

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/641892

APPLICANT: MUSCULOSKELETAL TRANSPLANT FOUNDATION



CORRESPONDENT ADDRESS: JOHN S. HALE GIPPLE & HALE 6665A OLD DOMINION DR MC LEAN, VA 22101-4508

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MARK: BIOACTIVE SYNTHETIC GRAFT

CORRESPONDENT'S REFERENCE/DOCKET NO: TMB-6176

CORRESPONDENT EMAIL ADDRESS:

Please provide in all correspondence:

- 1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address..

Serial Number 76/641892

The trademark examining attorney has carefully reviewed the request for reconsideration and is not persuaded by applicant's arguments. No new issue has been raised and no new compelling evidence has been presented with regard to the point(s) at issue in the final action. TMEP §715.03(a). Therefore, the request for reconsideration is denied and the final refusal is continued. 37 C.F.R. §2.64(b); TMEP §715.04.

The examining attorney has attached for applicant's reference, and to complete the record prior to appeal, additional definitions from the Merriam-Webster online dictionary of the words that were supplied in earlier communication regarding this application. The attached definitions are merely alternative sources for the information previously discussed.

Specifically, attached is

(1) The definition of "bioactive" from the Merriam-Webster online dictionary, which reads in part:

bio·ac·tive
Function: adjective
: having an effect on a living organism <bioactive molecules>

(2) The definition of "synthetic" from the Merriam-Webster online dictionary, which reads in part:

syn·thet·ic
Function: adjective

4 a (1) : of, relating to, or produced by chemical or biochemical synthesis; especially : produced artificially (emphasis added)

(3) The definition of "graft" from the Merriam-Webster online dictionary, which read in part:

graft
Function: noun
something grafted; specifically : living tissue used in grafting

(4) The definition of "bone" from the Merriam-Webster online dictionary, which reads in part:

bone
Function: noun
the hard largely calcareous connective tissue of which the adult skeleton of most vertebrates is chiefly composed

The examining attorney notes that the definition of "graft" above only acknowledges that these are living tissue used for grafting. While this might at first glance suggest a discrepancy when noting that applicant's goods are not living tissue, when the full meaning of applicant's mark is considered in conjunction with the standard meaning of "graft" it becomes increasingly clear why it is necessary to describe the goods as "synthetic" graft material.

Standard graft material is not synthetic, but is actually living. So, the distinction between standard living graft material (not the applicant's goods) and synthetic graft material (the applicant's goods) is particularly relevant, if not of central importance to purchasers of bone graft material. Additionally, the wording "bioactive" when used to modify "synthetic" tells purchasers that the product will act some how similarly to the way a living tissue graft would act, notwithstanding the fact that it is not living tissue. Again, this fact is likely to be of vital importance to a purchaser of bone graft material.

Accordingly, the wording "bioactive synthetic graft" is merely descriptive of the goods, and cannot be registered based on the current record.

Therefore, after reviewing the request for reconsideration, the examining attorney continues the final refusal.

Procedure

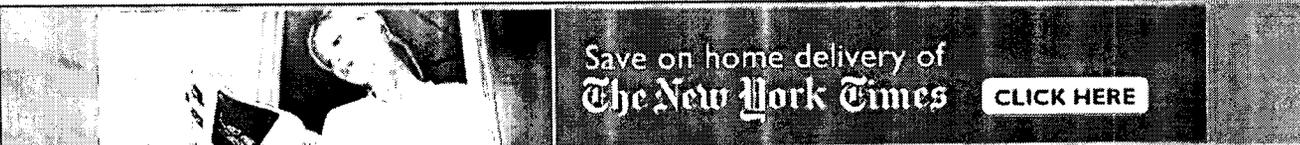
The filing of a request for reconsideration does *not* extend the time for filing a proper response to the final action, which runs from the date the final action was mailed. 37 C.F.R. §2.64(b); TMEP §§715.03 and 715.03(c).

/Fred Carl III/
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bioactive

One entry found for **bioactive**.

