

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Tradepro Products, LLC

Serial No: 88527139

Mark: **SOLUPAC**

Law Office: 105

Examining Attorney: Maureen Dall Lott

Filing Date: July 22, 2019

RESPONSE TO OFFICE ACTION DATED OCTOBER 12, 2019

In the Office Action dated October 12, 2019 (the “Office Action”), the Examining Attorney (“Examiner”) refused registration of Applicant’s mark SOLUPAC on the grounds of likelihood of confusion with the registered mark No. 4847031 for SOLUPAK. As further explained below, Applicant respectfully disagrees there is a likelihood of confusion for purposes of this trademark analysis as the marks are dissimilar in legally significant respects.¹ This Response additionally addresses the remaining issues raised in the Office Action as to the identification of goods and the sufficiency of the proposed specimen.

I. THERE IS NO LIKELIHOOD OF CONFUSION BETWEEN APPLICANT’S MARK AND REGISTRANT’S MARK

In a likelihood of confusion determination, the issue is not whether the respective marks themselves or the goods or services offered under the marks are likely to be confused. Rather, the test is whether there is a likelihood of confusion as to the source or sponsorship of the goods or services because of the marks used thereon. *See Paula Payne Prods. Co. v. Johnson’s Pub’g Co.*, 473 F.2d 901, 902 (1973) (“[T]he question is not whether people will confuse the marks, but rather whether the marks will confuse people into believing that the goods they identify emanate from the same source.”); *In re Majestic Distilling Co.*, 315 F.3d 1311, 1316 (Fed. Cir. 2003) (“[T]he...mistaken belief that [a good] is manufactured or sponsored by the same entity [as another good] ... is precisely the mistake that §2(d) of the Lanham Act seeks to prevent.”).

¹ A similar Office Action was filed on May 19, 2017 in response to Applicant’s initial intent to use application Serial No. 87128744, which was overcome based on the arguments similar to those incorporated herein. Applicant submits that the prior examiner did not commit clear error in withdrawing its similar refusals.

Factors to be considered in determining whether there is a likelihood of confusion are discussed in the seminal case *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357 (1973). These factors include, but are not limited to, the following: (1) similarity or dissimilarity of the marks in their entireties; (2) similarity or dissimilarity of the goods or services as described in an application or registration; (3) similarity or dissimilarity of established or likely-to-continue trade channels; (4) conditions under which and buyers to whom sales are made; (5) extent of potential confusion, i.e., whether *de minimis* or substantial; and (6) any other established fact probative of the effect of use. *See id.*

Further, where an examining attorney issues a refusal based on likelihood of confusion, the examiner must provide evidence showing that the goods and services are related to support such a finding. *See* TMEP § 1207.01(a)(vi).

In the Office Action, the Examiner stated the following factors are the most relevant: (1) similarity of the marks, (2) similarity and nature of the goods, and (3) similarity of the trade channels of the goods. Applicant respectfully submits that a thorough analysis of the above factors, in addition to other pertinent considerations under *Du Pont*, as well as the evidence presented, supports a finding that the marks are not confusingly similar.

A. The Marks

As amended in consideration of the Examiner's suggestions, Applicant's mark is SOLUPAC for the following goods:

Class 16: General purpose plastic bags, namely, high density polyethylene (HDPE) T-shirts bags, and high density polyethylene (HDPE) and low density polyethylene (LDPE) trash can liners; Plastic products, namely, high density polyethylene (HDPE) and low density polyethylene (LDPE) die cut shopping bags; plastic patch handle and soft loop shopping bags; plastic wicket bags for merchandise packaging; plastic security mailers and e-commerce bags in the nature of plastic envelopes for mailing or packaging; Plastic products, namely, film roll stock for packaging; plastic zipper bags for packaging, namely, household food storage zipper bags for packaging use; plastic bags for household use, namely, polypropylene (PP) non-woven and plastic mesh bags; paper products, namely, kraft paper bags, kraft paper rolls stock for packaging, toilet tissue, kitchen paper towels, paper napkins, junior bathroom tissue, hard-wound roll paper-towels; paper products, namely, paper bags for merchandise packaging, paper bags for household use.

Class 21: Plastic cups, paper cone cups

Class 22: Plastic security bags, namely, security bags to store and transport cash, bills of exchange and other valuables

Registrant's mark is SOLUPAK for:

Class 16: Liquid degradable portion control pouches, substantially made of paper, for the packaging in the medical and sanitation industries.

The following analysis of the pertinent *DuPont* factors shows that the differences between the marks outweigh any similarities such to overcome a likelihood of confusion determination.

B. The DuPont Factors & The Evidence

1. The Marks Are Not Similar In Their Entireties As To Appearance, Sound, Connotation, And Commercial Impression

A proper analysis of the marks' similarities or dissimilarities involves comparing the marks in their appearance, sound, connotation, and overall commercial impression *in their entireties*. See *In re E.I. du Pont de Nemours*, 476 F.2d at 1361. Considering these factors in their entireties, it is clear that Applicant's Mark is not confusingly similar to the Registered Mark.

(a) Appearance

The Examiner based the finding of likelihood of confusion of the marks by concluding that the wording SOLUPAC is identical to SOLUPAK, except for the difference in the last letter. But as is pointed out by the Examiner, the spelling between the marks is in fact different, and therefore the two marks are not "identical." Accordingly, Applicant respectfully submits the appearance of the Applicant's mark is demonstrably different from the appearance of Registrant's Mark.

(b) Sound

Applicant concedes that the pronunciation of the Applicant's mark SOLUPAC and the registered mark SOLUPAK are similar. However, these two marks bare other very significant differences such that the similarity in sound is of no consequence as even marks that are identical in sound and/or appearance may create sufficiently different commercial impressions when applied to the respective parties' goods or services so that there is no likelihood of confusion. TMEP § 1207.01(b)(v); *In re Sears, Roebuck & Co.*, 2 USPQ2d 1312, 1314 (TTAB 1987) (holding CROSS-OVER for bras and CROSSOVER for ladies' sportswear not likely to cause confusion where the term "CROSS-OVER" was suggestive of the

construction of applicant's bras and "CROSSOVER" was "likely to be perceived by purchasers either as an entirely arbitrary designation, or as being suggestive of sportswear which "crosses over" the line between informal and more formal wear . . . or the line between two seasons"); *In re British Bulldog, Ltd.*, 224 USPQ 854, 856 (TTAB 1984) (holding PLAYERS for men's underwear and PLAYERS for shoes not likely to cause confusion, agreeing with applicant's argument that the term "PLAYERS" implies a fit, style, color, and durability suitable for outdoor activities when applied to shoes, but "implies something else, primarily indoors in nature" when applied to men's underwear.).

