

PTO Form 1833 (Rev. 9/2007)
 OMB No. 0651-0050 (Ext. 4/30/2009)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field
SERIAL NUMBER
LAW OFFICE ASSIGNED
MARK SECTION (no change)
ARGUMENT(S)
We are responding to the refusal of our mark, tomkit (time of month) as follows: A substitute specimen showing the mark in use in commerce
EVIDENCE SECTION
EVIDENCE FILE NAME(S)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
DESCRIPTION OF EVIDENCE FILE
GOODS AND/OR SERVICES SECTION (current)
INTERNATIONAL CLASS
DESCRIPTION
FIRST USE ANYWHERE DATE
FIRST USE IN COMMERCE DATE
FILING BASIS
GOODS AND/OR SERVICES SECTION (proposed)
INTERNATIONAL CLASS
DESCRIPTION
FIRST USE ANYWHERE DATE
FIRST USE IN COMMERCE DATE
ADDITIONAL STATEMENTS SECTION
DISCLAIMER
DESCRIPTION OF THE MARK (and Color Location, if applicable)
COLOR(S) CLAIMED (if applicable)
SECTION 2(f) BASED ON EVIDENCE
2(f) EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
ORIGINAL PDF FILE
CONVERTED PDF FILE(S) (2 pages)
NAME(S), PORTRAITS(S), SIGNATURE(S) OF INDIVIDUAL(S)
MISCELLANEOUS STATEMENT
SIGNATURE SECTION
DECLARATION SIGNATURE
SIGNATORY'S NAME
SIGNATORY'S POSITION
DATE SIGNED
RESPONSE SIGNATURE
SIGNATORY'S NAME
SIGNATORY'S POSITION
DATE SIGNED
AUTHORIZED SIGNATORY
CONCURRENT APPEAL NOTICE FILED
FILING INFORMATION SECTION
SUBMIT DATE
TEAS STAMP

PTO Form 1332 (Rev. 3/2007)
 OMB No. 3841-750 (Exp. 4/30/2009)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. 77439119 has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

We are responding to the refusal of our mark, tomkit (time of month) as follows: A substitute specimen showing the mark in use in commerce f

EVIDENCE

Evidence in the nature of Web pages, brochure has been attached.

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_001/evi_7621347-145618757_._Home_Page_Website.pdf
Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_002/evi_7621347-145618757_._Kudos_website.pdf

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_003/evi_7621347-145618757_._Products-_website.pdf

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_004/evi_7621347-145618757_._Tomkit_Brochure.pdf

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 044 for Hygienic and beauty care

Original Filing Basis:

Filing Basis: Section 1(b). Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

In International Class 044, the mark was first used at least as early as 08/29/2007 and first used in commerce at least as early as 02/12/2008.

Proposed: Class 044 for Hygienic and beauty care goods

Deleted Filing Basis: 1(b)

In International Class 044, the mark was first used at least as early as 08/29/2007, and first used in commerce at least as early as 02/12/2008.

ADDITIONAL STATEMENTS

Disclaimer

No claim is made to the exclusive right to use tomKIT (time of month) apart from the mark as shown.

Description of mark

The mark consists of tomKIT time of month with blue letters, t, o, m, and orange letters K, I, T, and an orange flower inside the blue letter o. time of month under tomKIT in blue lower case letters.

Color Claim

The color(s) blue, orange is/are claimed as a feature of the mark.

Section 2(f), based on Evidence

The mark has become distinctive of the goods/services, as demonstrated by the attached evidence.

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_005/E2F1-7621347-145618757_._Home_Page_Website.pdf

Converted PDF file(s) (2 pages)

[2\(f\) evidence-1](#)

[2\(f\) evidence-2](#)

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_006/E2F1-7621347-145618757_._Kudos_website.pdf

Converted PDF file(s) (2 pages)

[2\(f\) evidence-1](#)

[2\(f\) evidence-2](#)

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_007/E2F1-7621347-145618757_._Products-_website.pdf

Converted PDF file(s) (2 pages)

[2\(f\) evidence-1](#)

[2\(f\) evidence-2](#)

Original PDF file:

http://agate/PDF/RFR/2009/08/23/20090823155709859076-77439119-008_008/E2F1-7621347-145618757_._Tomkit_Brochure.pdf

Converted PDF file(s) (2 pages)

[2\(f\) evidence-1](#)

[2\(f\) evidence-2](#)

Name(s), Portrait(s), Signature(s) of Individual(s)

The name(s), portrait(s), and/or signature(s) shown in the mark does not identify a particular living individual.

