PTO Form 1930 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77647762
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION (no change)	
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS	REQUEST FOR RECONSIDERATION In response to the Final Office Action, Applicant, Gulfstream Aerospace Corporation ("Gulfstream") submits this Request for Reconsideration. The Specimen of Use ("Specimen") was refused on the ground it was not acceptable because, although identified as a point-of-sale display associated with the goods, the Examiner believed it was mere advertising material. As demonstrated and shown herein however, and as stated in the accompanying Declaration of Matthew Huhn, Director, Product Support Business and Program Support of Applicant, verified under 37 C.F.R. §2.20 ("Huhn Declaration"), the Applicant provides sufficient detail to show how the Specimen was not mere advertising material, but was actually used -- at the point-of-sale -- to link or associate Applicant's Mark with the goods. First, the Specimen contains a picture of the relevant goods and a textual description that identifies the actual features or inherent characteristics of the goods such that the goods are recognizable. Second, on the Specimen the mark appears sufficiently near the picture or textual description of the goods so as to associate the mark with the goods. Third, specifically, in order to associate the mark PLANEDECK with the goods and induce a sale of the adjacent displayed goods, the Applicant used and distributed the Specimen in a kiosk that also included operating units of the goods. Such use in conjunction with the goods occurred at multiple customer conferences and industry trade shows, including the June 2009 Gulfstream Operator's Conference and the 2009 and 2010 National Business Aircraft Association trade shows. Additional uses of the Specimen by the Applicant included hand distribution to prospective customers beginning in 2009. Huhn Declaration, ¶2. Fourth, the Specimen was moreover specifically designed by Applicant as point-of-sale material to catch the attention of purchasers and prospective purchasers as an inducement to make a sale, by using them in connection with and next to the goods on display, and using the mark PLANEDECK thereon to identify the goods being offered for sale and sold. Huhn Declaration, ¶3. Fifth, as a result of the Specimen and the Applicant's foregoing described activities and efforts, consumers in fact, prior to the deadline for filing the Statement of Use, associated the mark

STATEMENT	PLANEDECK with the goods in the Application and associated them with a source. For example, Mr. Huhn, Director, Product Support Business and Program Support of Applicant, had conversations with consumers who received the Specimen during which conversations the mark PLANEDECK was used by the consumers to refer to and mean the specific goods of and provided by the Applicant as identified in the Application that were being offered for sale and sold. Huhn Declaration, ¶4. Based on the foregoing facts, the specimen unequivocally is trademark use as a point-of-sale display associated with the goods. Displays associated with the goods that comprise point-of-sale material in actual brick-and-mortar stores such as banners, posters, shelf-talkers, window displays, menus, or similar devices are acceptable specimens to show trademark use. See In re Bright of Am., Inc., 205 USPQ 63, 71 (TTAB 1979); TMEP §904.03(g). Applicant's point-of-sale display at a kiosk where the display was adjacent to operating units of the goods is no different, and is likewise acceptable to show trademark use. Applicant again emphasizes the marketplace reality that goods involved are of a unique nature. Applicant's PLANEDECK avionics system is an upgrade system that may be installed to supplement and improve existing cockpit communication and navigation systems. It is not commercial, off the shelf hardware and software that can be downloaded or purchased in a box in retail stores. The entire system is incorporated into the existing cockpit and is not a stand-alone item. It is impracticable to place a label on the goods themselves or on any packaging or shipping materials. See TMEP 904.03(k). It is well settled that the Trademark Office may accept another document related to the goods or the sale of the goods when it is impractical to place the mark on the goods. 15 U.S.C. §1127; 37 C.F.R. §2.56(b)(1). For all of the reasons and facts set forth above, the Specimen is a proper specimen, is not mere not mere advertising material, and was actually used at the point of sale to link or associate Applicant's Mark with the goods, and therefore it sufficiently shows use of the mark in commerce. Applicant respectfully submits that the application requires no further attention, and requests that it proceed to registration.
MISCELLANEOUS FILE NAME(S)	
ORIGINAL PDF FILE	mis-17313252251-133607738_._PLANEDECK_Attachment_for_PTO.pdf
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT11\IMAGEOUT11\776\477\77647762\xml11\RFR0002.JPG
	\\TICRS\EXPORT11\IMAGEOUT11\776\477\77647762\xml11\RFR0003.JPG
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SIGNATURE SECTION	
RESPONSE	/peter j. riebling/