(c) Connotation & Overall Commercial Impression

As suggested above, even if the marks were identical in sound or appearance, they nevertheless create entirely different commercial impressions when applied to the parties' respective goods. *See* TMEP § 1207.01(b)(v) (the meaning or connotation of a mark must be determined in relation to the named goods or services).

Applicant's recited goods, as amended, involve general use and retail packaging plastic and paper products, much of which relate to packaging solutions, including t-shirt bags, die cut bags, patch handle and soft loop bags, wicket bags, mailers, e-commerce bags, film roll stock for packaging, food storage zipper bags, mesh bags, paper bags for merchandise packaging and for household use, and security bags. Thus, the "SOL" in the term SOLUPAC connotes *solutions* for packaging.

On the other hand, Registered Mark SOLUPAK for liquid degradable portion control pouches, substantially made of paper, for use in medical and sanitation industries is specific to the highly specialized nature of the good, that is, a liquid degradable, or "soluble,"² pouch, or package. Thus, the "SOL" in the term SOLUPAK connotes a *solubility*.

Because each mark connotes its own very distinct and specific meaning when considered in relation to the named goods (i.e., *solutions* vs. *soluble*), Applicant's mark does not provide a similar overall commercial impression to that of the registered mark, and thus, is not confusingly similar. *See e.g. In re*

² *See* <https://www.dictionary.com/browse/soluble?s=t> (defining "soluble" as an adjective for "capable of being dissolved or liquefied").

Sears, Roebuck & Co., 2 USPQ2d at 1314; *In re British Bulldog, Ltd.*, 224 USPQ at 856; *In re Sydel Lingerie Co.*, 197 USPQ 629, 630 (TTAB 1977) (holding BOTTOMS UP for ladies' and children's underwear and BOTTOMS UP for men's clothing not likely to cause confusion, noting that the wording connotes the drinking phrase "Drink Up" when applied to men's clothing, but does not have this connotation when applied to ladies' and children's underwear); *see also Murphy, Brill and Sahner, Inc. v. New Jersey Rubber Company*, 102 USPQ 420 (Commr. Pat. 1954) (finding that TOPFLITE for shoe soles conveys a particular meaning, whereas FLITE TOP for hosiery, conveyed no significant meaning as to hosiery).

As the appearances are not identical, and the connotation and overall commercial impression of each mark are entirely different and unrelated, the similarity of the marks factor weighs in favor of finding that there is no likelihood of confusion.

2. The Identified Goods Are Entirely Different

On its face, the above identifications of goods reveals that each mark concerns entirely different goods, industries and consumers.

The description of goods under Applicant's SOLUPAC mark indicates the mark is used in connection with shopping bags (i.e., T-shirts bags, die cut bags, plastic patch handle and soft loop bags, wicket bags), trash can liners, security mailers, e-commerce bags, film roll stock, zipper bags for household food storage, and paper products such as paper bags, paper roll stock, toilet tissue, kitchen paper towels, paper napkins, and paper bags for merchandise packaging, and paper bags for household. These goods are for household and retail commercial use, and, as such, describe the household and retail industries as the industries in which the goods may be used in.

On the other hand, the description of goods under Registrant's SOLUPAK mark indicates the good is a "liquid degradable portion control pouch" for use in the "medical and sanitation industries." Applicant respectfully submits that the industries indicated under each mark are sufficiently distinct to avoid any real possibility of consumer confusion.

In the Office Action, the Examiner states that goods under each mark are "legally identical" because "all of the goods are related as they be used for similar purposes." Applicant respectfully disagrees. The

Applicant's goods are used for general household and commercial retail packaging purposes, while Registrant's good is used for medical and sanitation industrial purposes. The purposes are not similar as the medical³ and sanitation⁴ industries do not involve retail sales of general or household packaging solutions.

The Examiner further states that the marks are legally identical because "some of applicant's paper bags are identical to the paper pouches for packaging in the medical and sanitation industries listed in the registration." Applicant likewise respectfully disagrees as such a finding is not possible. Nothing in the description of Applicant's mark suggest that the goods include any type of water-soluble pouch, or other similar degradable product, made of paper or otherwise, for use in the specific medical or sanitation industries.⁵ To the contrary, Applicant's description states that its paper bags are "**kraft paper bags,**" "**paper bags for merchandise packaging,**" and "**paper bags for household use.**" Similarly, nothing in Registrants description suggests that its goods are common household or retail paper bags. Accordingly, the goods are not "legally identical" as Applicant's goods would not come within the identification of Registrant's good, nor would Registrant's good come within the identification of Applicant's goods. *See Microchip Tech. Inc. v. Mobility Corp.*, 2018 TTAB LEXIS 290, *18 (Trademark Trial & App. Bd. August 2, 2018) (finding that semiconductor devices and integrated circuits were not legally identical to a discrete products that, even if constituted a component part, did not encompass Applicant's flash devices as the goods were substantially different in intended use or purpose); *see also In re Max Capital Group Ltd.* 93 U.S.P.Q.2D (BNA) 1243, 1244, 2010 TTAB LEXIS 1, *3-4 (Trademark Trial & App. Bd. January 4, 2010) ("writing property and casualty insurance" was legally identical to "underwriting of property and casualty insurance" because the nature of the services under each mark were identical).

³ See https://en.wikipedia.org/wiki/Healthcare_industry ("The healthcare industry (also called the medical industry or health economy) is an aggregation and integration of sectors within the economic system that provides goods and services to treat patients with curative, preventive, rehabilitative, and palliative care.")

⁴ See <https://en.wikipedia.org/wiki/Sanitation> ("Sanitation refers to public health conditions related to clean drinking water and adequate treatment and disposal of human excreta and sewage.")

