

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gunnar Optiks, LLC Serial No.: 88341915 Filed: March 15, 2019 Mark: GUNNAR Attorney Docket No.: Gunnar Optiks	Law Office: 106 Examining Attorney: Linda A. Powell
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ARGUMENTS IN RESPONSE TO THE SUSPENSION NOTICE DATED MAY 28, 2019

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Examiner Powell:

In response to the Suspension Notice dated May 28, 2019, please consider the following:

REMARKS

The applied for mark, GUNNAR (“Applicant’s Mark”), has been initially refused for allegedly creating a “likelihood of confusion” in view of a prior-filed pending application for U.S. App. Ser. No. 87/187,503 for GUNNERS (the “Blocking Mark”). Applicant’s Mark is applied for in class 009 for “Eyeglass cases; Eyeglass cords; Eyeglass frames; Eyeglass lanyards; Eyeglass lenses; Eyeglasses; Antireflection coated eyeglasses; Cases for eyeglasses and sunglasses; Eyewear, namely, sunglasses, eyeglasses and ophthalmic frames and cases therefor; Frames for eyeglasses and pince-nez; Novelty eyeglasses; Protective eyeglasses; Reading eyeglasses; Side guards for eyeglasses.” As of October 15, 2019, the Blocking Mark is applied for in class 20 for “Cushions; plastic flags” and class 021 for “Beverageware; coasters, not of paper or textile; mugs.”¹ For the reasons set forth below, Applicant respectfully requests reconsideration and withdrawal of the refusal.

¹ The Blocking Mark submitted a statement of use on October 15, 2019 and deleted class 9, 11, 12, 16, 18, and 22, from the application. Attached herein as Exhibit A are the statement of use and specimens submitted on October 15, 2019 in U.S. App. Ser. No. 87/187,503.

1. APPLICANT'S MARK IS NOT LIKELY TO CAUSE CONFUSION IN VIEW OF THE BLOCKING MARK.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). See TMEP §1207.01. Those factors include:

- (a) The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression;
- (b) The relatedness of the goods or services as described in the application and registration(s);
- (c) The similarity or dissimilarity of established, likely-to-continue trade channels;
- (d) The conditions under which and buyers to whom sales are made, i.e., "impulse" vs. careful, sophisticated purchasing;
- (e) The number and nature of similar marks in use on similar goods; and,
- (f) The existence of a valid consent agreement between the applicant and the owner of the previously registered mark. *Id.*

Not all the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1355 (Fed. Cir. 2011); *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315 (Fed. Cir. 2003); see *In re E. I. du Pont*, 476 F.2d at 1361-62. In this case, factors (a), (b), (c), and, (d) are all relevant.

(a) The Similarity Or Dissimilarity Of The Marks In Their Entireties As To Appearance, Sound, Connotation And Commercial Impression

While similarity alone is not determinative of the issue of confusing similarity (see *Sleepmaster Products Co. v. Am. Auto-Felt Corp.*, 241 F.2d 738, 741 [C.C.P.A. 1957]),

GUNNAR is dissimilar to GUNNERS in appearance, sound, connotation, and commercial impression.

From the outset, GUNNAR is different in appearance to GUNNERS. Applicant's mark features the suffix "AR" after "GUNN," whereas the Blocking Mark features the suffix "ERS" after "GUNN." A consumer will look and see that the two marks are different in their appearance.

Additionally, the Applicant's Mark is also not likely to cause confusion with the Blocking Mark because the two marks differ in sound. The Applicant's Mark is pronounced GUNN-AR, with a second syllable that is equivalent to the sound in "par" or "tar." Whereas, the Blocking Mark is pronounced GUNN-ERS, which is not only plural, but has a second syllable that is equivalent to the second syllable sound in "farmers" or "rivers." Accordingly, the sound of GUNNAR to a consumer sounds different than GUNNERS.

