

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: EVOLON  
International Class: 10  
Registration No.: 2,648,274  
Registration Date: November 12, 2002  
Goods: non-woven fabrics as semi-finished material for surgeon's garment  
Registrant: Carl Freudenberg KG

SUPPLEMENTAL COMMUNICATION

The specimens, brochures and product information, being submitted herewith are (I) documents associated with the goods or their sale; and (II) point of sale materials, that are acceptable by the PTO as specimens of trademark use. These specimens show use of the trademark in U.S. commerce.

I. Documents Associated with the Goods

Documents associated with the goods or their sale are acceptable as specimens under 15 U.S.C. § 1127, if the nature of the goods is such that placement of tags or labels on the goods or packaging is impracticable. Here, placement of tags or labels on the goods is impracticable because the goods are “non-woven fabrics as semi-finished material for surgeon's garment” for further processing and manufacture of finished consumer products. Thus, it is not practicable to label the goods with the EVOLON mark.

The specimen submitted herewith clearly identifies the product by prominently showing the EVOLON mark in close proximity to pictures of the goods. Since placement of a label on the goods or their containers is impracticable, documents associated with the goods or their sale, such as those attached hereto constitute acceptable specimens of use under 15 U.S.C. § 1127.

## II. Point of Sale Materials

Point of sale material displayed in association with the goods is acceptable as a specimen under TMEP 905.06 and 905.06(a). Materials associated with the goods will constitute point of sale material provided they include: (1) a picture of the relevant goods offered for sale, (2) the mark sufficiently near the picture of the goods, or near a description of the goods, (3) information necessary to order the goods, and (4) information that would enable the consumer to identify the mark and source of goods. Lands' End, Inc. v. Manbeck, 797 F.Supp. 511, 241 U.S.P.Q.2d 1314 (E.D. Va. 1992).

Point of sale specimens are acceptable if they: (1) provide a customer “with the opportunity to look to the displayed mark as a means of identifying and distinguishing the source of goods” (Lands' End, Inc. v. Manbeck, 797 F.Supp. 511, 514); or (2) associate the mark to the goods “in such a way that an association of the two is inevitable even though the goods may not be placed in close proximity ...” In re MediaShare Corp., 43 U.S.P.Q.2d 1304, 1307 (TTAB 1997).

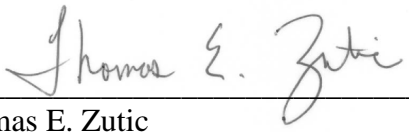
The specimen attached hereto prominently displays the EVOLON trademark throughout. The specimen is a brochure and product information from Carl Freudenberg KG. The specimen provides information about Registrant’s EVOLON products and applications for their use. See In re Dell Inc., 711 U.S.P.Q.2d 1725 (TTAB 2004). The mark is clearly displayed, along with pictures and detailed description of the goods. The brochure also provides the prospective customer with detailed information including hyperlinks on how to contact Carl Freudenberg KG to order EVOLON products.

It is respectfully submitted that specimen submitted herewith is point of sale material that should be accepted by the PTO as specimen of use because it includes: (1) pictures and detailed descriptions of the goods that are offered for sale; (2) the pictures and detailed descriptions are in close proximity to the EVOLON mark, which is prominently displayed (numerous times) so that the mark is readily associated with the goods; (3) all contact information necessary to order the goods; and (4) sufficient information to identify the mark and distinguish the source of the goods. See Lands' End, Inc. v. Manbeck, 797 F.Supp. 511, 241 U.S.P.Q.2d 1314 (E.D. Va. 1992).

III. Conclusion

Applicant respectfully requests that the attached specimen be accepted as evidence of use in U.S. commerce and that the Combined Declaration of Use and Application for Renewal under Sections 8 & 9 (15 U.S.C. § § 1058 & 1059) be accepted.

Dated: October 24, 2012

By:   
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