

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85935508
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION	
MARK FILE NAME	https://tmng-al.uspto.gov/resting2/api/img/85935508/large
LITERAL ELEMENT	SMART LINK SYSTEMS
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
ARGUMENT(S)	
<p>It is asserted in the outstanding Office Action that the specimen does not show use of the mark with the services. Applicant respectfully disagrees.</p> <p>In this regard, the relevant services are “Monitoring roadside billboards for business purposes, namely, using images of roadside billboards for assisting advertisers in confirming compliance with contractual terms related to advertising dates for roadside billboards.” It is asserted in the Office Action that “the specimen does not show the applied-for mark in use in commerce with any of the services specified in International Class 35 in the statement of use.” Specifically, it is asserted by the Examiner that “the specimen shows use in connection with a system and software that allows customers themselves to monitor billboards, but it does not show that the applicant actually provides monitoring services.”</p> <p>The specimen submitted by the Applicant states “The SmartLink™ DigitalView from Outdoorline, Inc.® will send images of the billboard copy at time intervals chosen by the user!” Thus, the user receives images of the billboard so that he or she can confirm that the appropriate advertisement is being displayed at the appropriate time. Capturing and sending images of billboards, as stated in the specimen, is part of a “monitoring” service that is provided to the user. The fact that the user is able to view images to confirm the advertisement does not change the fact that at least a portion of the monitoring is provided by Applicant’s services. That is, the user himself or herself does not have to capture and send images of a billboard being monitored, and Applicant handles at least a portion of the monitoring process, which is all that is required for the specimen to be acceptable in the instant case. Moreover, it is incorrect to state that the specimen does not show the applied-for mark in use with <u>any</u> of the specified services.</p> <p>Further, irrespective of the foregoing, it is important to note that transmission of images to the user at user-specified times is <u>only a portion</u> or a feature of the services advertised by the specimen. The specimen includes a drawing that shows the architecture of the “SmartLink” system. Specifically, the specimen shows a camera that captures an image of a billboard and a “Smartlink” 302 device that sends the image to a “SmartLink” server, which then provides the images through the Internet to devices connected to the Internet. The specimen also states that there are “Stored images in the SmartLink™ System”. That is, the “SmartLink” server not only sends images to the user at times chosen by the user, but it <u>also</u> stores the images in the “SmartLink” server, thereby defining a history of the billboard over time. Moreover, the act of capturing and storing images over time is an act of “monitoring.” The term “monitoring” does not require an assessment of whether the appropriate ad is displayed but rather requires a system to watch or keep track of the roadside billboard. See Exhibit A, which defines “monitoring” as “to watch, keep track of, or check.” Indeed, the description of services do not include confirming compliance of contractual terms related to advertising dates but rather recites “<u>assisting</u> advertisers in confirming compliance with contractual terms related to advertising dates for roadside billboards,” which is clearly performed by the “SmartLink” system through the capturing and storing of billboard images. (Emphasis added). Capturing and storing billboard images at a server is clearly a form of watching or keeping track of and, thus, constitutes “monitoring.”</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_19821115650-20180515191553391079_14350-0025_Exhibit_A.pdf

CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT17\IMAGEOUT17\859\355\85935508\xml8\RFR0002.JPG
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	\\TICRS\EXPORT17\IMAGEOUT17\859\355\85935508\xml8\RFR0004.JPG
DESCRIPTION OF EVIDENCE FILE	a copy of pages from the Webster dictionary.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/joneholland/
SIGNATORY'S NAME	Jon E. Holland
SIGNATORY'S POSITION	Attorney of Record, AL Bar Member
SIGNATORY'S PHONE NUMBER	256-551-0171
DATE SIGNED	05/15/2018
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
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Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **85935508** SMART LINK SYSTEMS (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/85935508/large>) has been amended as follows:

ARGUMENT(S)

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

It is asserted in the outstanding Office Action that the specimen does not show use of the mark with the services. Applicant respectfully disagrees.

In this regard, the relevant services are “Monitoring roadside billboards for business purposes, namely, using images of roadside billboards for assisting advertisers in confirming compliance with contractual terms related to advertising dates for roadside billboards.” It is asserted in the Office Action that “the specimen does not show the applied-for mark in use in commerce with any of the services specified in International Class 35 in the statement of use.” Specifically, it is asserted by the Examiner that “the specimen shows use in connection with a system and software that allows customers themselves to monitor billboards, but it does not show that the applicant actually provides monitoring services.”

The specimen submitted by the Applicant states “The SmartLink TM DigitalView from Outdoorline, Inc.® will send images of the billboard copy at time intervals chosen by the user!” Thus, the user receives images of the billboard so that he or she can confirm that the

appropriate advertisement is being displayed at the appropriate time. Capturing and sending images of billboards, as stated in the specimen, is part of a “monitoring” service that is provided to the user. The fact that the user is able to view images to confirm the advertisement does not change the fact that at least a portion of the monitoring is provided by Applicant’s services. That is, the user himself or herself does not have to capture and send images of a billboard being monitored, and Applicant handles at least a portion of the monitoring process, which is all that is required for the specimen to be acceptable in the instant case. Moreover, it is incorrect to state that the specimen does not show the applied-for mark in use with any of the specified services.

