

GENERAL GUIDELINES FOR ACCEPTABLE GOODS/SERVICES SPECIMENS IN THE UNITED STATES

Goods Specimens (class 1-34)

Under USPTO guidelines, acceptable specimens for goods include:

- photos of packaging for the goods prominently displaying the mark. If the product is not apparent in the photo, a second photo of the same packaging opened and revealing the exact product inside;
- photos of the product if the mark is affixed directly to it;
- photos of a label or hangtag affixed to the goods or their packaging prominently displaying the mark;
- shipping labels prominently displaying the mark affixed to packaging in which the goods are transported;
- operating or installation instructions prominently displaying the mark that accompany the product when it is delivered to the customer (packing slips alone are not acceptable);
- displays associated with the sale of the goods that comprise point-of-sale materials, such as banners, shelf-talkers, window displays in physical proximity to the goods themselves when they are sold;
- prominent use of the mark with an example of the product at a trade show at which sales orders are taken;
- product catalogs along with price books that include information about how and where to order and order forms;
- websites that prominently display the mark and depict the products for sale and allow for a means to make online purchases, such as an online shopping cart;
- for downloadable software and/or software sold separately work also screen shots showing the mark in use with the software (for example, display screens for the software in operation that display the mark; download instructions prominently bearing the mark, etc.) or operating manuals that accompanying software. For downloadable software, a specimen that shows use of the mark on an Internet website is acceptable if it provides sufficient information to enable the user to download or purchase the software from the website.

Important: any packaging, labels, hangtags, shipping labels, etc. clearly demonstrate what goods they are associated with. For example, they must also contain the generic name of the goods on the tag/label or if on packaging, the goods must be visible through the packaging or the packaging identifies the specific goods contained in the packaging.

Brochures, bulletins, website pages and other similar product promotional materials that do not satisfy "point of sale" criteria are considered unacceptable as "merely advertising."

Services Specimens (class 35-45)

Under USPTO guidelines, acceptable specimens for services include:

- advertisements, brochures or other promotional materials, website printouts that prominently display the mark and describe the covered services sufficient for the customer to make a connection between the mark and the services;
- invoices issued to a customer for the covered services that bear the mark (confidential information can be redacted);
- correspondence to a customer or potential customer that prominently displays the mark and the content of the correspondence includes a specific reference to the services (confidential information can be redacted).

Important: under USPTO regulations, a service must be offered to third parties in order to qualify as a separate, protectable service. If the "service" is merely an activity that is performed by applicant for its own benefit in the course of producing the goods that it sells, then those activities are only considered ancillary to the sale of the goods under the mark.

If you require any further information regarding the sufficiency of the proofs of use, please do not hesitate to contact us.