Furthermore, the difference in GUNNAR and GUNNERS is sufficient to avoid a likelihood of confusion because it creates a significantly different commercial impression and connotation. The Merriam-Webster Dictionary defines "gunner" as "a soldier or airman who operates or aims a gun" (attached herein as Exhibit B is a printout of the Merriam-Webster Dictionary definition of "gunner")². Therefore, the Blocking Mark, is a plural form of gunner, which provides a commercial impression and connotation of a group of soldiers or airmen who operate or aim a gun. On the other hand, the Applicant's Mark, Gunnar, does not have a definition. From this, the consumer's connotation and commercial impression of the Applicant's Mark is different from the connotation and commercial impression of the Applicant's Mark.

Moreover, the Blocking Mark is owned by The Arsenal Football Club Public Limited Company. Accordingly, when viewed in light of the Blocking Mark's goods that actually display the Blocking Mark, GUNNERS is a secondary element/mark and is used as a nickname to identify the supporters and/or players for Arsenal Football Club ("Arsenal F.C.") a professional soccer team located in London, England. Since Arsenal represents "an establishment for the manufacture or storage of arms and military equipment" (attached herein as Exhibit C is a printout of the Merriam-Webster Dictionary definition of "arsenal")³, the soccer team adopted a firearm related nickname of Gunners for its supporters and players. As seen in Exhibit B, the

² <https://www.merriam-webster.com/dictionary/gunner>, accessed October 21, 2019.

Blocking Mark is a nickname that is generally used in connection with a primary mark ARSENAL. The primary element/mark that is prominently displayed on the Blocking Mark's goods is ARSENAL and it is always used in connection with promoting or referring to the soccer team Arsenal F.C. Thus, consumers do not associate "Gunners" with a brand for eyeglasses, sunglasses, or eyeglass accessories (i.e, RAY-BAN, OAKLEY, MAUI JIM, etc.), but rather as a specific nickname for a soccer team in London, England—Arsenal F.C. That is, consumers would not confuse Arsenal F.C. Gunners, a specific nickname associated with an English professional soccer team, with GUNNAR, as a brand for eyeglasses, sunglasses, and eyeglass accessories.

Therefore, Applicant's Mark is not likely to cause confusion with the Blocking Mark because they differ in appearance and sound, and the difference between GUNNAR and GUNNERS creates a wholly different connotation and commercial impression between the Applicant's Mark and the Blocking Mark, especially in view of their respective goods and the fact that Arsenal F.C. is a professional soccer team, not an eyeglass and eyeglass accessory brand or manufacturer.

(b) The Applicant's Goods are Completely Unrelated to the Blocking Mark's Goods

The Applicant's Mark is not likely to cause of likelihood of confusion with the Blocking Mark because the goods are not related. Here, Applicant's Mark is used in connection with "Eyeglass cases; Eyeglass cords; Eyeglass frames; Eyeglass lanyards; Eyeglass lenses; Eyeglasses; Antireflection coated eyeglasses; Cases for eyeglasses and sunglasses; Eyewear, namely, sunglasses, eyeglasses and ophthalmic frames and cases therefor; Frames for eyeglasses and pince-nez; Novelty eyeglasses; Protective eyeglasses; Reading eyeglasses; Side guards for eyeglasses[,]" which is completely unrelated to "Cushions; plastic flags" and "Beverageware; coasters, not of paper or textile; mugs." See *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1244-45, 73 USPQ2d 1350, 1356 (Fed. Cir. 2004) (reversing TTAB's holding that contemporaneous use of RITZ for cooking and wine selection classes and RITZ for kitchen textiles is likely to cause confusion, because the relatedness of the respective goods and services

³ <https://www.merriam-webster.com/dictionary/arsenal>, accessed October 21, 2019.

was not supported by substantial evidence); *Quartz Radiation Corp. v. Comm/Scope Co.*, 1 USPQ2d 1668, 1669 (TTAB 1986) (holding QR for coaxial cable and QR for various apparatus used in connection with photocopying, drafting, and blueprint machines not likely to cause confusion because of the differences between the parties' respective goods in terms of their nature and purpose, how they are promoted, and who they are purchased by). Therefore, there the Applicant's goods in class 009 are not related to the Blocking Mark's goods in class 020 and 021.

