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**THIS DISPOSITION
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OF THE T.T.A.B.**

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Infrared Solutions

Serial No. 75/174,567

Hugh D. Jaeger, Esq. for Infrared Solutions.

Jessie W. Billings, Trademark Examining Attorney, Law
Office 103 (Michael Hamilton, Managing Attorney).

Before Cissel, Hanak and Drost, Administrative Trademark
Judges.

Opinion by Hanak, Administrative Trademark Judge.

Infrared Solutions (applicant) seeks to register IR SnapPro in the form just depicted for "infrared imaging services." The intent-to-use application was filed on September 30, 1996. At the request of the Examining Attorney, applicant disclaimed the exclusive right to use the initials IR apart from the mark as shown.

On April 13, 1998 applicant filed its Statement of Use. As a specimen of use, applicant included copies of a 4 page brochure.

Thereafter, the Examining Attorney rejected the specimen because it failed to show use of the mark IR

SnapPro in connection with the services for which registration is sought. Subsequently, applicant submitted a substitute specimen of use. However, the Examining Attorney deemed that the one page substitute specimen was also inadequate in that it failed to show use of the mark IR SnapPro in connection with "infrared imaging services."

When the refusal to register was made final, applicant appealed to this Board. Applicant and the Examining Attorney filed briefs. Applicant initially requested an oral hearing, but thereafter withdrew its request.

The sole issue before this Board is whether applicant's original specimen of use or substitute specimen of use shows use of applicant's mark IR SnapPro in connection with the services for which registration is sought, namely, "infrared imaging services." A predecessor court to our primary reviewing Court has made it clear that "the requirement that a mark must be 'used in the sale or advertising of services' to be registered as a service mark is clear and specific ... The minimum requirement is some direct association between the offer of services and the mark sought to be registered therefor." In re Universal Oil Products Co., 476 F.2d 653, 177 USPQ 465, 457 (CCPA 1973).

The original specimen of use is a four page brochure whose only wording on the first page is as follows: "IR SnapPro™ ... The Infrared Camera for Today's Modern Factory and Process Applications." The remaining three pages of this brochure then describe in detail the features and specifications of the IR SnapPro infrared camera. This four page brochure in no way mentions that applicant offers "infrared imaging services."

The one page substitute specimen likewise describes the features of the IR SnapPro™ infrared camera system. Like the original specimen, the substitute specimen of use in no way indicates that applicant offers "infrared imaging services."

In seeking to have this Board reverse the refusal to register, applicant submitted a two page brief. This brief reads in pertinent part as follows:

Applicant previously submitted a specimen for the mark which has been used with the services, and the application was filed as an Intent to Use, as the mark was intended to be used in advertising and affixed to the goods. The specimen which was filed is for advertising which accompanies the goods. Therefore, the mark corresponds to what was originally filed. That is, the mark is used in advertising. Therefore it is requested that the Examiner's refusal be reversed and the application passed to publication. A substitute specimen with declaration is attached showing use of the mark on the goods. (Emphasis added).

As is readily apparent, applicant in its brief argues that IR SnapPro is used primarily with goods (infrared cameras) and not with services. Applicant has not shown that IR SnapPro is in any way used in association with the services for which registration is sought, much less that this mark is used with the required "direct association" with the services for which registration is sought. Universal Oil Products, 177 USPQ at 457. Accordingly, the Examining Attorney's refusal is well taken.

Decision: The refusal to register is affirmed.