The Register of Copyrights
of the
United States of America

Library of Congress
Department 17
Washington, D.C. 20540

(202) 707-8350

April 8, 1996

Dear Mr. Gargano:

This letter concerns the work ALTERNATING COLOR GUITAR STRINGS which Bruce Walser Bather, your client, wishes to register with the Copyright Office. Attorney Advisor David Levy explained to you in his letter of March 2, 1995, why the Office can not register this work. On October 3, 1995, Mr. Bather submitted a request that the Office reconsider its decision that there was not sufficient original authorship in the work to support a copyright registration. In this final letter, I must again notify you that ALTERNATING COLOR GUITAR STRINGS can not be registered by the Copyright Office.

The Copyright Office Appeals Board reviewed copies of the application, deposit, and correspondence between you and your client, and the Office. The Board was not able to detect even the minimum level of original authorship that would allow the Office to register a claim in the work. The guitar strings themselves are useful articles, and may not be copyrighted under the law. See 17 U.S.C. 102 (subject matter of copyright), 17 U.S.C. 101 (definition of "useful article"). The variation in coloring constitutes a method or system by which the guitar player may find the "correct positions of notes on the instrument's fingerboard," according to Mr. Bather's October 3, 1995, letter to the Copyright Office. This system is not copyrightable subject matter. See 37 C.F.R. 202.1(b).

Any conceptually separable authorship exhibited in the alternating blocks of red and white color on the strings is too minimal to support a claim to copyright, even under the standard set out in Feist Publications, Inc. v. Rural Telephone Service Co., 111 S. Ct. 1282 (1991). Mr. Bather's choice of red and white rather than other colors for his works does not make the work copyrightable. Copyright law does not protect mere variations in coloring. See 37 C.F.R. 202.1(a).

In sum, because there are no elements in ALTERNATING COLOR GUITAR STRINGS which support a copyright registration, the Copyright Office must refuse to register the work. The Appeals Board's decision as set forth in this letter constitutes final agency action.

Finally, as a note to Mr. Bather, the Copyright Office does not register product names or trademarks. Any such request or application should be directed to the United States Patent and Trademark Office. You may contact them using their toll–free telephone number, 1–800–786–9199.

Sincerely,

Marybeth Peters
Register of Copyrights

Jeffrey R. Gargano
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April 8, 1996