(c) The Dissimilarity Of Established, Likely-To-Continue Trade Channels and Conditions Under Which Sales are Made

The Applicant's Mark is not likely to cause confusion with the Blocking Mark because consumers will not encounter Applicant's Mark next to or in the same purchasing sections as the Blocking Mark. First, the Blocking Mark, as amended, is applied for in class 020 for "cushions; plastic flags" and in class 021 for "Beverageware; coasters, not of paper or textile; mugs[.]" which are not found in the same trade channels as eyeglasses, sunglasses, or eyeglass accessories. However, even if it is potentially argued that the Blocking Mark's goods, as amended, are related in some manner to eyeglasses, sunglasses, and eyeglass accessories in class 009, the Blocking Mark's goods would not be offered in the same trade channels. Since Arsenal F.C. is a professional soccer team and not an eyeglass manufacturer or brand, it is foreseeable that any eyewear or sunglasses that are intended to be sold in the future will be offered for sale in an Arsenal F.C. team store or an authorized dealer of Arsenal F.C. It is also foreseeable that the actual eyeglass or sunglasses will only bear the name GUNNERS, as a way for a fan to show support for a team, not as a way to identify the brand of eyeglass or sunglasses. That is, Arsenal F.C. eyeglass or sunglasses will be offered as an item that supports a team through its authorized retailers, not as an eyeglass brand and manufacturer that may be sold through eyeglass dealers or directly through the Applicant.

When consumers encounter the Applicant's Mark, it is in trade channels and marketplaces where consumers are looking for the identification of brands to differentiate one eyeglass or sunglass from another, not where consumers are looking for a memorabilia or

accessory item to support a soccer team. Accordingly, the sophistication and carefulness of the customer buying goods bearing Applicant's Mark is much greater than a consumer buying a good that bears the Blocking Mark. For example, when consumers are looking to buy eyeglasses or sunglasses bearing a specific brand or manufacturer's name (i.e., GUNNAR), that consumer is going to be more careful and more sophisticated when making the purchase of a good that is intended to aid or protect his or her eyes and health. On the other hand, a consumer purchasing a good that bears the Blocking Mark is doing it for the sole reason of buying memorabilia or paraphernalia that helps his more her support a specific team, that is, this consumer is not looking at the quality or brand of the good, instead, he or she is looking at whether the team nickname is on the good.

As a result, there would be no likelihood of confusion between the Applicant's Mark and the Blocking Mark because the trade channels are completely different and the sophistication of the consumer are completely different.

2. CLOSING REMARKS

For the foregoing reasons, it is submitted that the present application is in condition for publication and registration, and such action is respectfully requested. Should any questions arise, the Examining Attorney is requested to contact Applicant's Attorney at the telephone number shown below.

Dated: October 23, 2019

Respectfully Submitted,

/Byron Ma/

Byron Ma
Attorney for Applicant
858.459.9111
John K. Buche, Primary Attorney
Buche & Associates, P.C.
875 Prospect, Suite 305
La Jolla, CA 92037

EXHIBIT A

Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87187503
LAW OFFICE ASSIGNED	LAW OFFICE 116
EXTENSION OF USE	NO
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/87187503/large
LITERAL ELEMENT	GUNNERS
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
OWNER SECTION	
NAME	The Arsenal Football Club Public Limited Company
STREET	Highbury House 75 Drayton Park
CITY	London
ZIP/POSTAL CODE	N51BU
COUNTRY	United Kingdom
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	009
CURRENT IDENTIFICATION	Eyewear; Sunglasses
GOODS OR SERVICES	DELETE ALL ITU GOODS/SERVICES IN THIS CLASS
INTERNATIONAL CLASS	011
CURRENT IDENTIFICATION	Lighting installations; Dispenser units for air fresheners; portable electric coolers
GOODS OR SERVICES	DELETE ALL ITU GOODS/SERVICES IN THIS CLASS
INTERNATIONAL CLASS	012
CURRENT IDENTIFICATION	Aftermarket automobile accessories, namely, car interior organizer bags, nets and trays specially adapted for fitting in vehicles; Antenna toppers, namely, attachments to the tips of automobile antennas
GOODS OR SERVICES	DELETE ALL ITU GOODS/SERVICES IN THIS CLASS
INTERNATIONAL CLASS	016
CURRENT IDENTIFICATION	Stretched canvas for printing