Main Entry: **bio·ac·tive** ◊

Pronunciation: "bī-Ō-'ak-tiv

Function: *adjective*

: having an effect on a living organism <*bioactive molecules*>

- **bio·ac·tiv·i·ty** ◊ /-ak-'ti-v&-tē/ *noun*

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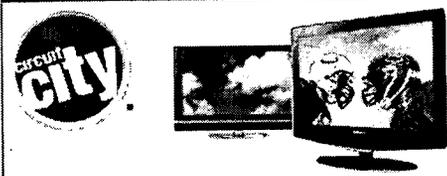
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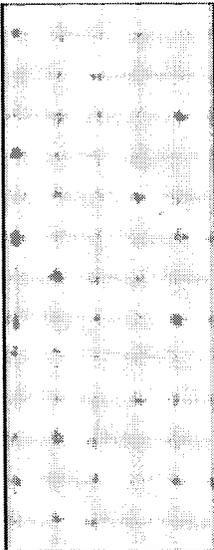
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synthetic

5 entries found for **synthetic**.
To select an entry, click on it.

- synthetic[1, adjective]
- synthetic[2, noun]
- synthetic division
- synthetic geometry
- synthetic resin

Main Entry: **1syn·thet·ic**

Pronunciation: sin-'the-tik

Function: *adjective*

Etymology: Greek *synthetikos* of composition, component, from *synthēnai* to put together

- 1 : relating to or involving **synthesis** : not analytic <the *synthetic* aspects of a philosophy>
- 2 : attributing to a subject something determined by observation rather than analysis of the nature of the subject and not resulting in self-contradiction if negated -- compare **ANALYTIC**
- 3 : characterized by frequent and systematic use of inflected forms to express grammatical relationships <*synthetic* languages>

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4 a (1) : of, relating to, or produced by chemical or biochemical **synthesis**; *especially* : produced artificially <*synthetic drugs*> <*synthetic silk*> (2) : of or relating to a synfuel **b** : devised, arranged, or fabricated for special situations to imitate or replace usual realities **c** : **FACTITIOUS, BOGUS**
- **syn-thet-i-cal-ly** **adverb** /-ti-k(ə-)/

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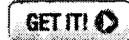
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| graft(4,verb) | ▲ | |
| graft(5,noun) | ▲ | |
| graft-versus-host disease | ▼ | |

Main Entry: **1graft** Ⓢ

Pronunciation: 'graft

Function: *noun*

Eymology: Middle English *graffe*, *grafte*, from Anglo-French *greffe*, *grafe* stylus, graph, from Medieval Latin *graphium*, from Latin, stylus, from Greek *graphein*, to write -- more at [CARVE](#)

1 a : a grafted plant **b :** SCION | **c :** the point of insertion of a scion upon a stock

2 a : the act of grafting **b :** something grafted; *specifically* : living tissue used in

grafting

[\[graft illustration\]](#)

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1. [Dacron graft \(1 image\)](#)

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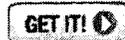
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Main Entry: **bone** ④

Pronunciation: 'bOn

Function: *noun*

Usage: *often attributive*

Etymology: Middle English *bon*, from Old English *bān*; akin to Old High German & Old Norse *bein* bone, and perhaps to Old Irish *bonaid* he hews

1 a : one of the hard parts of the skeleton of a vertebrate **b** : any of various hard animal substances or structures (as baleen or ivory) akin to or resembling bone **c** : the hard largely calcareous connective tissue of which the adult skeleton of most vertebrates is chiefly composed

2 a : **ESSENCE, CORE** <cut costs to the *bone*> <a liberal to the *bone*> **b** : the most deeply ingrained part : **HEART** -- usually used in plural <knew in his *bones* that it was wrong>

3 plural a (1) : **SKELTON** (2) : **BODY** <rested my weary *bones*> (3) : **CORPSE** <inter a person's *bones*> **b** : the basic design or framework (as of a play or novel)

4 : **MATTER, SUBJECT** <a *bone* of contention>

5 a plural : thin bars of bone, ivory, or wood held in pairs between the fingers and used to produce musical rhythms **b** : a strip of material (as whalebone or steel) used to stiffen a garment (as a corset) **c plural** : **DICE**

6 : something that is designed to placate : **SOP**

7 : a light beige

8 : **INCLINATION** 1b <hadn't a political *bone* in his body -- John Hersey>

9 slang : **DOLLAR**

- **boned** ④ /'bOnəd/ *adjective*

- **bone-less** ④ /'bOn-l&sl/ *adjective*

- **bone to pick** : a matter to argue or complain about

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