⁵ Likewise, the specimen attached to the Registrant's application does not show the mark in use in connection with the goods or services identified under the mark.

Additionally, the notion that Registrant might expand its good from the very specific “liquid degradable portion control pouch” to the kind of every day common household and retail goods marketed by Applicant is highly speculative and not supported by any evidence. Likewise, the evidence does not support a conclusion that any of the goods listed in Applicant’s description of goods may encompass such a liquid degradable portion control pouch for use in the specified medical or sanitation industries. In any event, consideration of any such expansion by either party into the other’s market is nevertheless more appropriate for *inter partes* proceedings, as the expansion of trade doctrine has limited application in an *ex parte* proceeding. See *In re 1st USA Realty Professionals, Inc.*, 2007 TTAB LEXIS 73, 84 U.S.P.Q.2D (BNA) 1581, 1584.

Furthermore, although Registrant’s goods may relate to a type of bag or package, there is no per se rule that packaging materials are related. See *GE v. Graham Magnetics Inc.*, 1977 TTAB LEXIS 197, *14, 197 U.S.P.Q. (BNA) 690, 694 (Trademark Trial & App. Bd. October 27, 1977) (“It is, however, not enough to find one term that may generically describe the goods. More must be shown: that is, a commercial or technological relationship must exist between the goods such that the use of the trademark in commercial transactions on the goods is likely to produce opportunities for purchasers or users of the goods to be misled about their source or sponsorship.”); TMEP 1207.01(a)(iv) (as facts in each case vary, there can be no rule that certain goods or services are per se related, such that there must be a likelihood of confusion from the use of similar marks in relation thereto); *In re White Rock Distilleries, Inc.*, 92 U.S.P.Q.2D (BNA) 1282, 1285 (finding there is no per se rule that holds that all alcoholic beverages are related); see also *See Wreal, LLC v. Amazon.com, Inc.*, 2015 U.S. Dist. LEXIS 187420, at *13 (S.D. Fla. 2015) (finding the marks FyreTV and Fire TV significantly dissimilar where, even though both involved video streaming services, FyreTV is in the market of streaming pornographic content, while Fire TV is expressly not); *Shen Mfg. Co., Inc. v. Ritz Hotel, Ltd.*, 393 F.3d 1238, 1245 (Fed. Cir. 2004) (reversing the board's finding that gloves are related to barbeque mitts where such a conclusion was not supported by substantial evidence; fact that "mitt" was defined as a type of glove had no relevance to whether a consumer would believe that the two products emanate from the same source”).

3. The Goods Are Not Marketed In Similar Trade Channels

Applicant further disagrees with Examiner's contention that the goods move in the same trade channels as the Internet evidence attached to the Office Action does not establish the necessary commercial link between the two products, nor does it show Registrants goods and Applicant's goods are sold under the same mark.

As stated above, where an examining attorney issues a refusal based on likelihood of confusion, the examiner must provide evidence showing that the goods and services are related to support such a finding. *See* TMEP § 1207.01(a)(vi). Evidence of relatedness might include news articles and/or evidence from computer databases showing that the relevant goods/services are used together or used by the same purchasers; advertisements showing that the relevant goods/services are advertised together or sold by the same manufacturer or dealer; and/or copies of prior use-based registrations of the same mark for both applicant's goods/services and the goods/services listed in the cited registration. *See* TMEP § 1207.01(a)(vi).

The Examiner's evidence shows that various entities commonly provide or manufacture a variety of packaging products under the same mark. However, the fact that any one entity, or that several entities, may provide "a variety of packaging products" does not support the conclusion that Applicant's common household and retail products and Registrants specific liquid soluble medical and sanitation product travel in the same trade channels.

Specifically, the Examiner's evidence consists of excerpts from four separate websites for companies that sell various packaging supplies to various consumers. The first, **DM Packaging Company**, appears to sell bags for various basic office and commercial purposes ranging from plastic and paper bags for merchandise sales and gifts, to simple can liners for garbage. There is no indication that DM Packaging also sells any type of water-soluble paper based packaging technology for use in any specific industry. Next, **Uline** is an office supply store that sells various office products ranging from mailing supplies to office furniture that is not specific to any particular industry. Uline does not sell any water-soluble packaging for the medical or sanitation industries. The third website, **ProAmpac**, appears to be a specialty

packaging manufacturer, similar to Applicant, that sells retail merchandising and packaging supplies. Although not shown in Examiner's evidence, ProAmpac also seems to sell commercial packaging solutions for food, beauty supplies and cleaning supplies. However, ProAmpac does not appear to sell anything like Registrant's water soluble pouches for medical and sanitation industry purposes. Lastly, **Wipak** is another specialty packaging company that makes sterile packaging for specific foods in commercial food industry, as well as for the medical instrument and device industry. Wipak does not sell basic household use and merchandising bags.

Ultimately, none of the internet evidence supplied by the Examiner supports a finding that the types of products sold by Applicant are sold alongside the types of products sold by Registration. In fact, none of suppliers, whether general or specialized, sell or manufacture water soluble pouches or any such related sophisticated technology. Indeed, the one manufacturer appearing to sell specialty sterile packaging, Wipak, seems to sell only the specialty packaging, and does not offer retail or household packaging as well. Therefore, Examiner's internet evidence does not show that Applicant's and Registrants goods emanate from a single source.

Moreover, Registrant's water-soluble bags appear to be a highly specialized product that is not commonly sold to ordinary retail consumers. An internet search for water soluble pouches reveals that such materials or technologies are offered only by highly specialized manufactures for sale to other product manufacturers seeking to adopt such technologies into their own products. **See Composite Exhibit A** (screenshots of four different companies that sell water soluble packaging and materials: www.aquasolpaper.com; www.smartsolve.com; www.cortecvci.com; and www.solublon.com). The websites referenced in Exhibit A show that water soluble pouches involve a specialized technology for very specific markets, including the food, sanitation, and medical industries, and that such is not typically sold alongside everyday common household or retail packaging goods.

Significantly, Applicant's description of goods does not mention any such specialty technology, nor does the description suggest that Applicant targets the highly technical and very specific markets of water-soluble solutions for medical and sanitation purposes. *Edwards Lifesciences Corp v Vigilanz Corp.*,

94 USPQ2d 1399 (TTAB 2010) (no likelihood of confusion found despite nearly identical marks where applicant's goods were sold to different medical professionals with high level of sophistication).