GOODS OR SERVICES	DELETE ALL ITU GOODS/SERVICES IN THIS CLASS
INTERNATIONAL CLASS	018
CURRENT IDENTIFICATION	Replica stadium bags being all-purpose carrying bags; Collars for pets
GOODS OR SERVICES	DELETE ALL ITU GOODS/SERVICES IN THIS CLASS
INTERNATIONAL CLASS	020
CURRENT IDENTIFICATION	Furniture; Mirrors; Portable folding stadium seats; Cushions; Plastic flags
GOODS OR SERVICES DELETED FROM THE APPLICATION	Furniture; Mirrors; Portable folding stadium seats;
GOODS OR SERVICES IN USE IN COMMERCE	Cushions; plastic flags
FIRST USE ANYWHERE DATE	10/04/2019
FIRST USE IN COMMERCE DATE	10/04/2019
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT17\IMAGEOUT 17\871\875\87187503\xml22\SOU0002.JPG
SPECIMEN DESCRIPTION	Website screenshot showing use of mark on the goods
INTERNATIONAL CLASS	021
CURRENT IDENTIFICATION	Non-electric portable coolers; beverageware; Coasters, not of paper or textile; Ice buckets; Mugs; demister pads, namely, cloths for wiping automobile windows; Brushes, namely, snow brushes
GOODS OR SERVICES DELETED FROM THE APPLICATION	Non-electric portable coolers; Ice buckets; demister pads, namely, cloths for wiping automobile windows; Brushes, namely, snow brushes
GOODS OR SERVICES IN USE IN COMMERCE	Beverageware; coasters, not of paper or textile; mugs
FIRST USE ANYWHERE DATE	10/04/2019
FIRST USE IN COMMERCE DATE	10/04/2019
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT17\IMAGEOUT 17\871\875\87187503\xml22\SOU0003.JPG
SPECIMEN DESCRIPTION	Website screenshots showing use of mark on the goods
INTERNATIONAL CLASS	022
CURRENT IDENTIFICATION	Tents; Portable and foldable tent canopies
GOODS OR SERVICES	DELETE ALL ITU GOODS/SERVICES IN THIS CLASS
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	2
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	200
TOTAL AMOUNT	200
SIGNATURE SECTION	
ORIGINAL PDF FILE	hw_20671224226-105009910_Executed_AOU_-_GUNNERS_F3244182x96B9E_.pdf
CONVERTED PDF FILE(S) (4 pages)	\\TICRS\EXPORT17\IMAGEOUT17\871\875\87187503\xml22\SOU0004.JPG
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	\\TICRS\EXPORT17\IMAGEOUT17\871\875\87187503\xml22\SOU0006.JPG

	\\TICRS\EXPORT17\IMAGEOUT17\871\875\87187503\xml22\SOU0007.JPG
SIGNATORY'S NAME	Nicholas Leech
SIGNATORY'S POSITION	Legal Counsel
SIGNATORY'S PHONE NUMBER	N/A
FILING INFORMATION	
SUBMIT DATE	Tue Oct 15 10:55:27 EDT 2019
TEAS STAMP	USPTO/SOU-XXX.XX.XXX.XXX- 20191015105527207703-8718 7503-610eabbd47add922689f 19ebfcbd5dc7981a383401188 c69ec9cea7ca2ad11c-DA-552 65045-2019101510500991051 8

Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

MARK: GUNNERS(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87187503/large>)

SERIAL NUMBER: 87187503

The applicant, The Arsenal Football Club Public Limited Company, having an address of
Highbury House 75 Drayton Park
London, N51BU
United Kingdom

is submitting the following allegation of use information:

For International Class 009:

Current identification: Eyewear; Sunglasses

All ITU goods/services in this class are to be deleted

For International Class 011:

Current identification: Lighting installations; Dispenser units for air fresheners; portable electric coolers

All ITU goods/services in this class are to be deleted

For International Class 012:

