

In the Office Action, the Examiner refused registration of the mark on the grounds that the mark is not inherently distinctive and that Applicant's claim of acquired distinctiveness was insufficient. In response to this objection Applicant has amended the Application to seek registration on the Supplemental Register.

The Examiner also raised objections regarding the specimen that was submitted. As discussed in correspondence between Applicant's attorney and the Examiner, there seemed to be some initial confusion regarding what it is that Applicant is seeking to register. Applicant is not trying to register the color red for guitar straps or for strap accessories, themselves. Instead, Applicant is trying to register the color red for the hang tags that are used to display the guitar straps when there are in a retail store. In other words, Applicant is seeking to register the color red for the product packaging, not for the strap or any strap accessories. The substitute specimens that are submitted herewith should resolve any confusion in this regard. The substitute specimens should also resolve the specimen agreement issue, as the initial specimen did appear somewhat orange, though the item itself is actually red.

Finally, in response to the various questions posed by the Examiner in the Office Action, the Applicant provides the following responses:

1. An explanation as to whether the identified color(s) serve(s) any purpose as used on the goods. **No, the color red on the hang tags serves no function other than its source identifying function.**
2. An explanation as to whether the identified color(s) is/are a natural by-product of the manufacturing process for the goods. **No, it is not.**
3. Any available advertising, promotional or explanatory literature concerning the goods, particularly any material that relates specifically to the applied-for color mark. **The substitute specimens should provide additional clarification regarding what it is that Applicant is seeking to register.**

4. An explanation as to whether any statutes, regulations, ordinances, codes or industry standards require, regulate and/or standardize the use of the identified color(s) on the goods. **There are no such statutes, regulations, etc.**
5. An explanation as to the use of the identified color(s) in applicant's industry and any other similar use of color in applicant's industry. **Applicant is not aware of any other company in Applicant's industry that uses red hang tags to display its products at the point of sale.**
6. An explanation describing any other similar use of color by applicant. **Applicant is unsure what information is sought in response to this request.**
7. An explanation as to whether competitors produce the goods in the identified color(s) and in color(s) other than the identified color(s). **Applicant is not aware of any other company in Applicant's industry that uses red hang tags to display its products at the point of sale.**
8. Color photographs and color advertisements showing competitive goods in applicant's industry. **As applicant is not seeking to register the color red on the goods themselves, it believes that any issue here has likely been resolved.**

In view of all the foregoing, Applicant requests that the Examiner withdraw the objections raised in the Office Action and allow the Application to proceed to registration on the Supplemental Register.