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ARE LOCKPICKS ILLEGAL IN CALIFORNIA? (<https://locksmithtraininghq.com/lockpicks-illegal-in-california/>)

🕒 Jan 03, 2018 (<https://locksmithtraininghq.com/are-lockpicks-illegal-in-california/>)

👤 Travis (<https://locksmithtraininghq.com/author/travis-weston/>)

📁 Blog, (<https://locksmithtraininghq.com/category/blog/>)lockpicking, (<https://locksmithtraininghq.com/category/lockpicking/>)locksmith questions, (<https://locksmithtraininghq.com/category/locksmith-questions/>)reader questions (<https://locksmithtraininghq.com/category/reader-questions/>)



(<http://locksmithtraininghq.com/lockpicks>) Are Lockpicks Illegal in California? To answer the question specifically, we need to start by looking at California Penal Code 466. Without boring you to death with the actual text, essentially what it tells us is that if you have ***anything in your possession with intent to use it to illegally gain entry to a thing*** than you are breaking the law, and will be charged with a misdemeanor of having burglary tools. That “anything” could be lockpicks, for sure, or it could be a rock. It all comes down to proving intent.

So, are lockpicks illegal in California? The short answer is no. The long answer is that if you are illegally using those picks to gain entry to a building, vehicle, or anything else, then yes.



This bit is important

Burglary is only one illegal activity that can be done with lockpicks. Before you run off thinking you have had your question answered, protect yourself a bit more by reading the rest.

It is important that we touch on the *rest* of the California locksmith laws, so that we can fully understand the scope of California Penal Code 466 as it relates to using lockpicks.

What is a Locksmith?

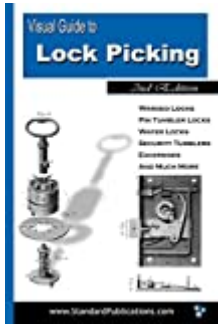
Let's start with what exactly California considers a “locksmith” to be.

Locksmith: “Locksmith” means any person who, for any consideration or compensation whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of rekeying, installing, *repairing, opening, modifying locks*, or who originates keys for locks ... A “locksmith” does not mean a person whose activities are limited to making a duplicate key from an existing key.



Let's break this down a bit. Basically, what they're saying is, if you perform locksmithing tasks above and beyond simple duplicating of keys, you are a locksmith. For the purposes of this question, let's look at the italicized section above (*italics are mine*). In this case, it could be considered locksmithing to open locks for pay. To do this, however, one must have a license. This is the key. Without a license, then yes, lockpicks *are* illegal in California.

Background Checks and Education



(<https://locksmithtraininghq.com/Isapi/0970978812/US/Isapi-20/?cart=y>) One of the things required to get a locksmith license in California is a background check. That involves two sets of fingerprints, a statement as to whether you have ever been arrested or convicted of a misdemeanor, as well as a statement as to whether you have ever been convicted of a felony. That's a *lot*.

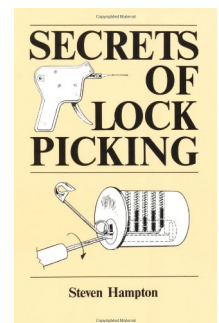
If you ever want to become a locksmith though, it's important to keep reading, because that statement of conviction could bite you in the rear if you're ever arrested for using your lockpicks illegally.

On the bright side, there aren't any defined education requirements in California, so let's move on.


Licensing

(<https://locksmithtraininghq.com/Isapi/0873644239/US/Isapi-20/?cart=y>) Licenses are valid for 2 years, and have an application and licensing fee of around \$75.

It is stipulated, also, that a locksmith must obtain a signed work order before proceeding with work. It's a hoop that you might not consider, unless you have trained as a proper locksmith. This is good, it gets us closer to our question "Are lockpicks illegal in California?" How? Because it shows that before you can use your locksmithing skill, you have to obtain information about the owner, and get their signed permission to do work. This would imply the above, that you are doing work for compensation. Hence the work order.



So, are lockpicks illegal in California?