Current identification: Aftermarket automobile accessories, namely, car interior organizer bags, nets and trays specially adapted for fitting in vehicles; Antenna toppers, namely, attachments to the tips of automobile antennas

All ITU goods/services in this class are to be deleted

For International Class 016:

Current identification: Stretched canvas for printing

All ITU goods/services in this class are to be deleted

For International Class 018:

Current identification: Replica stadium bags being all-purpose carrying bags; Collars for pets

All ITU goods/services in this class are to be deleted

For International Class 020:

Current identification: Furniture; Mirrors; Portable folding stadium seats; Cushions; Plastic flags

This **allegation of use** does **NOT** cover the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class; these goods/services are **permanently deleted**: Furniture; Mirrors; Portable folding stadium seats;

The mark is in use in commerce on or in connection with the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class: Cushions; plastic flags

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/04/2019, and first used in commerce at least as early as 10/04/2019, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Website screenshot showing use of

mark on the goods.

[Specimen File1](#)

For International Class 021:

Current identification: Non-electric portable coolers; beverageware; Coasters, not of paper or textile; Ice buckets; Mugs; demister pads, namely, cloths for wiping automobile windows; Brushes, namely, snow brushes

This **allegation of use** does **NOT** cover the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class; these goods/services are **permanently deleted**: Non-electric portable coolers; Ice buckets; demister pads, namely, cloths for wiping automobile windows; Brushes, namely, snow brushes

The mark is in use in commerce on or in connection with the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class: Beverageware; coasters, not of paper or textile; mugs
The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/04/2019, and first used in commerce at least as early as 10/04/2019, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Website screenshots showing use of mark on the goods.

[Specimen File1](#)

For International Class 022:

Current identification: Tents; Portable and foldable tent canopies

All ITU goods/services in this class are to be deleted

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$200 will be submitted with the form, representing payment for the allegation of use for 2 classes.

Declaration

Original PDF file:

[hw_20671224226-105009910_Executed_AOU_-_GUNNERS_F3244182x96B9E_.pdf](#)

Converted PDF file(s) (4 pages)

[Signature File1](#)

[Signature File2](#)

[Signature File3](#)

[Signature File4](#)

Signatory's Name: Nicholas Leech
Signatory's Position: Legal Counsel
Signatory's Phone: N/A

RAM Sale Number: 87187503
RAM Accounting Date: 10/15/2019

Serial Number: 87187503
Internet Transmission Date: Tue Oct 15 10:55:27 EDT 2019
TEAS Stamp: USPTO/SOU-XXX.XX.XXX.XXX-201910151055272
07703-87187503-610eabbd47add922689f19ebf
cbd5dc7981a383401188c69ec9cea7ca2ad11c-D
A-55265045-20191015105009910518



Arsenal F.C. Car Flag GN

[Be the first to review this product](#)

HURRY! ONLY 4 LEFT IN STOCK

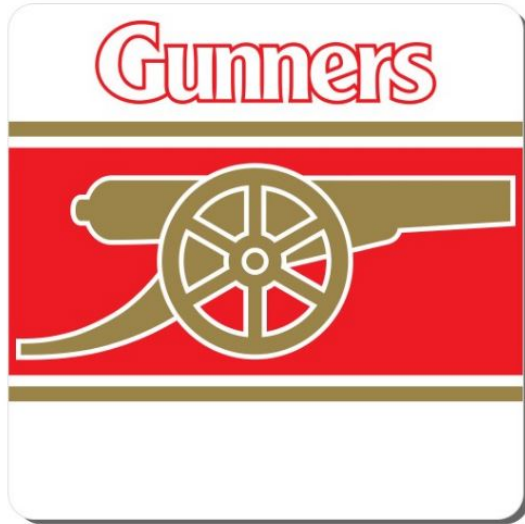
\$7

- Brand: Official Arsenal Football Club Licensed Product. Manufactured and distributed under license by GOALSQUAD.
- Dimensions: 4" x 6", Flag Pole : 5" Black Abs Plastic.
- Features: 4 Color Printing, Golden Top, Washable and Durable Flag with Transparent Suction/Vacuum White Abs Plastic – Tough and durable
- Material: 100% Woven Polyester
- Contents: 1 Car Flag

-
- This product is stocked and shipped from Mumbai, India.
 - The average delivery time is 2 to 7 working days.

