

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86358871
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	042
DESCRIPTION	Engineering services in the field of oil and gas equipment
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1997
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1997
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	042
TRACKED TEXT DESCRIPTION	
Engineering services in the field of oil and gas equipment; Engineering services, namely, maintenance and repair services in the field of oil and gas equipment	
FINAL DESCRIPTION	
Engineering services, namely, maintenance and repair services in the field of oil and gas equipment	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1997
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1997
ADDITIONAL STATEMENTS SECTION	
AMENDMENT Applicant amends the identification of services as follows: 42 Engineering services, namely, maintenance and repair services in the field of oil	

<p>MISCELLANEOUS STATEMENT</p>	<p>and gas equipment. REMARKS A. Identification of Services Applicant has made a narrowing amendment to the identification of services for Class 42 to clarify the scope of its services. B. Specimen Applicant respectfully traverses the Examining Attorney's objection to the trademark specimen for Class 42. The specimen is a page from Applicant's website that shows the BURGESS DEGASSERS design mark prominently next to "SERVICE/REPAIR" for engineering services in connection with degassers. The trademark is shown in a manner that would be perceived by potential purchasers as identifying Applicant's services and indicating their source. See TMEP §1301.04(a). See Declaration of Harry L. Burgess attached hereto as Exhibit A. Accordingly, Applicant respectfully requests that its specimen for Class 42 be accepted. Documents bearing a mark may be accepted as service mark specimens, if they create an association between the mark and the services, as is true in the present case. "To create an association between the mark and the services, the specimen does not have to spell out the specific nature or type of services. A general reference to the industry may be acceptable." In re Ralph Mantia Inc., 54 USPQ2d 1284 (TTAB 2000) (letterhead and business cards showing the word "Design" are acceptable evidence of use of mark for commercial art design services); In re Southwest Petro-Chem, Inc., 183 USPQ 371 (TTAB 1974). TMEP 1301.04 (c). Exhibit A. C. Notice of Appeal Applicant believes that the application is in condition to be allowed and proceed to publication. Accordingly, should any issues remain, Applicant respectfully requests that the Examining Attorney issue an action that continues the final action and give Applicant additional time to resolve the matter, or issue a new, final action. See TMEP §§ 715.03 and 715.04(b). Applicant respectfully advises the Examining Attorney that, for procedural reasons, it is filing a Notice of Appeal with the TTAB. CONCLUSION Applicant respectfully asserts that the above amendment, evidence, and remarks place the application in condition for allowance. Accordingly, Applicant requests that its application be allowed and permitted to proceed to publication. The Commissioner is authorized to charge any fees required by this filing to Deposit Account No. 20-0821 (507031.3002).</p>
<p>MISCELLANEOUS FILE NAME(S)</p>	
<p>ORIGINAL PDF FILE</p>	<p>mis-21658157228-20150519163510547590_.Burgess3002DeclarationinSupportofRegistration.pdf</p>
<p>CONVERTED PDF FILE(S) (2 pages)</p>	<p>\\TICRS\EXPORT16\IMAGEOUT16\863\588\86358871\xml8\RFR0002.JPG</p>
<p>\\TICRS\EXPORT16\IMAGEOUT16\863\588\86358871\xml8\RFR0003.JPG</p>	
<p>SIGNATURE SECTION</p>	
<p>RESPONSE SIGNATURE</p>	<p>/Jennifer S. Sickler/</p>
<p>SIGNATORY'S NAME</p>	<p>Jennifer S. Sickler</p>
<p>SIGNATORY'S POSITION</p>	<p>Attorney of Record, Texas Bar Member</p>
<p>SIGNATORY'S PHONE</p>	<p>713-653-8611</p>

NUMBER	
DATE SIGNED	05/19/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue May 19 16:50:31 EDT 2015
TEAS STAMP	USPTO/RFR-216.58.157.228-20150519165031055411-86358871-5303559bd7e96c2f3a42bale1c9156e97f6fffffb87779f569be13b85683a8596-N/A-N/A-20150519163510547590

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **86358871** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 042 for Engineering services in the field of oil and gas equipment

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 00/00/1997 and first used in commerce at least as early as 00/00/1997 , and is now in use in such commerce.

Proposed:

Tracked Text Description: ~~Engineering services in the field of oil and gas equipment;~~ [Engineering services, namely, maintenance and repair services in the field of oil and gas equipment](#)

Class 042 for Engineering services, namely, maintenance and repair services in the field of oil and gas equipment

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least

as early as 00/00/1997 and first used in commerce at least as early as 00/00/1997 , and is now in use in such commerce.