(<https://locksmithtraininghq.com/Isapi/1548242144/US/Isapi-20/?cart=y>) No, *lockpicks themselves* are not immediately illegal in California. The issue arises when you use those 



lockpicks outside of a hobbyist setting. If you ever plan to use your lockpicks to open a lock for money, you need to get yourself a locksmithing license. That said, locksmithing licenses in California aren't that expensive, and are relatively simple to qualify for. If you are a skilled lock-picker you may consider getting your license just to cover yourself.

Keep your picks in your pocket, and don't go messing around with your neighbor's locks, and you should be fine. If you don't already have picks, you can **pick a good starter set up here** (<https://locksmithtraininghq.com/lockpicks>). If you're interested in going deeper than just **locksport** (<https://locksmithtraininghq.com/locksport-good-for-locksmiths-and-the-industry/>), we have detailed instructions for what it takes to **become a full fledged locksmith** (<https://locksmithtraininghq.com/how-to-become-a-locksmith-in-california/>) in California, as well as our 6 week course to help you along the way.

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To: Enterprise Financial Group, Inc. (tm@sughrue.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77934867 - XTREME PROTECTION PLAN - S14442
Sent: 5/19/2010 6:58:11 PM
Sent As: ECOM102@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77934867

MARK: XTREME PROTECTION PLAN

77934867

CORRESPONDENT ADDRESS:

KEVIN G. SMITH
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3202

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Enterprise Financial Group, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO :
S14442

CORRESPONDENT E-MAIL ADDRESS:
tm@sughrue.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 5/19/2010

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

No Conflicting Marks Noted

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

Informalities

Although the examining attorney has not refused registration on any substantive basis, the applicant must respond to the following informalities.

Declaration Supporting Application Required – Proper Statements Not In Preliminary Amendment

The applicant submitted a preliminary amendment to provide a signature and verification for the application; however, the submitted statements and declaration do not contain the proper verifications to support the underlying application. Specifically, the preliminary amendment does not indicate the specimens were in use in commerce as of the filing date of the application or that the facts set forth in the application are true and correct. *See* 15 U.S.C. §1051(a); 37 C.F.R. §§2.33(a)-(b)(1), 2.34(a)(1)(i). Therefore, applicant must verify the statements specified further below in a signed affidavit or declaration under 37 C.F.R. §2.20. *See* 15 U.S.C. §1051(a)(3); 37 C.F.R. §§2.33(a)-(b)(1), (c), 2.193(e)(1); TMEP

§§804.02, 806.01(a).

If applicant responds to this Office action online via the Trademark Electronic Application System (TEAS), applicant may satisfy this requirement by answering “yes” to the TEAS response form wizard question relating to submitting a “signed declaration,” and following the instructions within the form for signing. *See* 37 C.F.R. §§2.33(a)-(b)(1), (c), 2.193(a), (c)-(d), (e)(1); TMEP §§611.01(c), 804.01(b).

If applicant responds to this Office action on paper, via regular mail, applicant may satisfy this requirement by providing the following statements and declaration at the end of the response, personally signed and dated by a person authorized under 37 C.F.R. §2.193(e)(1). *See* 37 C.F.R. §§2.20, 2.33(a)-(b)(1), (c), 2.193(a), (d); TMEP §§611.01(b), 804.01(b).

STATEMENTS: He/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; the applicant is using the mark shown in the drawing; that the mark is in use in commerce and was in use in commerce on or in connection with the services listed in the application as of the application filing date; the specimen was in use in commerce as of the filing date of the application; that the facts set forth in the application are true and correct; that to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.

DECLARATION: The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

Recitation of Services – Class 37 Only

The identification of services is indefinite and must be clarified. *See* TMEP §1402.01. Applicant must specify the common commercial or generic name for the services. If the services have no common commercial or generic name, applicant must describe the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s).

Please note: the Class 36 services are acceptable and made of record.

- The wording “providing motor vehicle service plans in the field of mechanical breakdown and repairs, emergency roadside services and trip interruption” is unacceptable as indefinite because the specific nature of the services is unclear and may include services classified in another class, e.g., pre-paid repair and maintenance service plans in the field of motor vehicle mechanical breakdown in Class 36; insurance services, namely, underwriting, issuing and administration of motor vehicle service plans covering mechanical breakdown and repair, emergency roadside assistance and trip interruption insurance in Class 36; emergency roadside assistance services, namely, responding to calls for roadside assistance, flat tire changing, emergency fuel supplying, and battery jump starting in Class 37; emergency roadside assistance services, namely, towing, winch-out and key delivery services in Class 39; emergency roadside assistance services, namely, opening of locks in Class 45.

