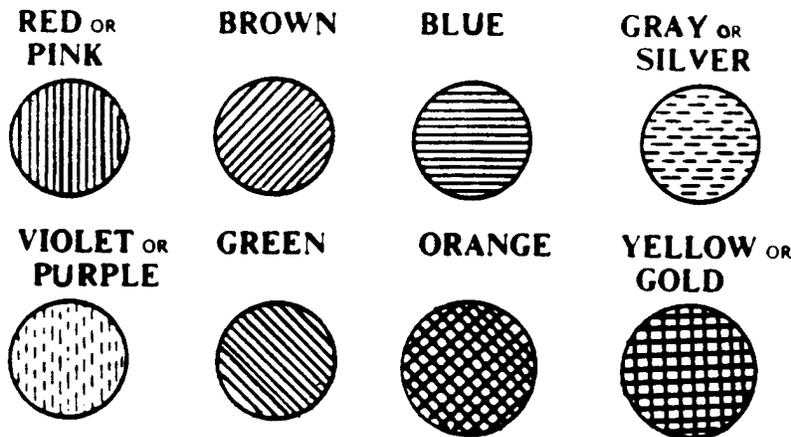


(d) *Heading.* Across the top of the drawing, beginning one inch (2.5 cm.) from the top edge and not exceeding one third of the sheet, there must be placed a heading, listing in separate lines, applicant's complete name; applicant's post office address; the dates of first use of the mark and first use of the mark in commerce in an application under section 1(a) of the Act; the priority filing date of the relevant foreign application in an application claiming the benefit of a prior foreign application in accordance with section

44(d) of the Act; and the goods or services recited in the application or a typical item of the goods or services if a number of items are recited in the application. This heading should be typewritten. If the drawing is in special form, the heading should include a description of the essential elements of the mark.

(e) *Linings for color.* Where color is a feature of a mark, the color or colors employed may be designated by means of conventional linings as shown in the following color chart:



[51 FR 29921, Aug. 21, 1986, as amended at 54 FR 37591, Sept. 11, 1989; 54 FR 46231, Nov. 2, 1989]

inches (21.6 cm.) wide and 11 inches (27.9 cm.) long.

[54 FR 37591, Sept. 11, 1989]

§ 2.56 Specimens.

An application under section 1(a) of the Act, an amendment to allege use under § 2.76, and a statement of use under § 2.88 must each include three specimens of the trademark as used on or in connection with the goods in commerce. The specimens shall be duplicates of the labels, tags, or containers bearing the trademark, or the displays associated with the goods and bearing the trademark (or if the nature of the goods makes use of such specimens impracticable then on documents associated with the goods or their sale), when made of suitable flat material and of a size not to exceed 8½

§ 2.57 Facsimiles.

(a) When, due to the mode of applying or affixing the trademark to the goods, or to the manner of using the mark on the goods, or to the nature of the mark, specimens as above stated cannot be furnished, three copies of a suitable photograph or other acceptable reproduction, not to exceed 8½ inches (21.6 cm.) wide and 11 inches (27.9 cm.) long, and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

(b) A purported facsimile which is merely a reproduction of the drawing submitted to comply with § 2.51 will not

be considered to be a facsimile depicting the mark as used on or in connection with the goods or in connection with the services.

[54 FR 37591, Sept. 11, 1989]

§ 2.58 Specimens or facsimiles in the case of a service mark.

(a) In the case of service marks, specimens or facsimiles as specified in §§ 2.56 and 2.57, of the mark as used in the sale or advertising of the services shall be furnished unless impossible because of the nature of the mark or the manner in which it is used, in which event some other representation acceptable to the Commissioner must be submitted.

(b) In the case of service marks not used in printed or written form, three audio cassette tape recordings will be accepted.

[30 FR 13193, Oct. 16, 1965, as amended at 51 FR 29922, Aug. 21, 1986]

§ 2.59 Filing substitute specimens.

(a) In an application under section 1(a) of the Act, the applicant may submit substitute specimens of the mark as used on or in connection with the goods, or in the sale or advertising of the services, provided that any substitute specimens submitted are supported by applicant's affidavit or declaration in accordance with § 2.20 verifying that the substitute specimens were in use in commerce at least as early as the filing date of the application. The verification requirement shall not apply if the specimens are duplicates or facsimiles, such as photographs, of specimens already of record in the application.

(b) In an application under section 1(b) of the Act, after filing either an amendment to allege use under § 2.76 or a statement of use under § 2.88, the applicant may submit substitute specimens of the mark as used on or in connection with the goods, or in the sale or advertising of the services, provided that the use in commerce of any substitute specimens submitted is supported by applicant's affidavit or declaration in accordance with § 2.20. In the case of a statement of use under § 2.88, the applicant must verify that the substitute specimens were in use in

commerce prior to the filing of the statement of use or prior to the expiration of the time allowed to applicant for filing a statement of use.

[54 FR 37591, Sept. 11, 1989]

EXAMINATION OF APPLICATION AND ACTION BY APPLICANTS

AUTHORITY: Secs. 2.61 to 2.69 also issued under sec. 12, 60 Stat. 432; 15 U.S.C. 1062.

§ 2.61 Action by examiner.

(a) Applications for registration, including amendments to allege use under section 1(c) of the Act, and statements of use under section 1(d) of the Act, will be examined and, if the applicant is found not entitled to registration for any reason, applicant will be notified and advised of the reasons therefor and of any formal requirements or objections.

(b) The examiner may require the applicant to furnish such information and exhibits as may be reasonably necessary to the proper examination of the application.

(c) Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, each party and also the attorney shall be notified of this fact.

[30 FR 13193, Oct. 16, 1965, as amended at 37 FR 2880, Feb. 9, 1972; 54 FR 37592, Sept. 11, 1989]

§ 2.62 Period for response.

The applicant has six months from the date of mailing of any action by the examiner to respond thereto. Such response may be made with or without amendment and must include such proper action by the applicant as the nature of the action and the condition of the case may require.

§ 2.63 Reexamination.

(a) After response by the applicant, the application will be reexamined or reconsidered. If registration is again refused or any formal requirement[s] is repeated, but the examiner's action is not stated to be final, the applicant may respond again.

(b) After reexamination the applicant may respond by filing a timely petition to the Commissioner for relief from a