Further, irrespective of the foregoing, it is important to note that transmission of images to the user at user-specified times is only a portion or a feature of the services advertised by the specimen. The specimen includes a drawing that shows the architecture of the “SmartLink” system. Specifically, the specimen shows a camera that captures an image of a billboard and a “Smartlink” 302 device that sends the image to a “SmartLink” server, which then provides the images through the Internet to devices connected to the Internet. The specimen also states that there are “Stored images in the SmartLink™ System”. That is, the “SmartLink” server not only sends images to the user at times chosen by the user, but it also stores the images in the “SmartLink” server, thereby defining a history of the billboard over time. Moreover, the act of capturing and storing images over time is an act of “monitoring.” The term “monitoring” does not require an assessment of whether the appropriate ad is displayed but rather requires a system to watch or keep track of the roadside billboard. See Exhibit A, which defines “monitoring” as “to watch, keep track of, or check.” Indeed, the description of services do not include confirming compliance of contractual terms related to advertising dates but rather recites “assisting advertisers in confirming compliance with contractual terms related to advertising dates for roadside billboards,” which is clearly performed by the “SmartLink” system through the capturing and storing of billboard images. (Emphasis added). Capturing and storing billboard images at a server is clearly a form of watching or keeping track of and, thus, constitutes “monitoring.”

EVIDENCE

Evidence in the nature of a copy of pages from the Webster dictionary. has been attached.

Original PDF file:

[evi_19821115650-20180515191553391079_.14350-0025_Exhibit_A.pdf](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /joneholland/ Date: 05/15/2018

Signatory's Name: Jon E. Holland

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

Signatory's Phone Number: 256-551-0171

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 owner's/holder'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 owner/holder in this matter: (1) the owner/holder 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 owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder'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.

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Merriam- Webster's Collegiate[®] Dictionary