Applicant may adopt the following identification, if accurate.

Class 36: Providing extended warranties on motor vehicles; insurance services, namely, underwriting, issuing and administration of motor vehicle service plans covering mechanical breakdown and repair, emergency roadside assistance and trip interruption insurance.

Class 37: Emergency roadside assistance services, namely, responding to calls for roadside assistance, flat tire changing, emergency fuel supplying, and battery jump starting.

Class 39: Emergency roadside assistance services, namely, towing, winch-out and key delivery services.

Class 45: Emergency roadside assistance services, namely, opening of locks.

For assistance with identifying and classifying services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahhtml/tidm.html>. See TMEP §1402.04.

Identifications of services can be amended only to clarify or limit the services; adding to or broadening the scope of the services is not permitted. 37 C.F.R. §2.71(a); see TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include services that are not within the scope of the services set forth in the present identification.

Multiple Class Application Requirements – Use

If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the requirements below for those services based on actual use in commerce under Trademark Act Section 1(a):

- (1) Applicant must list the goods/services by international class;
- (2) Applicant must submit a filing fee for each international class of services not covered by the fee already paid (current fee information should be confirmed at <http://www.uspto.gov>); and
- (3) For each additional international class of services, applicant must submit:
 - (a) Dates of first use of the mark anywhere and dates of first use of the mark in commerce, or a statement that the dates of use in the initial application apply to that class. The dates of use, both anywhere and in commerce, must be at least as early as the filing date of the application.;
 - (b) One specimen showing the mark in use in commerce for each class of services. The specimen must have been in use in commerce at least as early as the filing date of the application. If a single specimen supports multiple classes, applicant should indicate which classes the specimen supports rather than providing multiple copies of the same specimen. Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, or displays associated with the actual goods at their point of sale. See TMEP §§904.03 *et seq.* Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the actual sale or advertising of the services. See TMEP §§1301.04 *et seq.*;
 - (c) The following statement: “**The specimen was in use in commerce on or in connection with the services listed in the application at least as early as the filing date of the application.**”; and
 - (d) Verification of the statements in 3(a) and 3(c) (above) in an affidavit or signed declaration under 37 C.F.R. §2.20. Verification is not required where (1) the dates of use for the added class are stated to be the same as the dates of use specified in the initial application, and (2) the original specimens are acceptable for the added class(es).

To submit a verified substitute specimen online via the Trademark Electronic Application System (TEAS), applicant should do the following: (1) answer “yes” to the TEAS response form wizard question to “submit a new or substitute specimen;” (2) attach a jpg or pdf file of the substitute specimen; (3) select the statement that “The substitute specimen(s) was in use in commerce at least as early as the filing date of the application.”; and (4) sign personally or enter personally his/her electronic signature and date after the declaration at the end of the TEAS response form. See 37 C.F.R. §§2.59(a), 2.193(a), (c)-(d), (e)(1); TMEP §§611.01(c), 804.01(b). Please note that these steps appear on different pages of the TEAS response form.

If applicant experiences difficulty in submitting the required substitute specimen, supporting statement and/or declaration, please e-mail TEAS@uspto.gov for technical assistance regarding the TEAS response form.

See 15 U.S.C. §§1051(a), 1112, 1127; 37 C.F.R. §§2.32(a)(5), 2.34(a)(1), 2.56(a), 2.71(c), 2.86(a), 2.193(e)(1); TMEP §§1403.01, 1403.02(c).

With respect to the requirement in 3(b) above for a specimen for each class of services, please note that the specimen(s) of record is acceptable for International Classes 36, 37, 39, and 45. Applicant must submit additional specimens if other classes are added to the application.

The filing fee for adding classes to an application is as follows:

- (1) \$325 per class, when the fees are submitted with a response filed online via the Trademark Electronic Application System

(TEAS) at <http://www.uspto.gov/teas/index.html>; or

- (2) \$375 per class, when the fees are submitted with a paper response.