[Delivery Available Worldwide.](#)

[Cash On Delivery Available in India Only](#)



Arsenal F.C. Coaster Gunners CN

[Be the first to review this product](#)

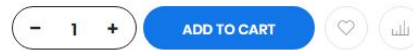
\$3

- Brand: Official Arsenal Football Club Licensed Product. Manufactured and distributed under license by GOALSQUAD.
- Dimensions: Size Approx: 3.5 x 3.5 Inch
- Features: Product Features: High Definition Printing, Shape: Square, Premium Quality Gloss Finished Sublimation Printed Coaster.
- Material: High Quality Wood MDF
- Contents: 1 Wood MDF Coaster

- This product is stocked and shipped from Mumbai, India.
- The average delivery time is 2 to 7 working days.

[Delivery Available Worldwide.](#)

[Cash On Delivery Available in India Only](#)



Shipping & Delivery Info

10/9/2019

<https://teas.uspto.gov/aou/xslt.service?xsl=hsign>

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1553 (Rev 09/2005)

OMB No. 0651-0054 (Exp 12/31/2020)

**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

Handwritten Signature

To the Commissioner for Trademarks:

MARK: GUNNERS(Standard Characters, see below)

GUNNERS

SERIAL NUMBER: 87187503

The applicant, The Arsenal Football Club Public Limited Company, having an address of
Highbury House 75 Drayton Park
London, N51BU
United Kingdom

is submitting the following allegation of use information:

For International Class 009:

Current identification: Eyewear; Sunglasses

All ITU goods/services in this class are to be deleted

For International Class 011:

Current identification: Lighting installations; Dispenser units for air fresheners; portable electric coolers

All ITU goods/services in this class are to be deleted

For International Class 012:

Current identification: Aftermarket automobile accessories, namely, car interior organizer bags, nets and trays specially adapted for fitting in vehicles; Antenna toppers, namely, attachments to the tips of automobile antennas

All ITU goods/services in this class are to be deleted

10/9/2019

<https://teas.uspto.gov/aou/xslt.service?xsl=hsign>

For International Class 016:

Current identification: Stretched canvas for printing

All ITU goods/services in this class are to be deleted

For International Class 018:

Current identification: Replica stadium bags being all-purpose carrying bags; Collars for pets

All ITU goods/services in this class are to be deleted

For International Class 020:

Current identification: Furniture; Mirrors; Portable folding stadium seats; Cushions; Plastic flags

This **allegation of use** does **NOT** cover the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class; these goods/services are **permanently deleted**:
Furniture; Mirrors; Portable folding stadium seats;

The mark is in use in commerce on or in connection with the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class: Cushions; plastic flags
The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/04/2019, and first used in commerce at least as early as 10/04/2019, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Website screenshot showing use of mark on the goods.

[Specimen-1 \[SPN5-1-20671224226-](#)

[Specimen-1](#) [SPN6-20671224226-

20191009102222134757_._GUNNERS__ARSENAL_Plastic_Flag__F3238499x96B9E_.jpg]

For International Class 021:

Current identification: Non-electric portable coolers; beverageware; Coasters, not of paper or textile; Ice buckets; Mugs; demister pads, namely, cloths for wiping automobile windows; Brushes, namely, snow brushes

This **allegation of use** does **NOT** cover the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class; these goods/services are **permanently deleted**:

Non-electric portable coolers; Ice buckets; demister pads, namely, cloths for wiping automobile windows; Brushes, namely, snow brushes

The mark is in use in commerce on or in connection with the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class: Beverageware; coasters, not of paper or textile; mugs

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 10/04/2019, and first used in commerce at least as early as 10/04/2019, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Website screenshots showing use of mark on the goods.

