

ATTACHMENT TO RESPONSE

MARK: CHANNEL MASTER
SERIAL NUMBER: 86426235

The following addresses issues raised in the non-final Office Action issued on this application on September 29, 2015 ("Office Action") in supplementation of the Response to which this relates.

IDENTIFICATION OF SERVICES

Regarding the Class 35 identification language, applicant has accepted all Class 35 amendments proposed in the Office Action as reflected in the amended identification language submitted with the TEAS Response form.

Regarding the Class 38 identification language relating to renting and leasing activities, the Office Action confirms that the current identification language is acceptable.

Regarding the Class 38 identification language relating to distribution/dissemination activities involving entertainment content, applicant notes that it is the owner of a registration for the same CHANNEL MASTER mark (Reg. No. 4,923,104) in which the following Class 38 identification language was approved by the USPTO: "Electronic transmission, distribution and delivery of video, audio, movies, television and music".

Applicant believes that the original Class 38 identification language in this application relating to distribution/dissemination services (i.e., "Distribution and dissemination of entertainment content and advertising through software, hardware, equipment, devices and online means") is sufficiently definite. However, applicant has submitted the following amendments in order to conform this identification language more closely to the Class 38 language approved in applicant's Reg. No. 4,923,104 (changes shown with tracking):

Electronic distribution and dissemination of entertainment content in the nature of video, audio, movies, television and music, and electronic distribution and dissemination of advertising in connection with that entertainment content, with such distribution and dissemination occurring through software, hardware, equipment, devices and online means, in International Class 38.

The complete amended identification is set forth in the appropriate sections of the Response.

As noted previously, the services intended to be covered by this application (in particular, applicant's distribution/dissemination services involving entertainment content) consist of unique services involving new technologies. Consequently, the ID Manual does not contain identifications that are on point for those services. Accordingly, the identification language needs to be specifically tailored in order to accurately describe the services at issue. As recognized in TMEP, the ID Manual "is not exhaustive, but is intended to serve as a guide." TMEP 1402.04 ("No listing could include all possible identifications for the multitude of products and services for which marks may be registered."). Rather, "a primary use of the ID Manual's listings, in addition to indicating precise identifications that will be accepted, is to indicate by analogy and example the kinds of identifications that will be acceptable for products and services not covered by the existing listings." TMEP 1402.04.

The TMEP also recognizes that, when considering whether proposed identification language is appropriate, "deference should be given to the language set forth by the applicant." TMEP 1402.01(a). Such deference is particularly appropriate in these circumstances where the services consist of unique services involving new technologies.

In light of the foregoing, the amended identification language is believed to be sufficiently definite and otherwise consistent with applicable standards. See TMEP 1402.01(a) ("with few exceptions, an identification of goods and services will be considered acceptable if it: is written in English; describes the goods and/or services so that an English speaker could understand what the goods and/or services are, even if the grammar or phrasing is not optimal; Meets the standards (not necessarily the language) set forth in the ID Manual; is not a class heading; and is in the correct class.").