

**ISOTONIX**  
**App. Ser. No. 90075238**

**REMARKS IN SUPPORT OF REGISTRATION**

These remarks are in response to the non-final Office Action of October 15, 2020, wherein the subject application has been refused registration based on (a) Trademark Act Sections 1 and 45, on grounds that Applicant's previously-submitted website specimen of use did not include the URL information or date such specimen was accessed and printed; (b) Trademark Act Section 2(e)(1), on grounds that Applicant's mark is merely descriptive of the associated goods; and (c) the identification of goods was determined to require further clarification in order to comply with USPTO requirements for specificity and proper classification. Applicant provides the following Remarks in response.

**CLASSIFICATION & IDENTIFICATION OF GOODS REQUIREMENT**

Applicant has simultaneously herewith amended and reclassified the description of the goods associated with its subject mark to address the issues raised by the Examining Attorney.

**SECTION 1 AND 45 REFUSAL – SPECIMEN INSUFFICIENT**

Applicant advises the Examining Attorney that the URL for its originally-submitted website specimen of use is <https://www.shop.com/isotonix+OPC+3+reg+-561800349-p+.xhtml> and that it was accessed and printed on July 27, 2020. Applicant is submitting as a part of this response a sworn declaration pursuant to 37 C.F.R. §2.20 attesting that such information is true and correct.

**SECTION 2(e)(1) REFUSAL - MERELY DESCRIPTIVE**

Applicant asserts that the refusal of registration under Trademark Act Section 2(e)(1) is rendered moot as a result of the amendment of the instant application to include a claim of acquired distinctiveness based on Applicant's substantially exclusive and continuous use of the subject mark in commerce regulable by U.S. Congress for at least five years immediately preceding the date hereof. Applicant is submitting as a part of this response a sworn declaration attesting thereto. Consequently, and inasmuch as there are no other outstanding issues, upon acceptance of the amendments included herein, Applicant requests that the Examining Attorney withdraw the refusal of registration and promptly approve the instant application for publication.