Even if the evidence showed the goods sold together by one vendor of various types of packaging materials, which it does not, such evidence would still not establish that the marks are related so as to cause consumer confusion where the evidence does not show that the goods emanate from a single source or that the goods are often purchased together such that they would be considered complimentary products. *See In re White Rock Distilleries, Inc.*, 92 U.S.P.Q.2D (BNA) at 1285 (evidence showing the goods were sold on the same website was insufficient to establish the goods were related for purposes of consumer confusion).

Because the Examiner's evidence does not actually show Applicant's and Registrant's goods emanating from a single source or in the same trade channel, the refusal based on likelihood of confusion should be removed. *See* 1207.01(a)(vi), *see also In re White Rock Distilleries Inc.*, 92 USPQ2d 1282, 1285 (TTAB 2009) (finding Office had failed to establish that wine and vodka infused with caffeine are related goods because there was no evidence that vodka and wine emanate from a single source under a single mark or that such goods are complementary products that would be bought and used together).

4. The Consumers Are Different

There is no evidence that the two marks target the same type of consumers. Specifically, Registrant's mark specifies that it targets consumers in the medical and sanitation industries. Applicant's mark indicates that it targets consumers in the merchandising industries and that it involves household products. Thus, it is readily apparent that consumer's looking to purchase Registrant's water-soluble pouches in the medical and sanitation industries are not the same type of consumers looking to purchase merchandising paper bags or any of Applicant's other products. It may also be readily apparent that, at the very least, those consumers looking to purchase water-soluble pouches in the medical and sanitation fields are highly sophisticated consumers who would take great care in their purchasing decisions and know the source of the goods where such involves a specialized technology not generally directly sold to consumers for average household or retail use. *See* TMEP § 1207.01(d)(vii), *citing to In re N.A.D., Inc.*, 754 F.2d 996,

1000 (Fed. Cir. 1985) (Fed. Cir. 1985) (concluding that, because only sophisticated purchasers exercising great care would purchase the relevant goods, there would be no likelihood of confusion merely because of the similarity between the marks NARCO and NARKOMED).

Given the differences of the actual goods under each mark, the fact that the Office Action did not provide actual evidence that the goods are manufactured, sold or distributed under the same mark by others, the fact that the goods are not marketed to the same or even similar consumers, and that the consumers of Registrant's goods are sophisticated manufacturing consumers of highly specialized and technical goods, the relatedness factor weighs heavily in favor of a finding that there is no likelihood of confusion. *See* 1207.01(a)(i) (“[I]f the goods or services in question are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely.”)

5. The *Du Pont* Factors Weigh In Applicant's Favor

While the marks may be similar in sound, they are not similar in their entireties as they are not only spelled differently, the marks present very different commercial impressions when considered in connection with the goods. The goods as described under each mark are not actually similar, and there is no evidence to support a finding that the good's established or likely-to-continue trade channels are similarly. The conditions of sale and buyers are different as the goods are marketed to different consumers and are used in different industries. Accordingly, the *Du Pont* factors weigh in Applicant's favor and a finding of no likelihood of confusion.

II. IDENTIFICATION OF GOODS

The Examiner's proposed language is mostly acceptable and the description of goods has been modified based on same. However, the Class 10 proposed description is not accurate. Solupac's description does not involve packaging for transmitting medical specimens.

Also, as to “T-shirt Bags,” Examiner points to the following language as indefinite: “plastic products, namely, high density polyethylene (HDPE) t-shirts bags.” The Examiner's basis for the claim of indefiniteness is that “T-shirts' and bags made therefrom are generally textile/fabric bags,” and, therefore,

the “identification appears incongruous.” However, because T-shirt bags are known to refer to plastic bags for shopping, and the T-shirt bag is actually described as “high density polyethylene (HDPE) t-shirts bags,” there is no such incongruity and the nature of the goods are specifically identified. To further clarify this point, please see attached internet search results showing use of the term “T-shirt bags” refers only to the general commercial shopping bags used by stores. *See Composite Exhibit B* (evidence shows that the term “T-shirt bag” is a widely used term and is known and understood to mean plastic shopping and grocery bags, and refers to the product’s shape, formerly referred to a “sleeveless t-shirt bags” and appearance not material).

III. SPECIMEN REFUSAL

For specimen with respect to Applicant’s different classes, Applicant submitted screenshots from Applicant’s website showing the goods and the mark. However, the Examiner has rejected the specimen on grounds they “appear to be mere advertising materials.” The Examiner bases this conclusion on the fact that the screen shots showed manufacturing service or the specimen (or application) failed to indicate ordering instructions.

According to TMEP § 904.03(i), a web page that displays a product can constitute a "display associated with the goods" if it: (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. Further, “indicators of the ability to buy the goods via the web page may include: a sales order form to place an order, an online process to accept an order, such as "shopping cart" functionality, or special instructions on how to order; information on minimum quantities; indication of methods of payment; information about shipment of the goods; and/or means of contacting the applicant to place an order.” TMEP § 904.03(i)(C). Additionally, a mark may be displayed at the top of a web page, separated from the relevant goods by the website navigation tabs, which may direct consumers to information about the goods, the applicant, and the website. Moreover, “[a]lthough pricing information is normally associated with ordering goods, the presence or absence of pricing on its own is not determinative of whether the web page provides sufficient ordering information.” TMEP 904.03(i)(C). Furthermore, for certain products where it is not practical to

place the mark on the actual goods, as here, an invoice might serve as an acceptable specimen. See TMEP § 904.03(k).

Lastly, even if the web-page specimen appeared to be merely advertising, a detailed explanation or evidence of the manner of use, will suffice to establish that the specimen is a display associated with the goods. *See* TMEP 1301.04(g)(i) (“Examining attorney may consider declarations from persons with firsthand knowledge of the facts, with a sufficiently detailed explanation of how the mark is used in advertising or rendering the services or how the services are advertised or rendered; clarification of the specimen of record, such as an explanation of the nature, content, or context of use of the specimen...additional background materials, such as printouts showing information on subsequent webpages from the applicant’s website...); *In re Osterberg* , 83 U.S.P.Q.2D (BNA) 1220, 1224, 2007 TTAB LEXIS 29 (Trademark Trial & App. Bd. February 21, 2007) (indicating that a discussion regarding how the applicant used the webpage as in connection with the sale of the goods could establish the association between the mark and the products).

