dexas MUDBUSTER™ Product Advertising Image on Amazon.com**

24. Hangzhou advertises the Accused Product on the World Wide Web under the name “Hilou Pet” at least at:

[https://www.aliexpress.com/item/New-Pet-Foot-Washer-Cup-Dog-Foot-Wash-Tools-Soft-Gentle-Silicone-Bristles-Pet-Brush-Quickly/32829736721.html.](https://www.aliexpress.com/item/New-Pet-Foot-Washer-Cup-Dog-Foot-Wash-Tools-Soft-Gentle-Silicone-Bristles-Pet-Brush-Quickly/32829736721.html)



An image from this Hangzhou website shows the Accused Product. The image from the Hangzhou website is set forth below and the full website page is attached to this complaint as

**Exhibit 7.**



**Hangzhou Accused Product Advertising Image Showing Dexas MUDBUSTER™ Product**

25. The image also indicates that Hangzhou copied an image from Dexas MUDBUSTER™ product advertising and inserted it in the Hangzhou website. The image of the Dexas MUDBUSTER™ product is shown under the “2 Step” reference just above the words “Gently Rotate.” The image of the human hands holding a dog’s paw also is taken from a Dexas MUDBUSTER™ product advertising image, but the Dexas MUDBUSTER™ product has been replaced by Hangzhou with the Accused Product. The image from the Dexas MUDBUSTER™ product advertising at:

[https://www.amazon.com/Dexas-MudBuster-Portable-Cleaner-Large/dp/B01N52Z30T/ref=sr\\_1\\_1\\_sspa?ie=UTF8&qid=1516916127&sr=81spons&keywords=paw+washer&psc=1](https://www.amazon.com/Dexas-MudBuster-Portable-Cleaner-Large/dp/B01N52Z30T/ref=sr_1_1_sspa?ie=UTF8&qid=1516916127&sr=81spons&keywords=paw+washer&psc=1),

also is set forth on the following page and attached to this complaint as **Exhibit 6.**

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Dexas

### Dexas Petware Mudbuster Portable Dog Paw Cleaner

★★★★★ 268 customer reviews | 34 answered questions

List Price: \$24.99

Price: **\$21.49** ✓prime

FREE Shipping on orders over \$25—or get FREE Two-Day Shipping with Amazon Prime

You Save: **\$3.50** (14%)

**In Stock.**

Want it tomorrow, Jan. 27? Order within **3 hrs 48 mins** and choose **Saturday Delivery** at checkout. [Details](#)

Ships from and sold by Amazon.com. Gift-wrap available.

Size: **Large**

Color: **Blue**



- The large MudBuster is perfectly sized for large and extra-large sized dogs: it measures 8.85 inches tall and 4.75 inches wide
- To use, add a little water, insert the muddy paw, do the twist, dab the paw dry, repeat for 3 more paws
- The gentle silicone bristles will help remove dirt and mud from your dog's paws- keeping the

### Dexas MUDBUSTER™ Product Advertising Image on Amazon.com

26. The substantial similarity of the '126 Patented Design and the Accused Product design is evidenced by Heartland Tees' use of both designs in the advertising video to represent one product and Hangzhou's use of both designs in its web page advertising to represent one product. Further, although the '126 Patented Design has a rippled/grooved edge on the side of the lid and the Accused Product Design has a rippled/grooved edge on the top of the lid, the appearance and location of the ripples/grooves on both the Patented and Accused Product designs in the context of the overall designs are substantially the same. An ordinary observer, giving such attention as a purchaser usually gives, would consider the two overall designs to be substantially the same in light of the prior art.