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mongoose

mono- Vm⁰-nɪ-zəm, 'mə-ŋ [G] *Monismus*, fr. *mon-* + *-ismus*; Lat. (1862) 1 a : view that there is only one kind of ultimate substance; 2 : the belief that reality is one unitary organic whole with no independent phenomena — **MONOGENESIS** 3 : a viewpoint or theory that reduces all phenomena to one principle — **mo-nist** Vm⁰-nist, 'mə-ŋ -n — **mono-tic** Vm⁰-nis-tik, mə-'ni-tik
moni-tion Vm⁰-ni-shən, mə-'ni [ME] *monition*, fr. MF *monition*, fr. L *monitiō*, *monitio*, fr. *moneo*† (14c) 1 : WARNING, CAUTION 2 : an intimation of danger
moni-tor Vm⁰-nə-tər [L], one that warns, overseer, fr. *moneo* † to warn — **moni-tor** MIND (1546) 1 a : a student appointed to assist a teacher; b : one that warns or instructs c : one that monitors or is used in monitoring as (1) a cathode-ray tube used for display (as of television pictures or computer information) (2) a device for observing a biological condition or function (as heart rate) — *Varamus* the family of large tropical Old World lizards (genus *Varamus*) of the family Lacertidae closely related to the geckos 3 [*Monitor*, first ship of the randaie] having a small modern warship formerly used in coastal operations a : a heavily armed freeboard and one or more revolving gun turrets b : a small modern warship with shallow draft for coastal bombardment 4 : a raised central portion of a roof having low windows or louvers for providing light and air — **moni-to-ri-al** Vm⁰-nə-tə-ri-əl, '-tər-ədj — **moni-to-ry** Vm⁰-nə-tə-ri-j
'monitor v **moni-to-red**; **moni-to-ri-ing** Vm⁰-nə-tə-(to-)rɪŋ (1924) : to watch, keep track of, or check up on — **moni-to-ry** adj [ME, fr. L *monitorius*, fr. *monitor*] (15c) giving admonition : WARNING
'monitory n, pl -ries (15c) : a letter containing an admonition or warning
'monk Vm⁰-ʃank [ME, fr. OE *munuc*, fr. LL *monachus*, fr. LGk *monachos*, fr. GK ἀδής, single, fr. monks single, alone] (bet. 12c) 1 : a monk who is a member of a religious order and lives in a monastery; also : PRIEST
'monk n (1843) : MONKEY
mon-key Vm⁰-ək-re, n, pl -ies (1536) 1 : monastic life or practice : MONASTICISM 2 : a monastic house : MONASTERY
'monkey Vm⁰-ke, n pl monkeys [prob. of LG origin; akin to MLn *macca*, name of an ape, prob. of Romance origin; akin to OSp *maia* monkey] (ca. 1530) 1 : a nonhuman primate mammal with the long tail usu. of the lemurs and tarsiers; esp : any of the longer logarith-tailed primates as contrasted with the apes 2 : a person resembling a monkey b : a ludicrous figure : CLUMPSY 3 : any of various machines, implements, or vessels; eg : the falling weight of a pile driver (4) desperate desire for addiction to drugs — often used in the phrase *monkey on one's back*: broadly : a persistent or annoying encumbrance or problem
'monkey vb **mon-key-ed**; **mon-key-ing** v (1859) : MIMIC, MOCK ~ vt 1 : to act in a grotesque or mischievous manner 2 : to FOOL, TRIFLE ~ vi : to play around b : TAMPERER — **usu.** used with *with*
monkey bars n pl (1955) : a three-dimensional framework of horizontal and vertical bars from which children can hang and swing
monkey business n (1883) : SHENANIGANS
monkey jacket n (1830) : MESS JACKET
'monkey pod Vm⁰-kē-pod, n (1888) 1 : an ornamental tropical leguminous tree (*Samanea saman* syn. *Pithecellobium saman*) that has pinnate leaves, globose clusters of flowers with crimson stamens, sweet-pulp pods eaten by cattle, and wood used in carving — called also *rain tree* 2 : the wood of a monkeypod
monkey puzzle n (1866) : the *Araucaria araucana* (Araucariaceae) that is native to Chile and was introduced to Argentina but widely grown elsewhere — called also *monkey puzzle tree*
— see also *shimane* 'Vm⁰-kē-shīn' n (ca. 1832) : PRANK — **usu.** used with *and*
monkey wrench n (ca. 1858) 1 : a wrench with one fixed and one adjustable jaw at right angles to a straight handle 2 : something that disrupts (threw a monkey wrench into the peace negotiations)
'monk-fish Vm⁰-kɪʃ, n (1666) : either of two goosefishes (*Lopholatilus chamaeleonticeps*) of North America and (*Negaprion brevirostris*) of Europe used food for Mon-Khmer
'mon-kish Vm⁰-kɪʃ, mək-, n (1887) : a language family consisting of Mon, Khmer, and a number of other languages of southeast Asia
'mon-kish adjs Vm⁰-kɪʃ-hūd, n (bet. 12c) 1 : the character, condition, or profession of a monk : MONASTICISM 2 : monks as a class
'monk-ish Vm⁰-kɪʃ, mək-, adjs (1546) 1 : of, relating to, or resembling monks; also : resembling that of a monk 2 : inclined to disciplinary self-denial
'monk's cloth n (ca. 1847) : a coarse heavy fabric in basket weave made orig. of worsted and used for monk's habits but now chiefly of cotton or linen and used for drapery
'mon-nal n (1841) : any of a genus (*Monachus*) of hair seals of Hawaii and the Mediterranean Sea, and formerly the Caribbean Sea
monks'-hood Vm⁰-kɪz-hūd, n (1578) : any of a genus (*Aconitum*) of perennial herbaceous plants of the buttercup family; esp : the highly poisonous Eurasian herb (*A. napellus*) often cultivated for its showy terminal racemes of white or purplish flowers — compare WOLFPOINTE
'mono Vm⁰-dʒ(ə), n, pl monoids ['mono] (1959) : monophonic reproduction
'mono adj (1961) : MONOPHONIC 2
'mono n (1962) : INFECTIOUS MONONUCLEOSIS
'mono- — see **Mono-**
'mono-acid Vm⁰-no-səd, n (1863) : an acid having only one acidic hydrogen atom
'mono-acid-ic Vm⁰-so-dɪk, adjs (ca. 1929) : able to react with one molecule of a monoacid base to form a salt ester — used esp. of bases
'mono-amino Vm⁰-no-mɪ-no, mɪ-'neɪv [JSV] (1951) : an amine RNH₂; the one organic substituent attached to the nitrogen atom; esp : one (of the amino acids) that is functionally important in neural transmission
'monoamine oxidase n (1951) : an enzyme that deaminates neurotransmitters oxidatively and that functions in the nervous system by breaking down monoamine neurotransmitters oxidatively
'mono-am-in-ergic Vm⁰-no-mɪ-no-er-gɪk, n, mɪ-'ner-jɪk, adjs (1966) : liberatory of involving monoamines (as serotonin) in the mechanism of noradrenergic mission (~ neurons)
'mono-basic Vm⁰-no-bɪk, bɪ-'sɪk, adjs [JSV] (1842) of an acid : having only one replaceable hydrogen atom
'mono-car-box-ylic Vm⁰-no-kar-bɪk, sɪ-'lɪk, adjs (ca. 1909) : containing a carboxyl group (acetic acid is ~ acid)