Accordingly, Applicant submits new specimen of images of the mark on the website as it appeared on the date of the filing of the application, as well as the Affidavit Supporting Substitute Specimen executed Applicant. In the Affidavit, attached hereto as **Exhibit C**, Applicant explains and clarifies how the mark is used in connection with the sale of Applicant’s goods and provides further evidence that the website is not a mere advertising tool. Accordingly, the substitute specimen, along with the Affidavit, should be accepted as the specimen shows screenshots of the website that provide information on quantities, specifications and how the details can be included in an order form. The website also includes a means of contacting the Applicant to place an order. The mark is prominently displayed at the top of a web page, and contains numerous navigation tabs which direct customers to information about the goods, the applicant, and the website. Even though pricing information is not initially included with the order forms, the website nevertheless provides sufficient ordering information through its request quote feature, and other information on the site which indicates it sells the goods found therein such as the shopping cart at the top.

IV. CONCLUSION

For the reasons set forth above, Applicant respectfully requests the Examiner withdraw the refusals to registration. Should the Examiner have any questions that would facilitate further prosecution or allowance of this application, the Examiner is invited to contact the Applicant's representative designated below.

Date: March 11, 2020.

Respectfully submitted,

/s/Erica Canas

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Aquasol Water Soluble Paper

Aquasol® Water Soluble Paper has many of the same characteristics as ordinary paper, except for one extremely unusual feature – it dissolves in cold water, hot water, steam and most aqueous solutions.

Made of Sodium Carboxymethyl Cellulose and wooden pulp, Aquasol Paper is a natural material that biodegrades instantly or over time with the introduction of water. When combined with other water soluble composites and laminates, Aquasol Water Soluble Paper can be fabricated into a variety of formats for many industrial and commercial applications.

The Quality Management System of Aquasol Corporation meets the requirements of the international standard ISO 9001:2015 for filling granular product in a bottle and filling, forming and sealing paper pouches. See attached certificate [here](#).

Aquasol Water Soluble Products and Applications

- Gasket/Board/Spacers
- Destroy It™
- Masking/Surface Protection

Aquasol CORPORATION

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Characteristics

Specific Characteristics:

Format

Aquasol® Water Soluble Paper is available in a variety of thicknesses and can be made with or without coatings. Finishes include smooth or textured. Selection will depend upon machine application. Other characteristics include tensile strength, elongation, opacity, whiteness, flatness, break strength and solubility time. Inquire with our engineering department about your specific application and we will customize a solution for you.

Sizes

Graphic Design Capabilities

What Makes Aquasol Water Soluble Paper So Distinctive?

- It's Green**
EPA Approved. CE Approved.
100% Biodegradable. Compostable.
Environmentally Friendly. Recyclable.
Safe. Non-Toxic. Non-Flammable.
- It's Temporary**
It can dissolve in seconds or minutes.
You decide.
- It's Versatile**
Print On It. Photocopy It. Impregnate It. Pouch It. >
Package It. Layer It. Destroy It™.


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Characteristics



Specific Characteristics

- Pouches/Sachets/Bags/Envelopes
- Paper Tubes and Cores
- Pressure Sensitive Labels
- Stitchable Labels
- Confetti/Special Effects/Entertainment

Format

Aquasol® Water Soluble Paper is available in a variety of formats that can be made with various finishes. Selection will depend on application. Other finishes include: Masking/Surface Gaskets, Spy Paper – Destroy It.

tensile strength, elongation, opacity, whiteness, flatness, break strength and solubility time. Inquire with our engineering department about your specific application and we will customize a solution for you.

Sizes

Graphic Design Capabilities

Additional Applications

What Makes Aquasol Water Soluble Paper So Distinctive?

It's Green

EPA Approved. CE Approved.
100% Biodegradable. Compostable.
Environmentally Friendly. Recyclable.
Safe. Non-Toxic. Non-Flammable.

It's Temporary

It can dissolve in seconds or minutes.
You decide.

It's Versatile

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Package It. Layer It. Destroy It™.


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SmartSolve encompasses a family of environmentally friendly [water soluble paper](#) materials that are produced in multiple thicknesses, coatings and configurations. From [label stock](#) and [board stock](#) to thread and [tape](#), SmartSolve can be used in a variety of valuable applications. In addition, SmartSolve materials can be coated with water soluble adhesive that dissolves in water and leaves behind no residue, a heat seal top coating that allows the material to be converted into water soluble containers (such as [pouches](#), tubes and folding cartons) or a direct thermal top coating for use in thermal printers. Bio-based materials are the foundation of SmartSolve's products, providing an ecologically sound solution to your paper and packaging needs.

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 **SmartSolve**

Our very own @jonjakubowski gives his thoughts on the #watersoluble packaging market #GoBeyond #sustainability

<https://t.co/15wjfA9Tz6>

Nov 13, 2018, 8:52 AM


Water Soluble Materials | Dissolve x +

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WATER SOLUBLE MATERIALS ABOUT BLOG SHOP CONTACT




WATER SOLUBLE

Our unique, dissolving material has a paper-like consistency that is available in a variety of thicknesses and customizable configurations.



FULLY DISPERSE



Our breakthrough, non-toxic material and completely disperses when coming in contact with water and agitation.



STAINABLE

Environmentally friendly material to create one-of-a-kind label or packaging solutions to put your green foot forward.


Innovative Water-Soluble Technology from SmartSolve®

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3. <https://www.cortecvci.com/products/vpci-packaging-products/ecosol-water-soluble-packaging-solution/>

EcoSol® Water soluble packaging x +

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EcoSol® Water soluble packaging solution

Select a Product:

42NRSC Natural Clay Coated One-Side


Description: EcoSol® is a water soluble, biodegradable polyvinylalcohol (PVA) film, ideally suited for many packaging applications. Water soluble PVA bags, sachets or pouches created from this film, provide a convenient, safe and economical delivery system for a wide range of products including detergents and cleaners, degreasers, concrete additives, pigments, biocides, water-treatment products, agricultural products, and others.

