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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Ex parte appeal no.	88010980
Appellant	RIIP, Inc.
Applied for mark	XERUS
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Submission	Request for remand/amendment
Attachments	88010980-Motion-to-Remand.pdf(137673 bytes) 88010980-Motion-to-Remand-Exhibits.pdf(1182179 bytes)
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Date	05/10/2022

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of: RIIP, Inc.
Serial No.: 88/010,980
Filed: June 22, 2018
Mark: XERUS

APPLICANT’S MOTION TO REMAND TO CONSIDER ADDITIONAL EVIDENCE

Pursuant to 37 C.F.R. § 2.142(d) and TBMP §§ 1207.02, 1209.04, and for good cause, RIIP, Inc. (“Applicant”) respectfully requests that the above-referenced ex parte appeal for Application Serial No. 88/010,980 (the “Application”) be remanded to the Examining Attorney for consideration of the attached additional evidence (**Exhibits A-D**), which were not previously submitted and considered.

On January 15, 2021, Applicant filed a Statement of Use with a specimen of use, which consists of an electronic display from Applicant’s website showing the mark in connection with the identified goods together with the means for ordering such identified goods. However, the Examining Attorney issued a Non-Final Action based on specimen refusal on February 10, 2021. On August 10, 2021, Applicant submitted an argument against the specimen refusal and requested the Examining Attorney to accept the previously submitted specimen. However, the Examining Attorney maintained the specimen refusal and issued a Final Action on September 3, 2021.

On March 3, 2022, Applicant submitted an additional specimen of use that consists of an electronic display/brochure showing use of the mark in connection with the identified goods together with the means for ordering such identified goods as a Request for Reconsideration after the Final Action. Also on March 3, 2022, Applicant also filed an ex parte appeal before the Trademark Trial and Appeal Board. On March 15, 2022, the Examining Attorney denied the Applicant’s Request for Reconsideration and maintained the specimen refusal.

Thereafter, Applicant was able to locate additional specimens of use and corresponded with the Examining Attorney regarding Applicant's motion to remand to consider additional evidence, to which both the Examining Attorney and Applicant agreed by telephone on April 18, 2022. The additional specimens include extracts from a User Guide and printouts from Online Guide that were in actual use in commerce at least as early as the filing date of the application (i.e., June 22, 2018) (**Exhibits A-B**) and prior to the expiration of the deadline for filing a Statement of Use (i.e., January 15, 2021) (**Exhibits C-D**).

Good cause for remand exists because the Examining Attorney and Applicant have agreed to remand. *See* TMEP § 1207.02 ("If an applicant or examining attorney wishes to introduce additional evidence after an appeal has been filed, the applicant or examining attorney may file a written request with the Board to suspend the appeal and remand the application for further examination...Examples of circumstances that have been found to constitute good cause for a remand for additional evidence include...[t]he applicant and examining attorney have agreed to the remand").

Thus, Applicant respectfully requests that the ex parte appeal for the Application be remanded to the Examining Attorney for consideration of the attached additional evidence (**Exhibits A-D**), which were not previously submitted and considered.

Respectfully submitted,

Date: May 10, 2022

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EXHIBIT A



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