37 C.F.R. §2.6(a)(1)(i)-(a)(1)(ii); TMEP §§810, 1403.02(c).

Specimen Requirement – Class 36

The specimen is not acceptable because it does not show the applied-for mark used in connection with any of the services specified in the application. An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each class of services. 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).

In this case, the specimen does not refer to extended warranty services. Rather, the specimen refers to roadside assistance services and trip interruption insurance.

Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the actual sale or advertising of the services. *See* TMEP §1301.04 *et seq.*

Therefore, applicant must submit the following:

- (1) A substitute specimen showing the mark in use in commerce for each class of services specified in the application; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**The substitute specimen was in use in commerce at least as early as the filing date of the application.**” 37 C.F.R. §2.59(a); TMEP §904.05; *see* 37 C.F.R. §2.193(e)(1). If submitting a substitute specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c); TMEP §904.05. *See* above for instructions regarding properly worded declarations.

Advisory – Amendment to Section 1(b)

If applicant cannot satisfy the above requirements, applicant may amend the application from a use in commerce basis under Section 1(a) to an intent to use basis under Section 1(b), for which no specimen is required. *See* TMEP §806.03(c). However, if applicant amends the basis to Section 1(b), registration will not be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. *See* 15 U.S.C. §1051(c), (d); 37 C.F.R. §§2.76, 2.88; TMEP §1103.

To amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**Applicant has had a bona fide intention to use the mark in commerce on or in connection with the services listed in the application as of the filing date of the application.**” 37 C.F.R. §2.34(a)(2); TMEP §806.01(b); *see* 15 U.S.C. §1051(b); 37 C.F.R. §§2.35(b)(1), 2.193(e)(1).

If applicant responds to this Office action online via TEAS, applicant will find a properly worded declaration by answering “yes” to the TEAS response form wizard question relating to submitting a “signed declaration,” and personally entering his/her electronic signature and date after the declaration at the end of the TEAS response form, or attaching a jpg or pdf file of a personally signed and dated declaration that includes the statements specified further below. *See* 37 C.F.R. §§2.33(a), (b)(2), (c), 2.193(a), (c)-(d), (e)(1); TMEP §§611.01(c), 804.01(b).

If applicant responds to this Office action on paper, via regular mail, applicant may amend the basis to use by providing the following statements and declaration at the end of the response, personally signed and dated by a person authorized under 37 C.F.R. §2.193(e)(1). *See* 37 C.F.R. §§2.20, 2.33(a), (b)(2), (c), 2.193(a), (d); TMEP §§611.01(b), 804.01(b).

STATEMENTS: He/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be entitled to use such mark in commerce; that applicant has had a bona fide intention to use the mark in commerce on or in connection with the services listed in the application as of the application filing date; that the facts set forth in the application are true and correct; that to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.

DECLARATION: The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Pending receipt of a proper response, registration is refused because the specimen does not show the applied-for mark in use in commerce as a trademark and/or service mark for the identified services. 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).

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Kelly Boulton/
Trademark Attorney
Law Office 102
(571)272-9247
Kelly.Boulton@uspto.gov (for informal questions)

RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

To: Enterprise Financial Group, Inc. (tm@sughrue.com)
Subject: U.S. TRADEMARK APPLICATION NO. 77934867 - XTREME PROTECTION PLAN - S14442
Sent: 5/19/2010 6:58:16 PM
Sent As: ECOM102@USPTO.GOV
Attachments:

IMPORTANT NOTICE REGARDING YOUR TRADEMARK APPLICATION

Your trademark application (Serial No. 77934867) has been reviewed. The examining attorney assigned by the United States Patent and Trademark Office (“USPTO”) has written a letter (an “Office action”) on **5/19/2010** to which you must respond (*unless the Office letter specifically states that no response is required*). Please follow these steps:

1. **Read** the Office letter by clicking on this **link** http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77934867&doc_type=OOA&mail_date=20100519 **OR** go to <http://tportal.uspto.gov/external/portal/tow> and enter your serial number to access the Office letter. If you have difficulty accessing the Office letter, contact TDR@uspto.gov.