Application: EcoSol can be used for packaging:

- Detergents and cleaners
- Degreasers
- Concrete additives
- Pigments
- Water-treatment products
- Biocides
- Agricultural products
- Bathing products
- Cosmetic industry (disposable cases)
- Laundry bags for hospitals

Package: Available in sheets and bags in a variety of dimensions and thicknesses

Products | Cortec Corporation x +
 cortecvci.com/products/



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Environmentally Safe VpCI/MCI® Technologies


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https://www.cortecvci.com/Products/product_lifecycle_chart.pdf

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Product Life Cycle - Corrosion Chart



VpCI® Total Corrosion Control



Solutions for Corrosion Control

Click on the links below to access product descriptions and other information regarding various VpCI® (Vapor phase Corrosion Inhibitor) and MCI® (Migrating Corrosion Inhibitor) product lines.

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4. https://www.solublون.com/water_soluble_packaging.htm

Water Soluble Packaging with PV x +
 solublون.com/water_soluble_packaging.htm



SOLUBLON®
Water Soluble Film

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Water Soluble Packaging

SOLUBLON® PVA film is widely used as a water soluble packaging material for a diverse range of product types. New products introduced in a soluble pouch format can gain a competitive edge and market share. These are some of the many products packaged in SOLUBLON®:

- Agricultural chemical
- Bacteria and enzyme treatments
- Laundry detergents
- Industrial batch chemicals
- Auto dish detergents
- Disinfectants
- Window washing concentrate
- Toilet blocks
- Pigments and dyes
- Water treatment chemicals

The advantages of water soluble packaging include:

- User safety for hazardous materials, as many industrial accidents occur during the pouring stage.
- Environmental safety is enhanced by eliminating contaminated secondary containers for applications such as agricultural chemicals and medical.
- Large cost savings when contaminated containers are regulated with bottle deposits, or collected after usage. The film goes into solution, and the secondary container can be disposed of in the normal waste stream.
- Convenience for such applications as consumer detergents.



secondary containers for applications such as agricultural chemicals and medical.

- Large cost savings when contaminated containers are regulated with bottle deposits, or collected after usage. The film goes into solution, and the secondary container can be disposed of in the normal waste stream.
- Convenience for such applications as consumer detergents.
- Uniqueness in the marketplace.
- Precise unit dosing for industrial batch production or cleaning agents.
- Packaging and shipping cost reduction with concentrates mixed in water for applications such as window washing concentrates.



A varied grade lineup allows us to provide the right film for any application. Dissolution rates, impact strength or broad compatibility can be the focus of any particular application.



Liquids, powders and tablets can be packaged successfully. Aicello offers specially designed liquid specification PVA films to enhance package integrity. Special casting machines have been designed and laminate films are also available.

All SOLUBLON® PVA films have tight quality control in our ISO registered process. The films are designed for easy machinability on production lines, enhancing productivity and packaging rates.

In the agricultural chemical industry, Aicello led the way in 1990, with the first water soluble packaging films on the market to be granted tolerance exemptions by the US Environmental Protection Agency.

To provide a fuller range of services, Aicello offers a [film screening service](#) to check the interactions between our films and your product. [Water soluble bags](#) are available.



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Blog



2 Sep T-Shirt Bags and the Truth Behind Them

Post by: Fetpak Admin

Tags: bags, buying t-shirt bags, colored t-shirt bags, Fetpak

6 Comments

T-Shirt Bags and the truth behind them...sounds like some deep dark secrets lurk, but reality is that T-Shirt Bags mean no harm. Below are some general facts about these bags, from measuring to case packing. Hopefully this helps you choose the correct size bag at the right price.

First we start off with measuring, take a standard size **Grocery T-Shirt Bag**, called 1/6 Barrel in the industry. These generally measure 12" x 7" x 23" (although most of our competitors bags measure significantly smaller yet they continue to call them "grocery bags" or "1/6 barrel"). But we are talking measuring T-Shirt Bags, so in this example the 12" is the width (easy enough right?). The 7" is the gusset. So if you look at the side of the bag and pull it out as far as it can go, ours will measure 7". The 23" is from the bottom of the bag to the top of the handle. Yes the handle. So the actual use of the bag is generally 5 to 6 inches less than the last number, in this case 23". Not measuring to the top is the most common mistake customers make when purchasing T-Shirt Bags. The gusset is also important to compare as a smaller gusset will markedly change the volume the bag is capable of holding.

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Many companies sell **Plastic T-Shirt Bags** by the case with no mention of quantity. This is something to beware of as chances are means there will be much less quantity inside than the standard packing. On the 12" x 7" x 23" the standard packing is 1,000. **Fetpak** prints the quantity inside and the measurement on every carton. If you do not see the quantity printed on the carton, it's possible you are being shorted. You may want to do a spot check.

Look at the thickness of the T-Shirt Bag. On High Density T-Shirt Bags the thickness of 12" x 7" x 23" grocery size should be at least 13 Microns. 25 Microns = 1 Mil. Never purchase a T-Shirt Bag with microns below 11, even small sizes should be 11. The larger the bag, the higher the microns should be. Depending on the size, but bags larger than grocery size should range from 16 to 20 microns.

Quality of plastic is also a factor to consider. This is the most difficult to determine since you must physically test the bag. Many bag companies use filler in the composition of the bags. This weakens the bags, but saves the company a substantial amount of money as less resin is used. In effect they are cheating you so they will never tell you that filler is being used. If you touch the bag and feel a filmy residue then filler was used. If buying online you should only buy from a company you can trust, for example **Fetpak**. 😊

Follow the above advice and use the right size bags, with the correct count and composition you are paying for. And of course only purchase from a trustworthy company.

<http://www.fetpak.com>

6 Comments



By Fetpak Admin February 14th, 2019

Hi Abi, not a problem answering your question at all. You are more correct, if held up they look like Sleeveless T-Shirts. That is the origin of calling them a "T-Shirt Bag" 😊



By Abi February 14th, 2019

Hello! This is a bit of an odd question, but me and my father were debating; why they are called t-shirt bags? I thought they look a little like tank tops when folded, and my father was thinking they were originally made to hold t-shirts. Figured I'd ask the experts! Thanks!



