

Response to Office Action

The table below presents the data as entered.

| Input Field | Entered |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| SERIAL NUMBER | 76197993 |
| MARK SECTION (no change) | |
| ARGUMENT(S) | |
| Applicant submits herewith a substitute specimen for the captioned mark. Please note the mark is pictured on the actual device and Applicant has provided an enlarged picture of this product for ease of viewing. | |
| GOODS AND/OR SERVICES SECTION (current) | |
| INTERNATIONAL CLASS | 010 |
| DESCRIPTION | Remote controlled surgical staplers |
| FILING BASIS | Section 1(a) |
| FIRST USE ANYWHERE DATE | 01/00/2000 |
| FIRST USE IN COMMERCE DATE | 01/00/2000 |
| FILING BASIS | Section 1(b) |
| GOODS AND/OR SERVICES SECTION (proposed) | |
| INTERNATIONAL CLASS | 010 |
| DESCRIPTION | Remote controlled surgical staplers |
| FILING BASIS | Section 1(a) |
| FIRST USE ANYWHERE DATE | 01/00/2000 |
| FIRST USE IN COMMERCE DATE | 01/00/2000 |
| STATEMENT TYPE | The substitute specimen(s) was in use in commerce as of the filing date of the application. |
| SPECIMEN FILE NAME(S) | \\TICRS\EXPORT9\IMAGEOUT9\761\979 76197993\xml1\RO A0002.JPG |

| | |
|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| SPECIMEN DESCRIPTION | Actual product bearing the mark. |
| FILING BASIS | Section 1(b) |
| SIGNATURE SECTION | |
| DECLARATION SIGNATURE | /Howard J. Shire/ |
| SIGNATORY NAME | Howard J. Shire, Esq. |
| SIGNATORY POSITION | Attorney of Record |
| SIGNATURE DATE | 08/08/2005 |
| RESPONSE SIGNATURE | /Howard J. Shire/ |
| SIGNATORY NAME | Howard J. Shire, Esq. |
| SIGNATORY POSITION | Attorney of Record |
| SIGNATURE DATE | 08/08/2005 |
| FILING INFORMATION SECTION | |
| SUBMIT DATE | Mon Aug 08 12:22:29 EDT 2005 |
| TEAS STAMP | USPTO/OA-65246216100-2005 0808122229164115-76197993 -2004e87877a3d922027391a5 63a1722d7e3-N-N-200508081 21809333609 |

PTO Form 1957 (Rev 8/2005)

OMB Control #0651-0050 (Exp. 04/30/2006)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **76197993** is amended as follows:

Argument(s)

In response to the substantive refusal(s), please note the following:

Applicant submits herewith a substitute specimen for the captioned mark. Please note the mark is pictured on the actual device and Applicant has provided an enlarged picture of this product for ease of viewing.

Classification and Listing of Goods/Services

Applicant hereby amends the following class of goods/services in the application as follows:

Current: Class 010 for Remote controlled surgical staplers

Original Filing Basis: 1(b); and/or 1(a).

Proposed: Class 010 for Remote controlled surgical staplers

Section 1(a), Use in Commerce: The mark was first used at least as early as 01/00/2000 and first used in commerce at least as early as 01/00/2000, and is now in use in such commerce.

Applicant hereby submits a specimen for Class 010.

The specimen(s) submitted consists of Actual product bearing the mark..

For an application based on 1(a), Use in Commerce, "The substitute specimen(s) was in use in commerce as of the filing date of the application."

Specimen-1

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Howard J. Shire/ Date: 08/08/2005

Signatory's Name: Howard J. Shire, Esq.

Signatory's Position: Attorney of Record

Response Signature

Signature: /Howard J. Shire/ Date: 08/08/2005

Signatory's Name: Howard J. Shire, Esq.

Signatory's Position: Attorney of Record

Serial Number: 76197993

Internet Transmission Date: Mon Aug 08 12:22:29 EDT 2005

TEAS Stamp: USPTO/OA-65246216100-2005080812222916411

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22d7e3-N-N-20050808121809333609

