

Please consider the following in response to the December 18, 2018 Office Action herein.

Class 44 Specimen Refusal – Applicant filed the subject application under Trademark Act Section 1(a) on August 31, 2018, based on use and use in commerce of the applied-for mark in Classes 9 and 44 at least as early as March 6, 2012. In the Office Action, the Examining Attorney accepts Applicant’s Class 9 specimen; however, she has rejected Applicant’s Class 44 specimen, alleging, “there is no reference to applicant offering any of the identified services,” and that the specimen shows “no direct association between the mark and the services.”

Applicant respectfully traverses the Examining Attorney’s objection and requirement for a Class 44 substitute specimen, and submits the information and arguments set forth below in support of its position. *In the alternative*, Applicant submits herewith substitute specimens, supported by an appropriate declaration, as set forth below.

Applicant filed the attached specimen¹ in support of Class 44 herein. Applicant respectfully submits this specimen of record shows use of the mark in direct association with the services. For example, page 10 of the specimen refers to the ability to “upload your data ... for more in-depth analysis with your healthcare provider,”

Simple reporting.

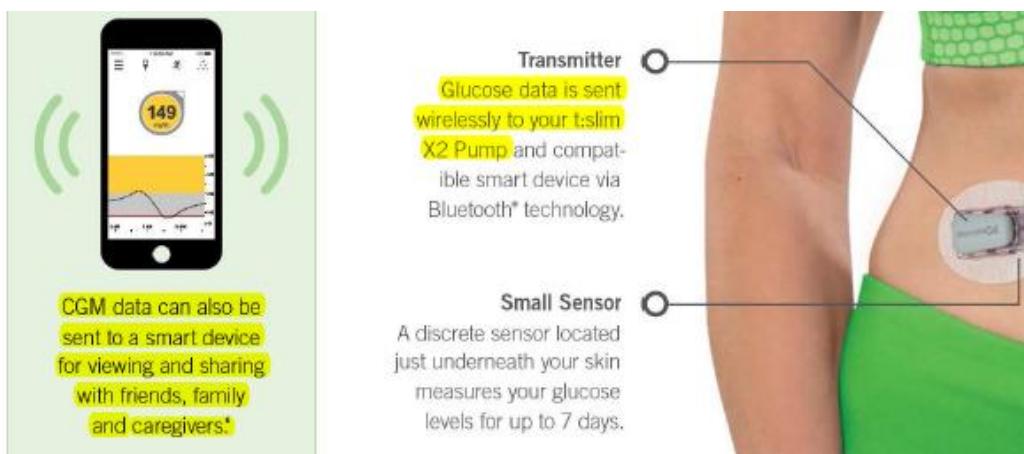
The t:slim X2 Pump allows you to view your insulin delivery history right on the screen. You can also quickly upload your data using the t:connect® Diabetes Management Application on either a Mac® or a PC, and generate reports for more in-depth analysis with your healthcare provider.

Further, page 10 of the specimen illustrates an example of a successful upload notification on the device, as seen in the below excerpt:



Further, page 13 of the specimen of record refers to “sharing” continuous glucose monitoring (CGM) data “with friends, family and caregivers,” as seen in the excerpt below:

¹ See attached Exhibit labeled “88095661 Cl 44 Specimen 083118.”



Applicant respectfully submits the foregoing examples sufficiently reference Applicant's identified "interactive medical monitoring, reporting and alert services for infusion pump users for medical treatment purposes" services so as to "create[] in the mind of the purchaser an association between the mark and the service."²

Substitute Specimen – For all of the foregoing reasons, Applicant respectfully submits the Class 44 specimen of record is acceptable. *In the alternative*, however, Applicant submits herewith substitute specimens in the nature of a web page screenshot and promotional brochure, supported by the appropriate declaration.

In light of the foregoing, Applicant respectfully requests withdrawal of the present refusal to register, and allowance of the application for publication.

² *In re Adair*, 45 USPQ2d 1211, 1215 (TTAB 1997) (quoting *In re Johnson Controls Inc.*, 33 USPQ2d 1318, 1320 (TTAB 1994)).