By Fetpak Admin January 15th, 2018

Greg, we are sending you an email with details. We don't stock orange bags, however all of our colored bags are the same low price as our white. Thanks.



By GSGosselin@charter.net January 14th, 2018

We are crocheting and weaving plastic bags into sleeping mats for homeless people. For the most part, we use recycled bags from grocery stores. But sometimes we want to add color. Do you ever sell cases of bags with flaws in color or with the handles? We are even willing to take bags that are misprinted.

My next

Question is why orange bags are so much more expensive?

Thanks

Greg Gosselin

Minister to children

Eastern hills Baptist Church

Montgomery, Al



By Fetpak Admin April 18th, 2014

Jen... "BBL" is an abbreviation for "barrel". Barrel is a general measurement of a T-Shirt Bag. 1/6 barrel generally equals a grocery size bag (~12" x 7" x 23"), but since this term is so general you need to be careful on the exact size as it can range from 23" long to 20". It's better to go by the actual measurements of the bag.

Every size of Fetpak's T-Shirt Bags have the center tab with hole so you can easily hang a pack of bags using a hook. Some companies do not have the center tab, so that is something you need to inquire about before purchasing.

Below is our T-Shirt Bag page. Let us know if you have any other questions. Thanks.

https://www.fetpak.com/index.php/shirt-bags-bag-racks-shirt-bags-colors-and-clear-c-340_374_375



By Jen April 18th, 2014

What does "BBL" stand for? Also, what do you call the center "tab" that has the little hole in it? Is that style of bag called something different? I need bags with the center tab as that's how I store them – hanging on a single hook – ready for use. Some t-shirt bags do not have this center tab – – – what's the difference?

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✓ GAUGE (MIL): .60

[Clear All Filters](#)



WIDTH:



HEIGHT:



GUSSET:



ITEM NUMBER: PLEASE COMPLETE YOUR SELECTION

from **\$36.50** / case of 1000 each (\$0.04 / each)

Bulk discount of 15% Off any combined Merchandise Bags order over \$200.










QTY 1 CASE

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Click on column header to sort and/or filter

Item#	Color	Gauge (Mil)	Width	Height	Gusset	Qty	\$200+			Case Qty	Bu
							Each Price	Discount	Price		
104301	 Red	.60	10 "	21 "	6 "	1000	\$0.04	\$0.03	\$36.50	<input type="text"/>	B
104302	 Red	.60	12 "	23 "	7 1/2 "	1000	\$0.04	\$0.04	\$44.80	<input type="text"/>	B
104351	 Hot Pink	.60	10 "	21 "	6 "	1000	\$0.04	\$0.03	\$36.50	<input type="text"/>	B
104352	 Hot Pink	.60	12 "	23 "	7 1/2 "	1000	\$0.04	\$0.04	\$44.80	<input type="text"/>	B
104511	 Dandelion	.60	10 "	21 "	6 "	1000	\$0.04	\$0.03	\$36.50	<input type="text"/>	B
104512	 Dandelion	.60	12 "	23 "	7 1/2 "	1000	\$0.04	\$0.04	\$44.80	<input type="text"/>	B
104621	 Emerald	.60	10 "	21 "	6 "	1000	\$0.04	\$0.03	\$36.50	<input type="text"/>	B
104622	 Emerald	.60	12 "	23 "	7 1/2 "	1000	\$0.04	\$0.04	\$44.80	<input type="text"/>	B
104711	 Royal	.60	10 "	21 "	6 "	1000	\$0.04	\$0.03	\$36.50	<input type="text"/>	B
104712	 Royal	.60	12 "	23 "	7 1/2 "	1000	\$0.04	\$0.04	\$44.80	<input type="text"/>	B



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**HEAVY DUTY LIP & TAPE
CELLO BAGS WITH
HEADER - 1.6 MIL**

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**STANDARD R
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low as \$5.57 / package

low as \$33.66 / case

low as \$10.84 / case

low as \$1.83 / bur

Blue



Plastic T-Shirt Bags

Shop 17 Plastic T-Shirt Bags



SKU #90122

White Thank You Plastic T-Shirt Bags – Case of 500

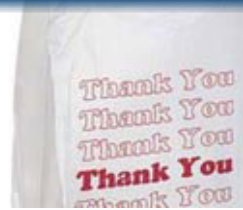
★★★★★ 4.8 (5)

\$8.00

In Stock



Blue



SKU #90109

White Thank You Plastic T-Shirt Bags - Case of 1,000

★★★★★ 4.7 (308)

\$14.95

In Stock



SKU #90123

Large White Thank You Plastic T-Shirt Bags - Case of 500

★★★★★ 5.0 (1)

\$31.95

 In Stock

Norton
SHOPPING
GUARANTEE

Blue



SKU #92678

11 1/2 x 6 x 21 inch Americana Plastic T-Shirt Bags - Case of 500

★★★★★ 4.9 (31)

\$16.25

 **In Stock**



#92679

11 1/2 x 6 x 21 inch EPI Plastic T-Shirt Bags - Case of 500

★★★★★ 4.9 (44)

Blue

 In Stock

 Add to Cart




SKU #90110
Plastic Bag Holder

★★★★★ 4.8 (91)

Qty

\$25.50

 In Stock

 Add to Cart



Blue

★★★★★ 4.9 (45)

\$12.45

In Stock



SKU #92653

Small Zebra Print Plastic T-Shirt Bags - Case of 1,000

★★★★★ 4.9 (35)



\$30.30

In Stock



Blue



SKU #92654

Medium Zebra Print Plastic T-Shirt Bags - Case of 500

★★★★★ 4.8 (95)



\$28.00

 In Stock



SKU #90107

Medium White Plastic T-Shirt Bags - Case of 1,000

★★★★★ 4.8 (46)



\$20.00

Blue



SKU #90106

White Plastic Drawtape Bags - Case of 250

★★★★★ 4.8 (13)

\$37.00

 **In Stock**



Blue

\$38.45

 In Stock



SKU #90145

Small Yellow Plastic T-Shirt Bags - Case of 2,000

 4.5 (8)



\$40.00

 In Stock



Blue



SKU #90144

Medium Yellow Plastic T-Shirt Bags - Case of 1,000

★★★★★ 4.5 (20)



