

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87659965
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION	
MARK FILE NAME	https://tmng-al.uspto.gov/resting2/api/img/87659965/large
LITERAL ELEMENT	MC
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
ARGUMENT(S)	
<p>Responsive to the Final Office Action mailed February 12, 2019, Applicant submits herewith a substitute specimen demonstrating use of the mark in Class 41. The specimen consists of screenshots from Applicant's (Cinemark's) on- line box office (Internet and mobile application) for purchase of movie theater tickets. The mark is shown in connection with an immediate purchase discount for buying movie theater tickets: "MC Movie Club Members Save \$4.71". Thus, the mark is being used with movie theater services in the form of Box Office on-line ticket sales for movies. Applicant respectfully requests that the Examining Attorney reconsider the refusal to register, and that the Application be allowed to proceed to publication. Should the Examiner continue refusal, Applicant requests early notification and entry of the substitute specimen in order to file the necessary appeal brief prior to the expiration of the deadline set forth by the Trademark Trial and Appeal Board.</p>	
GOODS AND/OR SERVICES SECTION (009)(no change)	
GOODS AND/OR SERVICES SECTION (035)(no change)	
GOODS AND/OR SERVICES SECTION (041)(current)	
INTERNATIONAL CLASS	041
DESCRIPTION	Movie theaters
FIRST USE ANYWHERE DATE	At least as early as 12/05/2017
FIRST USE IN COMMERCE DATE	At least as early as 12/05/2017
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (041)(proposed)	
INTERNATIONAL CLASS	041
DESCRIPTION	Movie theaters
FIRST USE ANYWHERE DATE	At least as early as 12/05/2017
FIRST USE IN COMMERCE DATE	At least as early as 12/05/2017
STATEMENT TYPE	<p>"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached specimen is a true copy of the specimen that was originally submitted with the application,</p>

	amendment to allege use, or statement of use" [for an illegible specimen].
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPU2-7219078229-20190605144951218236 . Specimen.pdf
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT17\IMAGEOUT17\876\599\87659965\xml16\RFR0002.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\876\599\87659965\xml16\RFR0003.JPG
SPECIMEN DESCRIPTION	screen shot for movie theater services
DELETED FILING BASIS	1(b)
SIGNATURE SECTION	
ORIGINAL PDF FILE	HS_7219078229-181609773 . Declaration.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\876\599\87659965\xml16\RFR0004.JPG
SIGNATORY'S NAME	Eugenio Huot-Calderon
SIGNATORY'S POSITION	VP-Associate General Counsel
RESPONSE SIGNATURE	/Sanford E. Warren Jr./
SIGNATORY'S NAME	Sanford E. Warren, Jr.
SIGNATORY'S POSITION	Attorney for Applicant, Texas Bar Member
SIGNATORY'S PHONE NUMBER	972-550-2955
DATE SIGNED	06/07/2019
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Jun 07 18:19:04 EDT 2019
TEAS STAMP	USPTO/RFR-XX.XXX.XX.XXX-2 0190607181904287040-87659 965-6205b2776445ee7c812ca 3d1ea17d9d3d43478baa3fc74 1fcf41a3f5932381187b5-N/A -N/A-20190607181609773962

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PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 09/20/2020)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **87659965** MC (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/87659965/large>) has been amended as follows:

ARGUMENT(S)

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

Responsive to the Final Office Action mailed February 12, 2019, Applicant submits herewith a substitute specimen demonstrating use of the mark in Class 41. The specimen consists of screenshots from Applicant's (Cinemark's) on- line box office (Internet and mobile application) for

purchase of movie theater tickets. The mark is shown in connection with an immediate purchase discount for buying movie theater tickets: "MC Movie Club Members Save \$4.71". Thus, the mark is being used with movie theater services in the form of Box Office on-line ticket sales for movies. Applicant respectfully requests that the Examining Attorney reconsider the refusal to register, and that the Application be allowed to proceed to publication. Should the Examiner continue refusal, Applicant requests early notification and entry of the substitute specimen in order to file the necessary appeal brief prior to the expiration of the deadline set forth by the Trademark Trial and Appeal Board.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 041 for Movie theaters

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: For a trademark or service mark application: As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. **For a collective trademark, collective service mark, or collective membership mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 041, the mark was first used at least as early as 12/05/2017 and first used in commerce at least as early as 12/05/2017 .