ADDITIONAL STATEMENTS

Miscellaneous Statement

AMENDMENT Applicant amends the identification of services as follows: 42 Engineering services, namely, maintenance and repair services in the field of oil and gas equipment. REMARKS A. Identification of Services Applicant has made a narrowing amendment to the identification of services for Class 42 to clarify the scope of its services. B. Specimen Applicant respectfully traverses the Examining Attorney's objection to the trademark specimen for Class 42. The specimen is a page from Applicant's website that shows the BURGESS DEGASSERS design mark prominently next to "SERVICE/REPAIR" for engineering services in connection with degassers. The trademark is shown in a manner that would be perceived by potential purchasers as identifying Applicant's services and indicating their source. See TMEP §1301.04(a). See Declaration of Harry L. Burgess attached hereto as Exhibit A. Accordingly, Applicant respectfully requests that its specimen for Class 42 be accepted. Documents bearing a mark may be accepted as service mark specimens, if they create an association between the mark and the services, as is true in the present case. "To create an association between the mark and the services, the specimen does not have to spell out the specific nature or type of services. A general reference to the industry may be acceptable." In re Ralph Mantia Inc., 54 USPQ2d 1284 (TTAB 2000) (letterhead and business cards showing the word "Design" are acceptable evidence of use of mark for commercial art design services); In re Southwest Petro-Chem, Inc., 183 USPQ 371 (TTAB 1974). TMEP 1301.04 (c). Exhibit A. C. Notice of Appeal Applicant believes that the application is in condition to be allowed and proceed to publication. Accordingly, should any issues remain, Applicant respectfully requests that the Examining Attorney issue an action that continues the final action and give Applicant additional time to resolve the matter, or issue a new, final action. See TMEP §§ 715.03 and 715.04(b). Applicant respectfully advises the Examining Attorney that, for procedural reasons, it is filing a Notice of Appeal with the TTAB. CONCLUSION Applicant respectfully asserts that the above amendment, evidence, and remarks place the application in condition for allowance. Accordingly, Applicant requests that its application be allowed and permitted to proceed to publication. The Commissioner is authorized to charge any fees required by this filing to Deposit Account No. 20-0821 (507031.3002).

Original PDF file:

[mis-21658157228-20150519163510547590_-_Burgess3002DeclarationinSupportofRegistration.pdf](https://www.uspto.gov/patent/external/patent/publications/mis-21658157228-20150519163510547590_-_Burgess3002DeclarationinSupportofRegistration.pdf)

Converted PDF file(s) (2 pages)

[Miscellaneous File1](#)

[Miscellaneous File2](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Jennifer S. Sickler/ Date: 05/19/2015

Signatory's Name: Jennifer S. Sickler

Signatory's Position: Attorney of Record, Texas Bar Member

Signatory's Phone Number: 713-653-8611

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in

this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86358871

Internet Transmission Date: Tue May 19 16:50:31 EDT 2015

TEAS Stamp: USPTO/RFR-216.58.157.228-201505191650310

55411-86358871-5303559bd7e96c2f3a42ba1e1

c9156e97f6ffffb87779f569be13b85683a8596

-N/A-N/A-20150519163510547590

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Burgess Manufacturing, Ltd.	§	INT'L CLASS NO.: 42
	§	
SERIAL NO.: 86/358,871	§	LAW OFFICE: 115
	§	
FILED: August 6, 2014	§	EXAMINING ATTY.: John S. Yard
	§	
MARK: BURGESS DEGASSERS (Design)	§	ATTY. DKT. NO.: 507031.3002
	§	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

DECLARATION IN SUPPORT OF REGISTRATION

I, Harry L. Burgess, hereby declare as follows:

1. I am over twenty-one years of age and am competent to make this Declaration. I serve as the President of Burgess Manufacturing, Ltd. ("Burgess") and have owned the company for over forty (40) years. Based upon my experience in this capacity, I have personal knowledge of the facts stated within this Declaration, or have investigated such facts, and believe them to be true.

2. The BURGESS DEGASSER mark is well-known in the oil and gas industry as a premier device for removing gasses and oxygen from drilling mud due to about forty years use and due to the success of the goods and services used in connection with the mark. The unit can

also be used as a mechanical oxygen scavenger, thereby extending the life of a drill string due to reduced corrosion.

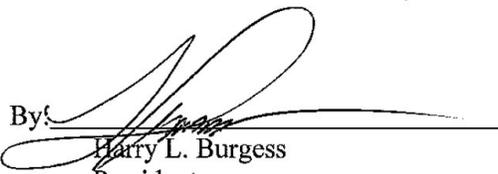
3. Customers of Burgess interact routinely with the company through our website at www.burgess-mfg.com. They use our website for a variety of reasons, including learning about and utilizing the services available from the company.

4. The specimen submitted with this application is a page from the Burgess website that shows the BURGESS DEGASSERS design mark prominently next to "SERVICE/REPAIR" for engineering services in connection with the degassers. The trademark is shown in a manner that is perceived by purchasers and potential purchasers as identifying our company services and indicating their source.

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 is properly authorized to execute this Declaration, and that all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.

Date: 5/19, 2015

BURGESS MANUFACTURING, LTD.

By: 
Harry L. Burgess
President