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

2. **Contact** the examining attorney who reviewed your application if you have any questions about the content of the Office letter (contact information appears at the end thereof).

3. **Respond** within 6 months, calculated from **5/19/2010** (*or sooner if specified in the Office letter*), using the Trademark Electronic Application System (TEAS) [Response to Office Action form](#). If you have difficulty using TEAS, contact TEAS@uspto.gov.

ALERT:

Failure to file any required response by the applicable deadline will result in the **ABANDONMENT** (loss) of your application.

Do NOT hit “Reply” to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses.

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77934867
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MARK SECTION (no change)	
ARGUMENT(S)	
<p>Applicant's counsel is in receipt of the Office Action issued May 19, 2010. After careful consideration of its contents and correspondence with Applicant, counsel responds as follows.</p> <p style="text-align: center;"><u>REMARKS</u></p> <p>By the amendment requested herein, Applicant has accepted the suggestions of the Examining Attorney for Classes 36 and 37, and appreciates the assistance of the Examiner in this regard. Applicant has not added Classes 39 and 45 to the application, and in view of the acceptance of the Examiner's suggested recitation, it is respectfully submitted the recitation, as amended, should be acceptable for purposes of publication.</p> <p>The Examining Attorney has initially noted that the specimens of use submitted to support International Class 36 are not acceptable because they do not evidence use of the mark in association with "providing extended warranties on motor vehicles." However, the Examiner does state the specimens refer to "roadside assistance services" and "trip interruption insurance." In view of the amendment to the recitation of services, the recitation now includes insurance services associated with roadside assistance and trip interruption, and it is respectfully submitted that the refusal with respect to the specimen for Class 36 should be withdrawn as moot. Undersigned counsel confirms a telephone conversation with the Examining Attorney with respect to this issue, and thanks the Examiner for the courtesies extended during the course of that conference.</p> <p>Finally, pursuant to the Examining Attorney's request, submitted herewith is an application Declaration stating that the mark and specimens of use were in use in commerce at least as early as the filing date of the application. It is respectfully submitted that the attached Declaration wholly conforms with all Trademark Office rules and requirements.</p> <p>In view of the foregoing Amendment and Remarks, and inasmuch as the Examining Attorney has stated that the search of the Office records has found no similar registered or prior filed mark that would bar registration under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), it is respectfully submitted that the instant application is now in condition for publication, and prompt action in that regard is earnestly solicited.</p>	
GOODS AND/OR SERVICES SECTION (036)(current)	
INTERNATIONAL CLASS	036
DESCRIPTION	PROVIDING EXTENDED WARRANTIES ON MOTOR VEHICLES
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/23/2009
FIRST USE IN COMMERCE DATE	At least as early as 07/23/2009
GOODS AND/OR SERVICES SECTION (036)(proposed)	
INTERNATIONAL CLASS	036
TRACKED TEXT DESCRIPTION	
PROVIDING EXTENDED WARRANTIES ON MOTOR VEHICLES; INSURANCE SERVICES, NAMELY, UNDERWRITING, ISSUING	

AND ADMINISTRATION OF MOTOR VEHICLE SERVICE PLANS COVERING MECHANICAL BREAKDOWN AND REPAIR, EMERGENCY ROADSIDE ASSISTANCE AND TRIP INTERRUPTION INSURANCE

FINAL DESCRIPTION

PROVIDING EXTENDED WARRANTIES ON MOTOR VEHICLES; INSURANCE SERVICES, NAMELY, UNDERWRITING, ISSUING AND ADMINISTRATION OF MOTOR VEHICLE SERVICE PLANS COVERING MECHANICAL BREAKDOWN AND REPAIR, EMERGENCY ROADSIDE ASSISTANCE AND TRIP INTERRUPTION INSURANCE

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/23/2009
FIRST USE IN COMMERCE DATE	At least as early as 07/23/2009

GOODS AND/OR SERVICES SECTION (037)(current)

INTERNATIONAL CLASS 037

DESCRIPTION

PROVIDING MOTOR VEHICLE SERVICE PLANS IN THE FIELD OF MECHANICAL BREAKDOWN AND REPAIRS, EMERGENCY ROADSIDE SERVICES AND TRIP INTERRUPTION

