

Applicant's Response to Office Action
Trademark Application Serial No. 88852370
ZION

The comments below respond to the issues raised in the Office Action issued on April 10, 2023. The Office Action indicated that the specimen submitted in Class 41 did not show use of the mark in connection with providing on-line computer games.

Applicant respectfully responds with an explanation of how the specimen submitted also refers to an online game. Additionally, within this response, Applicant is submitting additional specimen material which clarify the nature of the goods and how they also qualify as online games.

Previously Submitted Specimens

As specimens for Class 41, Applicant originally submitted images of a web page display showing the goods bearing the mark, which also serves as a point of sale from which goods can be purchased. Applicant has resubmitted these images for ease of reference, and they are the first two images attached as specimens within this Response. These specimens display the mark on the image of a box that would contain video games on a disk when the goods are sold in that form. However, a disk in a box is not the only way in which the goods are delivered.

As shown in the original specimen submitted, the product description refers to "item specifics," which include features of the game that are provided in an online environment. Thus, despite the fact that the video game may be bought as a game sold on a physical disk, the product also can be downloaded. Furthermore, the product description describes additional supplemental game material provided online. Thus, even the original specimen material indicates that the full experience of using the video games consists of activity that is performed using material that may be delivered on a disk, downloaded, and provided online.

Supplemental Specimens

Within this Response, Applicant has submitted four additional images as supplemental specimen material, which are indicated as images three through six of the specimen material submitted. Image three is a web page from the online environment hosted by 2K, the video game's producer, with FAQ information for the video game series. This page explains general information about how consumers use the web site to access video game material online. Images four through six are three web pages that also illustrate the online environment in which users of the goods access game features while playing the game, including online videos and other material.

Conclusion

As indicated above, the specimens provided show use of the mark in connection with video game material that is sold in various forms, and which includes features accessed online. Thus, the goods illustrated in the specimen qualify as digital video game goods in Class 41.

Thus, the Applicant respectfully submits that all of the points of concern raised in the Office Action have been addressed, and the Applicant requests that the Statement of Use and supporting specimens submitted in support of its application be accepted.