SIGNATURE	
SIGNATORY'S NAME	Peter J. Riebling
SIGNATORY'S POSITION	Attorney of Record, DC Bar Member
SIGNATORY'S PHONE NUMBER	202-625-3598
DATE SIGNED	02/23/2012
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Feb 23 14:07:42 EST 2012
TEAS STAMP	USPTO/RFR-173.13.252.251-20120223140742009415-77647762-490d7ee1aaca988559de776b493eba32f1-N/A-N/A-20120223133607738894

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OMB No. 0651-0050 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **77647762** has been amended as follows:

ADDITIONAL STATEMENTS

Miscellaneous Statement

REQUEST FOR RECONSIDERATION In response to the Final Office Action, Applicant, Gulfstream Aerospace Corporation ("Gulfstream") submits this Request for Reconsideration. The Specimen of Use ("Specimen") was refused on the ground it was not acceptable because, although identified as a point-of-sale display associated with the goods, the Examiner believed it was mere advertising material. As demonstrated and shown herein however, and as stated in the accompanying Declaration of Matthew Huhn, Director, Product Support Business and Program Support of Applicant, verified under 37 C.F.R. §2.20 ("Huhn Declaration"), the Applicant provides sufficient detail to show how the Specimen was not mere advertising material, but was actually used -- at the point-of-sale -- to link or associate Applicant's Mark with the goods. First, the Specimen contains a picture of the relevant goods and a textual description that identifies the actual features or inherent characteristics of the goods such that the goods are recognizable. Second, on the Specimen the mark appears sufficiently near the picture or textual

description of the goods so as to associate the mark with the goods. Third, specifically, in order to associate the mark PLANEDECK with the goods and induce a sale of the adjacent displayed goods, the Applicant used and distributed the Specimen in a kiosk that also included operating units of the goods. Such use in conjunction with the goods occurred at multiple customer conferences and industry trade shows, including the June 2009 Gulfstream Operator's Conference and the 2009 and 2010 National Business Aircraft Association trade shows. Additional uses of the Specimen by the Applicant included hand distribution to prospective customers beginning in 2009. Huhn Declaration, ¶2. Fourth, the Specimen was moreover specifically designed by Applicant as point-of-sale material to catch the attention of purchasers and prospective purchasers as an inducement to make a sale, by using them in connection with and next to the goods on display, and using the mark PLANEDECK thereon to identify the goods being offered for sale and sold. Huhn Declaration, ¶3. Fifth, as a result of the Specimen and the Applicant's foregoing described activities and efforts, consumers in fact, prior to the deadline for filing the Statement of Use, associated the mark PLANEDECK with the goods in the Application and associated them with a source. For example, Mr. Huhn, Director, Product Support Business and Program Support of Applicant, had conversations with consumers who received the Specimen during which conversations the mark PLANEDECK was used by the consumers to refer to and mean the specific goods of and provided by the Applicant as identified in the Application that were being offered for sale and sold. Huhn Declaration, ¶4. Based on the foregoing facts, the specimen unequivocally is trademark use as a point-of-sale display associated with the goods. Displays associated with the goods that comprise point-of-sale material in actual brick-and-mortar stores such as banners, posters, shelf-talkers, window displays, menus, or similar devices are acceptable specimens to show trademark use. See In re Bright of Am., Inc., 205 USPQ 63, 71 (TTAB 1979); TMEP §904.03(g). Applicant's point-of-sale display at a kiosk where the display was adjacent to operating units of the goods is no different, and is likewise acceptable to show trademark use. Applicant again emphasizes the marketplace reality that goods involved are of a unique nature. Applicant's PLANEDECK avionics system is an upgrade system that may be installed to supplement and improve existing cockpit communication and navigation systems. It is not commercial, off the shelf hardware and software that can be downloaded or purchased in a box in retail stores. The entire system is incorporated into the existing cockpit and is not a stand-alone item. It is impracticable to place a label on the goods themselves or on any packaging or shipping materials. See TMEP 904.03(k). It is well settled that the Trademark Office may accept another document related to the goods or the sale of the goods when it is impractical to place the mark on the goods. 15 U.S.C. §1127; 37 C.F.R. §2.56(b)(1). For all of the reasons and facts set forth above, the Specimen is a proper specimen, is not mere not mere advertising material, and was actually used at the point of sale to link or associate Applicant's Mark with the goods, and therefore it sufficiently shows use of the mark in commerce. Applicant respectfully submits that the application requires no further attention, and requests that it proceed to registration.