Proposed: Class 041 for Movie theaters

Deleted Filing Basis: 1(b)

In International Class 041, the mark was first used at least as early as 12/05/2017 . and first used in commerce at least as early as 12/05/2017 .

Applicant hereby submits one(or more) specimen(s) for Class 041 . The specimen(s) submitted consists of screen shot for movie theater services . **"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application"** [for an application based on Section 1(a), Use in Commerce] **OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use"** [for an application based on Section 1(b) Intent-to-Use]. **OR "The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use"** [for an illegible specimen].

Original PDF file:

[SPU2-7219078229-20190605144951218236 . . Specimen.pdf](#)

Converted PDF file(s) (2 pages)

[Specimen File1](#)

[Specimen File2](#)

SIGNATURE(S)

Declaration Signature

Original PDF file:

[HS 7219078229-181609773 . . Declaration.pdf](#)

Converted PDF file(s) (1 page)

[Signature File1](#)

Signatory's Name: Eugenio Huot-Calderon

Signatory's Position: VP-Associate General Counsel

Request for Reconsideration Signature

Signature: /Sanford E. Warren Jr./ Date: 06/07/2019

Signatory's Name: Sanford E. Warren, Jr.

Signatory's Position: Attorney for Applicant, Texas Bar Member

Signatory's Phone Number: 972-550-2955

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 not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 87659965

Internet Transmission Date: Fri Jun 07 18:19:04 EDT 2019

TEAS Stamp: USPTO/RFR-XX.XXX.XX.XXX-2019060718190428

7040-87659965-6205b2776445ee7c812ca3d1ea

17d9d3d43478baa3fc741fcf41a3f5932381187b

5-N/A-N/A-20190607181609773962

Buy Tickets



Godzilla: King of the Monsters



PG-13 | 132 min
XD Luxury Lounger RealD 3D
- Reserved Seating
CC

Today, June 5
1:00 pm

Cinemark Legacy and XD
7201 N Central Expressway
Plano, TX 75025

- | | | | | |
|---|---|---|---------------|---------|
| - | 1 | + | XD 3D Matinee | \$14.50 |
| - | 0 | + | XD 3D Senior | \$13.75 |
| - | 0 | + | XD 3D Child | \$13.25 |


MC Movie Club Members Save

Estimated Savings \$4.71

Join Movie Club

Purchase



Menu 



1



\$14.00

3D Senior

Senior (62+)



0



\$11.50

3D Child

Child (1-11)



0



\$11.00



Join Movie Club and Save

Estimated Savings

\$4.71

Join Movie Club and get 20% off concessions and more.

[Join Movie Club](#)

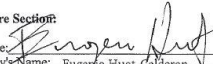
Declaration Signature

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or allegation of use (AOU) unsigned, all statements in the application or AOU and this submission based on the signatory's own knowledge are true, and all statements in the application or AOU and this submission made on information and belief are believed to be true.

STATEMENTS FOR UNSIGNED SECTION 1(a) APPLICATION/AOU: If the applicant filed an unsigned application under 15 U.S.C. §1051(a) or AOU under 15 U.S.C. §1051(c), the signatory additionally believes that: the applicant is the owner of the mark sought to be registered; the mark is in use in commerce and was in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; the original specimen(s), if applicable, shows the mark in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; *for a collective trademark, collective service mark, collective membership mark application, or certification mark application*, the applicant is exercising legitimate control over the use of the mark in commerce and was exercising legitimate control over the use of the mark in commerce as of the filing date of the application or AOU; *for a certification mark application*, the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION AND FOR SECTION 66(a) COLLECTIVE/CERTIFICATION MARK APPLICATION: If the applicant filed an unsigned application under 15 U.S.C. §§ 1051(b), 1126(d), and/or 1126(e), or filed a collective/certification mark application under 15 U.S.C. §1141(f), the signatory additionally believes that: *for a trademark or service mark application*, the applicant is entitled to use the mark in commerce on or in connection with the goods/services specified in the application; the applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date; *for a collective trademark, collective service mark, collective membership mark, or certification mark application*, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; *for a certification mark application*, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

Signature Section:

Signature: 
 Signatory's Name: Eugenio Huot-Calderon

Signatory's Position: VP-Associate General Counsel
 Signatory's Phone Number: 972-665-1000

Date Signed: June 6, 2019

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the declaration language. Do **not** include the entire application, but do ensure that the declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.