

(2) A service mark specimen must show the mark as actually used in the sale or advertising of the services.

(3) A collective trademark or collective service mark specimen must show how a member uses the mark on the member's goods or in the sale or advertising of the member's services.

(4) A collective membership mark specimen must show use by members to indicate membership in the collective organization.

(5) A certification mark specimen must show how a person other than the owner uses the mark to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of that person's goods or services; or that members of a union or other organization performed the work or labor on the goods or services.

(c) A photocopy or other reproduction of a specimen of the mark as actually used on or in connection with the goods, or in the sale or advertising of the services, is acceptable. However, a photocopy of the drawing required by § 2.51 is not a proper specimen.

(d)(1) The specimen should be flat, and not larger than 8½ inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long. If a specimen of this size is not available, the applicant may substitute a suitable photograph or other facsimile.

(2) If the applicant files a specimen exceeding these size requirements (a "bulky specimen"), the Office will create a digital facsimile of the specimen that meets the requirements of the rule (*i.e.*, is flat and no larger than 8½ inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long) and put it in the record. The Office may destroy the original bulky specimen.

(3) In the absence of non-bulky alternatives, the Office may accept an audio or video cassette tape recording, CD-ROM, or other appropriate medium.

(4) For a TEAS submission, the specimen must be a digitized image in .jpg or .pdf format.

[64 FR 48921, Sept. 8, 1999, as amended at 68 FR 55764, Sept. 26, 2003; 73 FR 67769, Nov. 17, 2008; 77 FR 30207, May 22, 2012]

EFFECTIVE DATE NOTE: At 80 FR 33183, June 11, 2015, § 2.56 was amended by revising paragraphs (b)(2), (b)(5), (c), and (d)(3), effective

July 11, 2015. For the convenience of the user, the revised text is set forth as follows:

§ 2.56 Specimens.

\* \* \* \* \*

(b) \* \* \*

(2) A service mark specimen must show the mark as used in the sale or advertising of the services.

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(5) A certification mark specimen must show how a person other than the owner uses the mark to reflect certification of regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of that person's goods or services; or that members of a union or other organization performed the work or labor on the goods or services.

(c) A photocopy or other reproduction of a specimen of the mark as used on or in connection with the goods, or in the sale or advertising of the services, is acceptable. However, a photocopy of the drawing required by § 2.51 is not a proper specimen.

(d) \* \* \*

(3) In the absence of non-bulky alternatives, a specimen of use in another appropriate medium may be designated as acceptable by the Office.

\* \* \* \* \*

§§ 2.57–2.58 [Reserved]

§ 2.59 Filing substitute specimen(s).

(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. The applicant must verify by an affidavit or declaration under § 2.20 that the substitute specimens were in use in commerce at least as early as the filing date of the application. Verification is not required if the specimen is a duplicate or facsimile of a specimen 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

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or advertising of the services. If the applicant submits substitute specimen(s), the applicant must:

(1) For an amendment to allege use under § 2.76, verify by affidavit or declaration under § 2.20 that the applicant used the substitute specimen(s) in commerce prior to filing the amendment to allege use.

(2) For a statement of use under § 2.88, verify by affidavit or declaration under § 2.20 that the applicant used the substitute specimen(s) in commerce either prior to filing the statement of use or prior to the expiration of the deadline for filing the statement of use.

[64 FR 48921, Sept. 8, 1999]

EFFECTIVE DATE NOTE: At 80 FR 33183, June 11, 2015, § 2.59 was revised, effective July 11, 2015. For the convenience of the user, the revised text is set forth as follows:

### § 2.59 Filing substitute specimen(s).

(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, or as used to indicate membership in the collective organization. The applicant must submit a verified statement that the substitute specimen was in use in commerce at least as early as the filing date of the application. The verified statement is not required if the specimen is a duplicate or facsimile of a specimen 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, or as used to indicate membership in the collective organization. If the applicant submits substitute specimen(s), the applicant must:

(1) For an amendment to allege use under § 2.76, submit a verified statement that the substitute specimen(s) was in use in commerce prior to filing the amendment to allege use.

(2) For a statement of use under § 2.88, submit a verified statement that the substitute specimen(s) was in use in commerce either prior to filing the statement of use or prior to the expiration of the deadline for filing the statement of use.

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### 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 Office may require the applicant to furnish such information, exhibits, affidavits or declarations, and such additional specimens 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; 77 FR 30207, May 22, 2012]

### § 2.62 Procedure for filing response.

(a) *Deadline.* The applicant's response to an Office action must be received within six months from the date of issuance.

(b) *Signature.* The response must be signed by the applicant, someone with legal authority to bind the applicant (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(c) *Form.* Responses must be filed through TEAS, transmitted by facsimile, mailed, or delivered by hand, as set out in § 2.190(a). Responses sent via email will not be accorded a date of receipt.

[73 FR 67769, Nov. 17, 2008, as amended at 74 FR 54908, Oct. 26, 2009; 80 FR 2310, Jan. 16, 2015]