Original PDF file:

mis-17313252251-133607738_._PLANEDECK_Attachment_for_PTO.pdf

Converted PDF file(s) (6 pages)

Miscellaneous File1
Miscellaneous File2
Miscellaneous File3
Miscellaneous File4
Miscellaneous File5
Miscellaneous File6

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /peter j. riebling/ Date: 02/23/2012
Signatory's Name: Peter J. Riebling

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

Signatory's Phone Number: 202-625-3598

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: 77647762
Internet Transmission Date: Thu Feb 23 14:07:42 EST 2012
TEAS Stamp: USPTO/RFR-173.13.252.251-201202231407420
09415-77647762-490d7ee1aaca988559de776b4
93eba32f1-N/A-N/A-20120223133607738894

REQUEST FOR RECONSIDERATION

In response to the Final Office Action, Applicant, Gulfstream Aerospace Corporation (“Gulfstream”) submits this Request for Reconsideration.

The Specimen of Use ("Specimen") was refused on the ground it was not acceptable because, although identified as a point-of-sale display associated with the goods, the Examiner believed it was mere advertising material.

As demonstrated and shown herein however, and as stated in the accompanying Declaration of Matthew Huhn, Director, Product Support Business and Program Support of Applicant, verified under 37 C.F.R. §2.20 ("Huhn Declaration"), the Applicant provides sufficient detail to show how the Specimen was not mere advertising material, but was actually used -- at the point-of-sale -- to link or associate Applicant’s Mark with the goods.

First, the Specimen contains a picture of the relevant goods and a textual description that identifies the actual features or inherent characteristics of the goods such that the goods are recognizable.

Second, on the Specimen the mark appears sufficiently near the picture or textual description of the goods so as to associate the mark with the goods.

Third, specifically, in order to associate the mark PLANEDECK with the goods and induce a sale of the adjacent displayed goods, the Applicant used and distributed the Specimen in a kiosk that also included operating units of the goods. Such use in conjunction with the goods occurred at multiple customer conferences and industry trade shows, including the June 2009 Gulfstream Operator’s Conference and the 2009 and

2010 National Business Aircraft Association trade shows. Additional uses of the Specimen by the Applicant included hand distribution to prospective customers beginning in 2009. Huhn Declaration, ¶2.

Fourth, the Specimen was moreover specifically designed by Applicant as point-of-sale material to catch the attention of purchasers and prospective purchasers as an inducement to make a sale, by using them in connection with and next to the goods on display, and using the mark PLANEDECK thereon to identify the goods being offered for sale and sold. Huhn Declaration, ¶3.

Fifth, as a result of the Specimen and the Applicant's foregoing described activities and efforts, consumers in fact, prior to the deadline for filing the Statement of Use, associated the mark PLANEDECK with the goods in the Application and associated them with a source. For example, Mr. Huhn, Director, Product Support Business and Program Support of Applicant, had conversations with consumers who received the Specimen during which conversations the mark PLANEDECK was used by the consumers to refer to and mean the specific goods of and provided by the Applicant as identified in the Application that were being offered for sale and sold. Huhn Declaration, ¶4.