27. Figure 1 of the '126 Patent is set forth on the following page.

\*\*\*\*\*

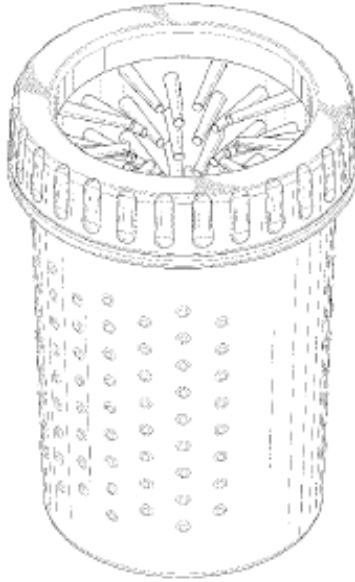


FIG. 1 of United States Letters Patent D799,126

28. Hangzhou is infringing the '126 Patent by making, selling, offering for sale, importing, and/or using an accused product with an overall design substantially similar to the overall design claimed in the '126 Patent. Infringement is occurring because an ordinary observer, giving such attention as a purchaser usually gives, would consider the two designs to be substantially the same in light of the prior art.



Hangzhou's Accused Product

29. Hangzhou's Accused Product is offered for sale and sold on the Internet at:

<https://www.aliexpress.com/item/New-Pet-Footer-Washer-Cup-Dog-Footer-Wash-Tools-Soft-Gentle-Silicone-Bristles-Pet-Brush-Quickly/32829736721.html>

as shown in the attached **Exhibit 7**. Hangzhou also sells to U.S. distributors such as Heartland Tees, who in turn import, offer for sale, and sell the infringing product in the United States at websites such as:

<https://heartlandtees.com/products/pet-foot-washer-cup> (**Exhibit 5**), and

<https://www.youtube.com/watch?v=VQy6SQ8gZIY&feature=youtu.be>. (**Exhibit 2**).

#### **V. COUNT I: Patent Infringement (Hangzhou)**

30. Dexas realleges and incorporates the allegations set forth in paragraphs 1 through 29 as though fully set forth at length.

31. Hangzhou is directly infringing, inducing infringement, and/or contributing to the infringement of the '126 Patent by making, selling, offering for sale, importing, and/or using an Accused Product with an overall design substantially similar to the overall design claimed in the '126 Patent. Infringement is occurring because an ordinary observer, giving such attention as a purchaser usually gives, would consider the two designs to be substantially the same in light of the prior art.

32. Hangzhou's infringement has caused Dexas to suffer damages.

33. As an additional remedy, Dexas is entitled to an award of Hangzhou's total profits earned from patent infringement.

34. Hangzhou has caused irreparable damage to Dexas by Hangzhou's acts of infringement as described above and will continue said acts of infringement unless permanently enjoined by this Court. Dexas seeks a permanent injunction.

35. Dexas has placed the required statutory marking and notice on all products made and sold by it after the '126 Patent issued.

**VI. COUNT II:  
Trademark Infringement Under § 43(a)  
of the Lanham Act, 15 U.S.C. § 1125(a) (Heartland Tees)**

36. Dexas realleges and incorporates the allegations set forth in paragraphs 1 through 35 as though fully set forth at length.

37. Heartland Tees' use of the Dexas MUDBUSTER™ trademark in its advertisements, marketing, promotions, offers to sell, sales, and distribution of the Accused Product, in direct competition with Dexas, violate § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and constitute trademark infringement, at least because Heartland Tees has used images of the Dexas MUDBUSTER™ product and the Dexas MUDBUSTER™ trademark in connection with the advertisements, marketing, promotions, offers to sell, sales, and distribution of the Accused Product. Such uses are likely to cause consumer confusion as to the origin and/or sponsorship/affiliation of the Dexas MUDBUSTER™ product and the Accused Product, at least by creating the false and misleading impression that the Dexas MUDBUSTER™ product and the Accused Product are the same product, and that the Dexas MUDBUSTER™ product is manufactured by, sold by, authorized by, or otherwise associated with Heartland Tees.

38. On information and belief, Heartland Tees' use of Dexas MUDBUSTER™ product images and the Dexas MUDBUSTER™ trademark, including through reproductions, copies, and/or colorable imitations thereof, has been intentional, willful, and malicious. Heartland Tees' bad faith is evidenced at least by Heartland Tees' use of video footage produced by Dexas and that contains the Dexas MUDBUSTER™ product and trademark.

39. Heartland Tees use of Dexas MUDBUSTER™ product images and trademark, including through reproductions, copies, and/or colorable imitations thereof has caused and,

unless enjoined, will continue to cause substantial and irreparable injury to Dexas for which Dexas has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Dexas, and the Dexas MUDBUSTER™ product and trademark.