We are responding to the refusal of our mark, tomKIT (time of month) as follows: A substitute specimen showing the mark in use in commerce for the goods and/or services per application data, international class 044: Hygienic and beauty care described as...in connection with the identified goods and/or services, 15 U.S.C. Section 1051 (b), as amended. Our request for reconsideration that our mark is for goods, not for any services provided to the public. This class 44 states "goods and/or services".

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 244. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to

be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Diane Wieder/ Date: 08/23/2009
Signatory's Name: Diane Wieder
Signatory's Position: Owner

Request for Reconsideration Signature

Signature: /Diane Wieder/ Date: 08/23/2009
Signatory's Name: Diane Wieder
Signatory's Position: Owner

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77439119
Internet Transmission Date: Sun Aug 23 15:57:09 EDT 2009
TEAS Stamp: USPTO/RFR-76.21.3.47-2009082315570985907
6-77439119-430e637176b4ed9b5649a6c7e9a3e
f1666-N/A-N/A-20090823145618757688



(tóm-KIT)

- 1. a "time of month" emergency girl pack**
- 2. an eco-friendly opportunity to make a difference in the environment**
- 3. a chic way to carry feminine hygiene products**



Ginger

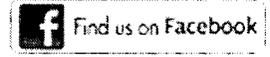


Pokka

Green + Convenient = Smart



is a division of Prima Soriano
tel. 1.877.4TOMKIT
e-mail: primasoriano@pacbell.net



GREEN KUDOS

This is what the GREEN experts have to say about



IDEAL BITE...a sassier shade of green



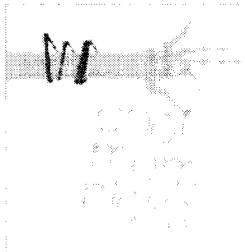
"tomKIT makes your time-of-month a little easier to deal with; great for emergencies, it includes must-have wipes, pads, and a spare pair of biodegradable underwear."

GORGEOUSLY GREEN -Sophie Uliano....New York Times best selling author



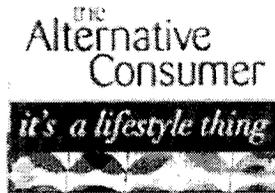
"Landfills are running out of space and thank goodness some very smart women have thought about this and come up with tomKIT (time of month)."

COOL MOM PICKS -Kristin Chase....Co-owner



"tomKIT makes an uncomfortable time of the month a little more comfortable and is also a great gift for the eco-tween in the house. Because saving the earth is great, but saving your daughter from the little silver box in the women's restroom is a close second."

ALTERNATIVE CONSUMER-Maureen O'Connor....Founder and Publisher



"There's nothing worse than being unprepared at that time of the month. To the rescue is tomKIT's emergency girl pack - smart, practical and perfect for a green teen on the go. We give them a bright green thumbs up."

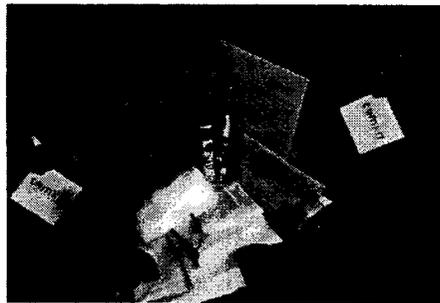
TEENS TURNING GREEN- a way of life



Teens for Safe Cosmetics reviewed our kits and the girls thought they were great to stash in their lockers for an emergency. They appreciated the discrete packaging as well.

OUR PRODUCTS

Pokka



Ginger

Our pokka and ginger kits contain a new generation of environmental, biodegradable, and flushable pads and panty liners. Freshen up your hands with our hand sanitizer made without any animal testing. Our intimate, flushable wipes are made with aloe and vitamin E. And, should you need another pair of underwear, we've got that covered too...the kit includes a 100% cotton bikini underpant that you can toss (or wash) when you are done because it is biodegradable. Small, recyclable disposal sacks are included for wrappers, etc. And a Scharffen Berger natural lip balm ganache made with no petroleum products is a special treat. We've also included a cycle chart to keep your time of month on track and demystify your cycle...printed on recycled paper. Even our colorful cosmetic bag is eco-friendly, made from natural harvested jute. So you're all set and always prepared. \$20.00



