

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 87509354

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Examiner: REAMS, Christopher

Applicant: Ironclad Encryption Corporation

Mark: IRONCLAD

Attorney Docket: ICE-TM-2L

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

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Signature

/Len Walker/
Printed Name

PRIORITY ACTION

Dear Examiner Reams,

In response to the Office Action mailed August 6, 2018, the following substitute specimen(s) and remarks are respectfully submitted in connection with the above-identified application.

A listing of **Substitute Specimen(s)** as provided begins on page 2 of this response.

Remarks begin on page 3 of this response.

SUBSTITUTE SPECIMEN(S)

The following is a complete listing of substitute specimen(s) as provided by the Applicant in regards to this response.

LISTING OF SPECIMEN(S)

1. Screen Shot (bottom) - <https://ironcladencryption.com/products>
2. Screen Shot (top) - <https://ironcladencryption.com/products>

REMARKS

Favorable reconsideration of this application, in light of the preceding specimen(s) and following remarks, is respectfully requested. No new matter is added.

SPECIMEN REQUIRED IN INTERNATIONAL CLASS 9

In response to the refusal of registration, Applicant hereby submits the specimen in International Class(s) 9.

The specimens provided, especially as related to Class 9, are in keeping with the requirements of the class as provided below.

Applicant is providing a Web page that displays a product constituting a "display associated with the goods" as the requirements of §TMEP 904.03(i), as provided below, have been satisfied:

- (1) contains a picture or textual description of the identified goods;
- (2) shows the mark in association with the goods; and
- (3) provides a means for ordering the identified goods.

Advertising materials may consist of the following: online advertising banners appearing on search engine result pages and in social media; advertising circulars and brochures; price lists; listings in trade directories; and business cards, *See* TMEP §904.04(b), and are generally not acceptable as specimens to show use in commerce for goods. *See In re Kohr Bros.*, 121 USPQ2d 1793, 1794 (TTAB 2017) (quoting *In re Quantum Foods, Inc.*, 94 USPQ2d 1375, 1379 (TTAB 2010)); TMEP §904.04(b), (c). The Applicant submits that the substitute specimen is more than "mere advertising material" and thus the specimen shows the applied-for mark in use in commerce per Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Specimen 1:

Applicant submits a web page screen shot of the bottom portion of web page <https://ironcladencryption.com/products> which indicates the mark Ironclad Encryption associated with the Applicant products.

Specimen 1 also provides IronClad's product ICEMicro, a secured container that is available for consumer access via supplied direct links to the open sourced product, as described below. The Github direct link is supplied as <https://github.com/icemicro/icecube> and the Docker Hub link is supplied as <https://hub.docker.com/r/icemicro/icecube/>.

Also provided in the specimen is the statement, "The **IronClad** "Helmet" represents IRNC's (**IRoNClad** Encryption) commitment to your data security."

Specimen 2:

Applicant submits a web page screen shot of the top portion of web page <https://ironcladencryption.com/products> which indicates another means to order the goods.

"To purchase or get further details on the products below, please contact sales@ironcladencryption.com."

The substitute specimen(s) provide the mark was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.

CONCLUSION

In view of the above remarks and specimen(s), the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance of registration. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned, at the telephone number of the undersigned below.

Respectfully submitted,

Ironclad Encryption Corporation

BY:

/Len Walker/

Len Walker, VP Legal
777 Post Oak Lane, Suite 1700
Houston, TX 77056
910-546-1141