40. Dexas is entitled to injunctive relief, and Dexas is also entitled to recover at least Heartland Tees' profits, Dexas' actual damages, enhanced damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(a), 1116, and 1117.

**VII. COUNT III:  
Unfair Competition and False Designation of Origin Under § 43(a)  
of the Lanham Act, 15 U.S.C. § 1125(a) (Hangzhou and Heartland Tees)**

41. Dexas realleges and incorporates the allegations set forth in paragraphs 1 through 40 as though fully set forth at length.

42. Hangzhou and Heartland Tees' advertisements, marketing, promotions, offers to sell, sales, distribution, and/or importing of the Accused Product, in direct competition with Dexas, violate § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and constitute unfair competition, false advertising, and false designation of origin, at least because Hangzhou and Heartland Tees have used images of the Dexas MUDBUSTER™ product in connection with the advertisements, marketing, promotions, offers to sell, sales, and distribution of the Accused Product. Such uses are likely to cause consumer confusion as to the origin and/or sponsorship/affiliation of the Dexas MUDBUSTER™ product and the Accused Product, at least by creating the false and misleading impression that the Dexas MUDBUSTER™ product and the Accused Product are the same product, and that the Dexas MUDBUSTER™ product is manufactured by, sold by, authorized by, or otherwise associated with Hangzhou and Heartland Tees.

43. On information and belief, the use by Hangzhou and Heartland Tees of Dexas MUDBUSTER™ product images, including through reproductions, copies, and/or colorable

imitations thereof, has been intentional, willful, and malicious. Heartland Tees' bad faith is evidenced at least by Heartland Tees' use of video footage created by Dexas and that contains the Dexas MUDBUSTER™ product and Hangzhou's use of the Dexas MUDBUSTER™ product images on Hangzhou's website.

44. The use by Hangzhou and Heartland Tees of Dexas MUDBUSTER™ product images, including through reproductions, copies, and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable injury to Dexas for which Dexas has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Dexas, and the Dexas MUDBUSTER™ product.

45. Dexas is entitled to injunctive relief, and Dexas is also entitled to recover at least Hangzhou's and Heartland Tees' profits, Dexas' actual damages, enhanced damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(a), 1116, and 1117.

### **VIII. PRAYER FOR JUDGMENT AND RELIEF**

WHEREFORE, Plaintiff prays for a judgment against Hangzhou and Heartland Tees as follows:

- a. That U.S. Design Patent No. D799,126 is valid and enforceable;
- b. That Hangzhou has infringed U.S. Design Patent No. D799,126;
- c. An award of damages to Dexas against Hangzhou for infringement of U.S. Design Patent No. D799,126 under 35 U.S.C. § 284 or § 289;
- d. That Hangzhou, its agents, servants and employees and all those in privity, concert, or participation with any of them, be permanently enjoined from infringing U.S. Design Patent No. D799,126;

- e. That Heartland Tees has engaged in trademark infringement in violation of § 1125(a) of Title 15 in the United States Code;
- f. An injunction against further acts of trademark infringement by Heartland Tees;
- g. An award to Dexas of Heartland Tees' profits, Dexas' actual damages, enhanced damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(a), 1116, and 1117.
- h. That Hangzhou and Heartland Tees have engaged in unfair competition and false designation of origin in violation of § 1125(a) of Title 15 in the United States Code;
- i. An injunction against further acts of unfair competition and false designation of origin by Hangzhou and Heartland Tees;
- j. An award to Dexas of Hangzhou's and Heartland Tees' profits, Dexas' actual damages, enhanced damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(a), 1116, and 1117.
- k. An award of prejudgment and post judgment interest and costs to Dexas; and
- l. Such other and further relief as the Court deems proper and just.

#### **IX. DEMAND FOR JURY TRIAL**

Dexas, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, demands a trial by jury on all issues triable by right by a jury.

Respectfully submitted,

/s/ Robert G. Oake, Jr.

Robert G. Oake, Jr.

Texas State Bar No. 15154300

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