Based on the foregoing facts, the specimen unequivocally is trademark use as a point-of-sale display associated with the goods. Displays associated with the goods that comprise point-of-sale material in actual brick-and-mortar stores such as banners, posters, shelf-talkers, window displays, menus, or similar devices are acceptable specimens to show trademark use. *See In re Bright of Am., Inc.*, 205 USPQ 63, 71 (TTAB 1979); TMEP §904.03(g). Applicant's point-of-sale display at a kiosk where the display was

adjacent to operating units of the goods is no different, and is likewise acceptable to show trademark use.

Applicant again emphasizes the marketplace reality that goods involved are of a unique nature. Applicant's PLANEDECK avionics system is an upgrade system that may be installed to supplement and improve existing cockpit communication and navigation systems. It is not commercial, off the shelf hardware and software that can be downloaded or purchased in a box in retail stores. The entire system is incorporated into the existing cockpit and is not a stand-alone item. It is impracticable to place a label on the goods themselves or on any packaging or shipping materials. See TMEP 904.03(k). It is well settled that the Trademark Office may accept another document related to the goods or the sale of the goods when it is impractical to place the mark on the goods. 15 U.S.C. §1127; 37 C.F.R. §2.56(b)(1).

For all of the reasons and facts set forth above, the Specimen is a proper specimen, is not mere not mere advertising material, and was actually used at the point of sale to link or associate Applicant's Mark with the goods, and therefore it sufficiently shows use of the mark in commerce. Applicant respectfully submits that the application requires no further attention, and requests that it proceed to registration.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	)	
	)	
Gulfstream Aerospace Corporation	)	Trademark Examining Attorney
	)	
Serial Number: 77/647,762	)	James A. Rauen, Esq.
	)	
Class: 9	)	Law Office 109
	)	
Filed: January 12, 2009	)	
	)	
Mark: **PLANEDECK**	)	

DECLARATION IN SUPPORT OF SPECIMEN

UNDER 37 C.F.R. § 2.20

Matthew Huhn declares that he is the Director, Product Support Business and Program Support of Applicant and is authorized to execute this declaration on behalf of Applicant; that he has personal knowledge of the facts set forth herein; that he believes that the specimen submitted for Class 9 by the Applicant with the Statement of Use (the "Specimen") for this Application No. 77/647,762 (the "Application"), is a true specimen of the mark as it is used by Applicant in Class 9; and that the Specimen was in use in commerce as early as and before the deadline for filing the Statement of Use, namely before July 21, 2011.

The Specimen was, prior to the deadline for filing the Statement of Use, used at the point of sale as material to associate the mark PLANEDECK with the goods in Class 9 specified in the

Application. Specifically, in order to associate the mark PLANEDECK with the goods in class 9 and induce a sale of the adjacent displayed goods, the Applicant used and distributed the Specimen in a kiosk that also included operating units of the goods in the Application. Such use in conjunction with the goods occurred at multiple customer conferences and industry trade shows, including the June 2009 Gulfstream Operator's Conference and the 2009 and 2010 National Business Aircraft Association trade shows. Additional uses of the Specimen by the Applicant included hand distribution to prospective customers beginning in 2009.

The Specimen was moreover specifically designed by Applicant as point of sale material to catch the attention of purchasers and prospective purchasers as an inducement to make a sale, by using them in connection with and next to the goods on display, and using the mark PLANEDECK thereon to identify the goods being offered for sale and sold.

As a result of the Specimen and the Applicant's foregoing described activities and efforts, consumers in fact, prior to the deadline for filing the Statement of Use, associated the mark PLANEDECK with the goods in Class 9 in the Application and associated them with a source. For example, I had conversations with consumers who received the Specimen during which conversations the mark PLANEDECK was used by the consumers to refer to and mean the specific goods of and provided by the Applicant as identified in the Application that were being offered for sale and sold.

Matthew Huhn further declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

GULFSTREAM AEROSPACE CORPORATION

Dated: February 23, 2012

By: _____
Name: Matthew Huhn
Title: Director, Product Support Business and Program Support