Our refill kit comes in a natural canvas bag and has all the pads, liners, wipes and disposable bags to refill your ginger or pokka kit. It also contains one pair of cotton bikini underpants. \$12.00

Ganache for Lips is an all natural lip balm flavored with yummy Scharffen Berger chocolate. \$4.50

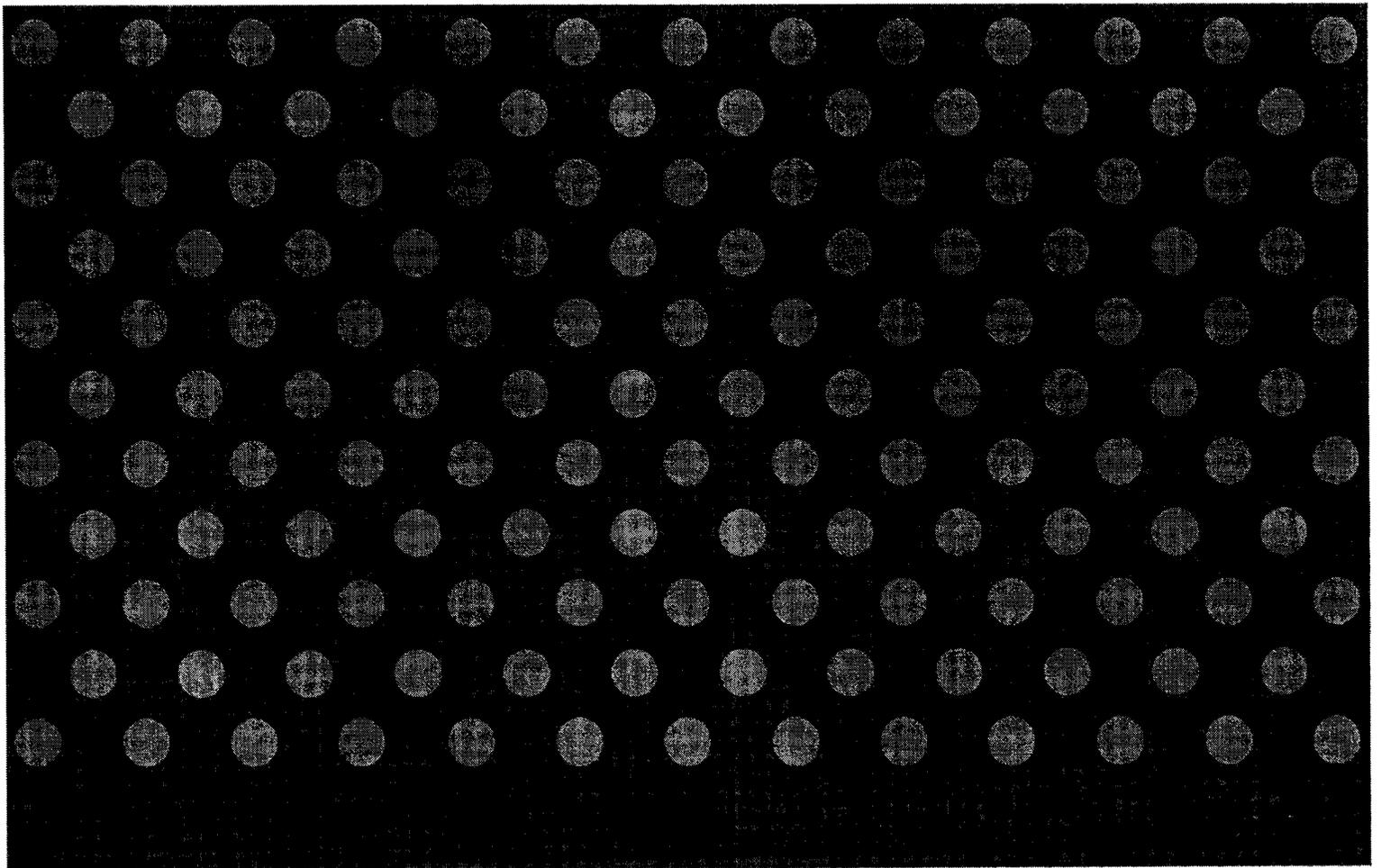


Disposable, biodegradable bikini underpants come in 4 packs: sizes small, medium or large. Wash or



toss. \$5.50







tomKIT

Each kit contains biodegradable, natural
and recyclable feminine products:

- jute zippered case
- winged pads (3)
- panty liners (3)
- feminine wipe (3)
- disposal bags (3)
- cotton bikini brief
- hand sanitizer
- ganache for lips
- cycle chart

Available at

tomkit.net

a division of Prima Soriano, inc.