[Specimen-1](#) [SPN6-20671224226-

20191008130549393135_._GUNNERS_Class_21_Coaster_Specimen__F3237005x96B9E_.jpg]

For International Class 022:

Current identification: Tents; Portable and foldable tent canopies

10/9/2019

<https://teas.uspto.gov/aou/xslt.service?xsl=hsign>

All ITU goods/services in this class are to be deleted

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$200 will be submitted with the form, representing payment for the allegation of use for 2 classes.

<https://teas.uspto.gov/aou/xslt.service?xsl=hsign>

Declaration

Read the following statements before signing. Acknowledge the statements by signing below.

- The signatory believes that the applicant is the owner of the mark sought to be registered.
For a trademark or service mark application, the mark is in use in commerce on or in connection with all the goods/services in the application or notice of allowance, or as subsequently modified.
For a collective trademark, collective service mark, collective membership mark application, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with all the goods/services/collective membership organization in the application or notice of allowance, or as subsequently modified.
For a certification mark application, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the all goods/services in the application or notice of allowance, or as subsequently modified, and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.
- The specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.
- To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake,

or to deceive.

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

Signature: _____

Nicholas Leech

Signatory's Name: _____

NICHOLAS LEECH

Signatory's Position: _____

LEGAL COUNSEL

Date Signed: _____

12/10/19

Signatory's Phone: _____

746 207 6195003

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the declaration language. Do **not**

FEE RECORD SHEET

Serial Number: 87187503



RAM Sale Number: 87187503

Total Fees: \$200

RAM Accounting Date: 20191015

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20191015	\$100	2	\$200

Transaction Date: 20191015



EXHIBIT B

Merriam-Webster SINCE 1828

JOIN MWU | GAMES | BROWSE THESAURUS | WORD OF THE DAY | WORDS AT PLAY | TIME TRAVELER

gunner

DICTIONARY | THESAURUS



gunner noun

gun·ner | \ 'gə-nər \

Definition of *gunner*

- 1 : a soldier or airman who operates or aims a gun
- 2 : one who hunts with a gun
- 3 : a warrant officer who supervises ordnance and ordnance stores

Examples of *gunner* in a Sentence

Recent Examples on the Web

// The coverage units will be headlined by Raheem Mostert, one of the NFL's top *gunners*, and Mark Nzeocha.

— Eric Branch, *SFChronicle.com*, "2019 49ers unit breakdowns," 5 Sep. 2019

// Everything is still predicated on James Harden, but now the Nuggets will have two alpha dogs to stop along with Houston's ever-present cast of 3-point *gunners*.

— Mike Singer, *The Denver Post*, "Nuggets schedule released: Counting down Denver's must-see home games in 2019-20," 12 Aug. 2019

These example sentences are selected automatically from various online news sources to reflect current usage of the word 'gunner.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. Send us feedback.

[See More](#)



WORD OF THE DAY

comprise

to be made up of

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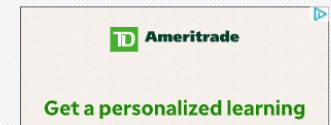


EXHIBIT C

Merriam-Webster SINCE 1828

JOIN MWU | GAMES | BROWSE THESAURUS | WORD OF THE DAY | WORDS AT PLAY | TIME TRAVELER

arsenal

DICTIONARY | THESAURUS



arsenal noun

ar-se-nal | \ 'ärs-nəl, 'är-sə-\

Definition of *arsenal*

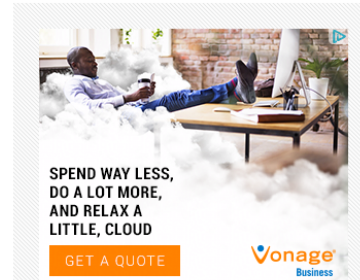
- 1 **a** : an establishment for the manufacture or storage of arms and military equipment
// The city is home to a federal *arsenal*.
- b** : a collection of weapons
- 2 : **STORE, REPERTOIRE**
// the team's *arsenal* of veteran players

- ↓ **Synonyms**
- ↓ **More Example Sentences**
- ↓ **Learn More about *arsenal***

Synonyms for *arsenal*

Synonyms

armory, depot, dump, magazine



WORD OF THE DAY

comprise

to be made up of

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