\$20.00

 **In Stock**

 Add to Cart



SKU #90120

Medium Clear Plastic T-Shirt Bags - Case of 1,000

★★★★★ 4.6 (38)

\$20.00

 **In Stock**

 Add to Cart

Blue



SKU #90115

Large White Plastic T-Shirt Bags - Case of 500

★★★★★ 4.7 (107)

\$33.00

In Stock

 Add to Cart



SKU #90121

Large Clear Plastic T-Shirt Bags - Case of 500



★★★★ 4.4 (36)

Blue

 In Stock

 Add to Cart

Recommended Just For You



Corner Rear Access Gray Jewelry Display Case

\$236.00

Qty:

Add to Cart



Medium Natural Kraft Paper Shopping Bags - Case of 250

\$47.50

Qty:



Blue



**Large Natural Kraft Paper Shopping Bags -
Case of 250**

\$61.50

Qty:

Add to Cart



20 x 30 inch White Tissue Paper

\$14.50

Qty:

Add to Cart

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T-Shirt Bags - Plastic Grocery Bags - Tshirt Bags



Extra Small
Plain White T-Shirt Bags

.65 mil 6" x 3" x 12"
.65 mil 6" x 4" x 15"



Small
Plain White T-Shirt Bags

.65 mil 8" x 4" x 16"
.65 mil 10" x 5" x 18"



Medium
Plain White T-Shirt Bags

.65 mil 11.5" x 6.5" x 21"



Extra Small
Plain Black T-Shirt Bags

.65 mil 6" x 3" x 12"
.65 mil 6" x 4" x 15"



Large
Plain Black T-Shirt Bags

.65 mil 12" x 7" x 23"
.65 mil 15" x 7" x 26"
.65 mil 18" x 8" x 28"



PrePrinted Ecos
T-Shirt Bag

.65 mil 11.5" x 6.5" x 21"



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T-Shirt Bag Dispenser



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Equivalent Paper Bag Sizes

7" x 3" x 12"	#6 or 6 pint	X-Small	12" x 9" x 23"	1/6th barrel	Large
6" x 4" x 15"	#8 or 8 pint	X-Small	13" x 8" x 23"	1/6th barrel	Large
8" x 4" x 16"	#12 or 12 pint	Small	15" x 7" x 26"	1/5th barrel	Large
10" x 5" x 18"	1/8th barrel	Medium	18" x 8" x 28"	1/4th barrel	Jumbo
11.5" x 6.5" x 21"	1/6 barrel	Large	20" x 10" x 36"	Party Tote	Party Tote
11.5" x 6.5" x 22"	1/6 barrel	Large	20" x 28" x 10"	Party Tote	Party Tote
12" x 7" x 23"	1/6 barrel	Large			

Retail carry-out t-shirt bags are strong, attractive, and easy to carry. 1/6 barrel-standard grocery bag size; light-weight High-Density Gusseted sides give extra storage space and expandability for bulky items. Plain Carry Out Bags are ready to ship to you today. Plain t-shirt bags plain. T-Shirt bags wholesale and Plain High Density Plastic Carry Out Bags are also known as: T-sacks, Vest Bags, Block Bags

Suggested Bag Sizes by Store Classification

Type	Jumbo/ Super Jumbo	1/6 Barrel Large	1/8 Me
Grocery Store Bag		✓	
Deli Bag		✓	
Bakery Bag		✓	
Convenience Store Bag		✓	
Drug Store Bag	✓		
Liquor Store Bag			





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Office Supply Store Bag		✓	✓
Photography Store Bag			
Record Store Bag			✓
Shoe Store Bag		✓	✓
Sporting Goods Bag		✓	✓
Video Store Bag			

Question: What is the size or dimensions of standard plastic grocery bag?

Answer: Around the turn of the 20th Century, dry goods were generally stored in barrels. In 1916, the US Congress established that fine flour. Our present day grocery bags are still measured by how much flour they hold, 1/6th barrel, 1/4 barrel, 12 pounds, etc.

Question: what size are the plastic grocery bags that you normally find in supermarkets?

Answer: The most common plastic grocery bag size is [11.5 x 6.5 x 21](#)

Question: where to buy t shirt bags

Answer: International Plastics carries all different sizes of t-shirt bags. From Small to really big they have a great selection to choose

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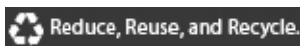
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T-SHIRT BAGS



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Deluxe T-Shirt Bags



Jumbo T-Shirt Bags



Super Tough T-Shirt Bags



Custom Printed T-Shirt Bags



Bag Stand

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Tradepro Products, LLC

Serial Nos: 88527147 & 88527139

Mark: **SOLUPAC**

Law Office: 105

Examining Attorney: Maureen Dall Lott

Filing Date: July 22, 2019

AFFIDAVIT SUPPORTING SUBSTITUTE SPECIMEN

1. My name is Steven Schmitter. I am over the age of eighteen and I make this declaration based upon my own personal knowledge.
2. I am a Managing Member of Tradepro Products, LLC ("Applicant"), and am authorized to make this declaration on its behalf.
3. Solupac is Applicant's trademark for a variety of paper and plastic products that are sold in the retail and general household goods industries.
4. Customers are able to view the products sold by Applicant on Applicant's website at www.solupac.com.
5. Customers are also able to initiate the placement of an order for desired goods using the "add to quote" and "submit quote request" buttons on the website.
6. When a customer wishes to place an order for goods, the customer inputs the information for each product it wishes to include in the order using the "add to quote" button and selecting the options on each product's individual page.
7. Once a customer inputs all the product quantity and features information, the information is tallied in a final form, and the website instructs the customer to log in (for returning customers) or create an account (for new customers) before it can "submit the quote request."
8. After a customer has initiated an order request through the website following the above steps, they receive an email confirmation that the request is being processed. Thereafter, a representative will call the customer to complete the order.

9. The substitute specimen submitted with Applicant's Response to Office Action dated October 12, 2019 are screenshots of the Applicant's website as it appeared to consumers on or before July 22, 2019.

A handwritten signature in black ink, appearing to read 'SS', written over a horizontal line.

Steven Schmutter
Managing Member, TradePro Products, LLC

Date: 03/06/2020