

In the office action dated February 4, 2020 (the “Office Action”) regarding Application Serial No. 88/264,386 (“the Application”) for the mark A BETTER INSURANCE EXPERIENCE (“Applicant’s Mark”), the Examining Attorney has refused registration on the grounds the specimen submitted with Applicant’s Statement of Use on December 23, 2019 (“the Specimen”) does not show use in commerce of the applied-for mark with the identified services in International Classes 36 and 41. Applicant respectfully disagrees with the Examining Attorney’s determination for the following reasons but also submits substitute specimens provided herein.

I. The Specimen Shows Use of Applicant’s Mark with Applicant’s Services in class 36

Applicant has applied to register serial no. 88/264,386 A BETTER INSURANCE EXPERIENCE this mark in connection with:

Insurance underwriting services in the field of property and casualty; insurance claims processing, insurance claims administration, and insurance agency services, all in the field of property and casualty; providing information in insurance matters in the field of property and casualty” in international class 36

and

Insurance training services for insurance agents and agencies; business education and training services, namely, training of insurance agents in the field of insurance advertising, promotion, marketing and business development” in international class 41 (“Applicant’s Services”).

The Examining Attorney observes in the Office Action that “specifically, the specimen submitted for both classes consists of a guide or tutorial in the use of applicant’s online insurance quote request tool or computer software. The mark appears at the bottom of the last page of the tutorial, below a series of screen shots that describe the computer software. The specimen does not reference or suggest insurance underwriting services, claims processing or the other Class 36 services named in the statement of use. Moreover, the information contained in the tutorial appears to be directed not at applicant’s customers but at applicant’s employees. Thus, it does not appear from the specimen that the mark is used in commerce in relation to the Class 36 services named in the statement of use. Although the tutorial consists of instructional materials featuring information concerning the use of applicant’s computer software, it does not reference or suggest educational services related to these materials. Thus, the tutorial also does not show use of the mark in relation to the educational services named in the statement of use.”

Applicant respectfully disagrees. As discussed in the phone call with the Examiner held on February 7, 2020, the specimen filed on December 23, 2019, is used by independent insurance agents who are not employees of FCOA, LLC, the owner of the applied for mark. The specimen also includes “information in insurance matters in the field of property and casualty” as set forth in the id of services For example, the specimen refers to the following insurance information:

- “Quoting and Issuing Tips & Insights”
- how to generate a quote for insurance underwriting and various questions the agents need to answer

- the different types of insurance offered such as boat , ATV, and more
- Different coverage types such as optional equipment, replacement cost total loss, diminishing deductible, and other
- Costs and discounts of various policies depending on customer profile

After the discussion on February 7, 2020, the Examiner verbally acknowledged that the specimen submitted on December 23, 2019 is acceptable for class 36 because it provides information on property and casualty insurance matters. However, the Examiner maintained that a substitute specimen is still needed for class 41.

II. Applicant Submits Substitute Specimen for class 41

At the Examiner's request, Applicant is now submitting a substitute specimen, which was in use prior to the filing of the Statement of Use, for class 41. The substitute specimen is three screenshots from Applicant's training course for agents which prominently features Applicant's Mark along with the following phrase: "this eLearning course introduces you to our portfolio of products, underwriting appetite, education opportunities, marketing tools and an overview of our claim service." The substitute specimen show the actual e-learning course, along with the applied-for mark.

Conclusion

Applicant respectfully submits that Applicant has resolved all issues raised in the post-Statement of Use office action and requests that the registration certificate for Applicant's Mark be issued in due course.