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/23/2009
FIRST USE IN COMMERCE DATE	At least as early as 07/23/2009

GOODS AND/OR SERVICES SECTION (037)(proposed)

INTERNATIONAL CLASS 037

TRACKED TEXT DESCRIPTION

~~PROVIDING MOTOR VEHICLE SERVICE PLANS IN THE FIELD OF MECHANICAL BREAKDOWN AND REPAIRS, EMERGENCY ROADSIDE SERVICES AND TRIP INTERRUPTION;~~ EMERGENCY ROADSIDE ASSISTANCE SERVICES, NAMELY, RESPONDING TO CALLS FOR ROADSIDE ASSISTANCE, FLAT TIRE CHANGING, EMERGENCY FUEL SUPPLYING, AND BATTERY JUMP STARTING

FINAL DESCRIPTION

EMERGENCY ROADSIDE ASSISTANCE SERVICES, NAMELY, RESPONDING TO CALLS FOR ROADSIDE ASSISTANCE, FLAT TIRE CHANGING, EMERGENCY FUEL SUPPLYING, AND BATTERY JUMP STARTING

FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/23/2009
FIRST USE IN COMMERCE DATE	At least as early as 07/23/2009

SIGNATURE SECTION

ORIGINAL PDF FILE	HS_12411614-135226137_..S14442_executed_Declaration.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT1\IMAGEOUT11\779\348\77934867.xml1\ROA0002.JPG
SIGNATORY'S NAME	Jeffrey W. Beaver
SIGNATORY'S POSITION	SVP, Marketing and Product Management
RESPONSE SIGNATURE	/Kevin G. Smith/
SIGNATORY'S NAME	Kevin G. Smith
SIGNATORY'S POSITION	Attorney for Applicant, DC bar member
DATE SIGNED	11/19/2010
AUTHORIZED SIGNATORY	YES

FILING INFORMATION SECTION

SUBMIT DATE	Fri Nov 19 13:57:49 EST 2010
TEAS STAMP	USPTO/ROA-XX.X.XXX.XX-201 01119135749236702-7793486 7-470786940643951d72f4a9a 4218ebf86a3f-N/A-N/A-2010 1119135226137116

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 04/30/2011)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77934867** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Applicant's counsel is in receipt of the Office Action issued May 19, 2010. After careful consideration of its contents and correspondence with Applicant, counsel responds as follows.

REMARKS

By the amendment requested herein, Applicant has accepted the suggestions of the Examining Attorney for Classes 36 and 37, and appreciates the assistance of the Examiner in this regard. Applicant has not added Classes 39 and 45 to the application, and in view of the acceptance of the Examiner's suggested recitation, it is respectfully submitted the recitation, as amended, should be acceptable for purposes of publication.

The Examining Attorney has initially noted that the specimens of use submitted to support International Class 36 are not acceptable because they do not evidence use of the mark in association with "providing extended warranties on motor vehicles." However, the Examiner does state the specimens refer to "roadside assistance services" and "trip interruption insurance." In view of the amendment to the recitation of services, the recitation now includes insurance services associated with roadside assistance and trip interruption, and it is respectfully submitted that the refusal with respect to the specimen for Class 36 should be withdrawn as moot. Undersigned counsel confirms a telephone conversation with the Examining Attorney with respect to this issue, and thanks the Examiner for the courtesies extended during the course of that conference.

Finally, pursuant to the Examining Attorney's request, submitted herewith is an application Declaration stating that the mark and specimens of use were in use in commerce at least as early as the filing date of the application. It is respectfully submitted that the attached Declaration wholly conforms with all Trademark Office rules and requirements.

In view of the foregoing Amendment and Remarks, and inasmuch as the Examining Attorney has stated that the search of the Office records has found no similar registered or prior filed mark that would bar registration under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), it is respectfully submitted that the instant application is now in condition for publication, and prompt action in that regard is earnestly solicited.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 036 for PROVIDING EXTENDED WARRANTIES ON MOTOR VEHICLES

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the

mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 07/23/2009 and first used in commerce at least as early as 07/23/2009, and is now in use in such commerce.

