

Date: December 14, 2020
Mark: AMERICAN NATIONAL and Design
Serial No.: 88838891

Response to Office Action

In response to the Office Action issued June 12, 2020, Applicant argues that the specimen submitted on March 18, 2020 for the Class 37 services is proper and should be accepted.

TEA notes that the specimen indicates that Applicant performs inspections for properties that are related to loans. However, the specimen also indicates that this form is used by the Mortgage and Real Estate Investment Department. The form can be used by the department in situations in which Applicant is also engaging in providing real estate development and construction services and funding for the same.

TEA cites TMEP §1301.04(a), (h)(iv)(C) for the notion that proper specimen could only be one of the following: “(1) copies of advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services.” However, TMEP §1301.04 (h)(iv)(C) is instructive with regards to webpage specimen, particularly webpage specimen from social media websites and is thus not relevant to the specimen at issue.

Furthermore, contrary to TEA’s assertion, TMEP §1301.04(a) indicates that “Business documents such as letterhead and invoices may be acceptable service-mark specimens if they show the mark and refer to the relevant services.” The specimen submitted March 18, 2020 for the Class 37 services is such a business document and should be accepted as specimen of use.

Applicant requests reconsideration and urges acceptance of the specimen.