Proposed:

Tracked Text Description: PROVIDING EXTENDED WARRANTIES ON MOTOR VEHICLES; [INSURANCE SERVICES, NAMELY, UNDERWRITING, ISSUING AND ADMINISTRATION OF MOTOR VEHICLE SERVICE PLANS COVERING MECHANICAL BREAKDOWN AND REPAIR, EMERGENCY ROADSIDE ASSISTANCE AND TRIP INTERRUPTION INSURANCE](#)

Class 036 for PROVIDING EXTENDED WARRANTIES ON MOTOR VEHICLES; INSURANCE SERVICES, NAMELY, UNDERWRITING, ISSUING AND ADMINISTRATION OF MOTOR VEHICLE SERVICE PLANS COVERING MECHANICAL BREAKDOWN AND REPAIR, EMERGENCY ROADSIDE ASSISTANCE AND TRIP INTERRUPTION INSURANCE

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 07/23/2009 and first used in commerce at least as early as 07/23/2009, and is now in use in such commerce.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 037 for PROVIDING MOTOR VEHICLE SERVICE PLANS IN THE FIELD OF MECHANICAL BREAKDOWN AND REPAIRS, EMERGENCY ROADSIDE SERVICES AND TRIP INTERRUPTION

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 07/23/2009 and first used in commerce at least as early as 07/23/2009, and is now in use in such commerce.

Proposed:

Tracked Text Description: ~~PROVIDING MOTOR VEHICLE SERVICE PLANS IN THE FIELD OF MECHANICAL BREAKDOWN AND REPAIRS, EMERGENCY ROADSIDE SERVICES AND TRIP INTERRUPTION;~~ [EMERGENCY ROADSIDE ASSISTANCE SERVICES, NAMELY, RESPONDING TO CALLS FOR ROADSIDE ASSISTANCE, FLAT TIRE CHANGING, EMERGENCY FUEL SUPPLYING, AND BATTERY JUMP STARTING](#)

Class 037 for EMERGENCY ROADSIDE ASSISTANCE SERVICES, NAMELY, RESPONDING TO CALLS FOR ROADSIDE ASSISTANCE, FLAT TIRE CHANGING, EMERGENCY FUEL SUPPLYING, AND BATTERY JUMP STARTING

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 07/23/2009 and first used in commerce at least as early as 07/23/2009, and is now in use in such commerce.

SIGNATURE(S)

Declaration Signature

Original PDF file:

[HS_12411614-135226137_ .S14442_executed_Declaration.pdf](#)

Converted PDF file(s) (1 page)

[Signature File1](#)

Signatory's Name: Jeffrey W. Beaver

Signatory's Position: SVP, Marketing and Product Management

Response Signature

Signature: /Kevin G. Smith/ Date: 11/19/2010

Signatory's Name: Kevin G. Smith

Signatory's Position: Attorney for Applicant, DC bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77934867

Internet Transmission Date: Fri Nov 19 13:57:49 EST 2010

TEAS Stamp: USPTO/ROA-XX.X.XXX.XX-201011191357492367

02-77934867-470786940643951d72f4a9a4218e

bf86a3f-N/A-N/A-20101119135226137116

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the matter of

Enterprise Financial Group, Inc.

U.S. Serial No.: 77/934,867

Filed: February 12, 2010

Mark: XTREME PROTECTION PLAN

NO FEE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

REMARKS

Submitted herewith is a Declaration in support of an electronically submitted application. Applicant is using the mark in commerce on or in connection with the goods and/or services identified in the application as of the application filing date. The specimen(s) submitted herewith or with the electronically submitted application were in use in commerce as of the filing date of the application.

NEW APPLICATION DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that he is authorized to execute this instrument on behalf of the applicant; he believes the applicant to be the owner of the mark sought to be registered or, if the application is being filed under 15 U.S.C. 1051(b), he believes applicant to be entitled to use such mark in commerce; to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; that the facts set forth in this application are true; and all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Signed at Irving, Texas, this 16th day of November, 2010.

Enterprise Financial Group, Inc.



Jeffrey W. Beaver
SVP, Marketing and Product Management

TOW TRUCK II