P.O. Box 775
Palo Alto, CA 94301



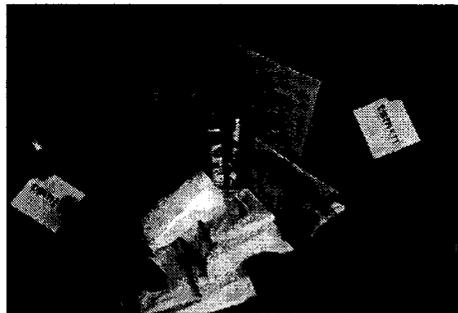
You don't have to be caught off guard, embarrassed or
harm the planet with products that pollute. We've solved
all three of those dilemmas with our Emergency Girl Pack.





(tóm-KIT)

- 1. a "time of month" emergency girl pack**
- 2. an eco-friendly opportunity to make a difference in the environment**
- 3. a chic way to carry feminine hygiene products**



Ginger



Pokka

Green + Convenient = Smart

tomKIT is a division of Prima Soriano
time of month

tel. 1.877.4TOMKIT

e-mail: primasoriano@pacbell.net

 Find us on Facebook

GREEN KUDOS

This is what the GREEN experts have to say about **tomKIT**
time of month

IDEAL BITE....a sassier shade of green



"tomKIT makes your time-of-month a little easier to deal with; great for emergencies, it includes must-have wipes, pads, and a spare pair of biodegradable underwear."

GORGEOUSLY GREEN -Sophie Uliano....New York Times best selling author



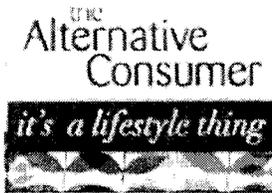
"Landfills are running out of space and thank goodness some very smart women have thought about this and come up with tomKIT (time of month)."

COOL MOM PICKS -Kristin Chase....Co-owner



"tomKIT makes an uncomfortable time of the month a little more comfortable and is also a great gift for the eco-tween in the house. Because saving the earth is great, but saving your daughter from the little silver box in the women's restroom is a close second."

ALTERNATIVE CONSUMER-Maureen O'Connor....Founder and Publisher



"There's nothing worse than being unprepared at that time of the month. To the rescue is tomKIT's emergency girl pack – smart, practical and perfect for a green teen on the go. We give them a bright green thumbs up."

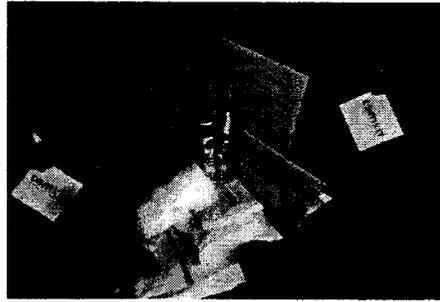
TEENS TURNING GREEN- a way of life



Teens for Safe Cosmetics reviewed our kits and the girls thought they were great to stash in their lockers for an emergency. They appreciated the discrete packaging as well.

OUR PRODUCTS

Pokka



Ginger

Our pokka and ginger kits contain a new generation of environmental, biodegradable, and flushable pads and panty liners. Freshen up your hands with our hand sanitizer made without any animal testing. Our intimate, flushable wipes are made with aloe and vitamin E. And, should you need another pair of underwear, we've got that covered too...the kit includes a 100% cotton bikini underpant that you can toss (or wash) when you are done because it is biodegradable. Small, recyclable disposal sacks are included for wrappers, etc. And a Scharffen Berger natural lip balm ganache made with no petroleum products is a special treat. We've also included a cycle chart to keep your time of month on track and demystify your cycle...printed on recycled paper. Even our colorful cosmetic bag is eco-friendly, made from natural harvested jute. So you're all set and always prepared. \$20.00



Our refill kit comes in a natural canvas bag and has all the pads, liners, wipes and disposable bags to refill your ginger or pokka kit. It also contains one pair of cotton bikini underpants. \$12.00

Ganache for Lips is an all natural lip balm flavored with yummy Scharffen Berger chocolate. \$4.50

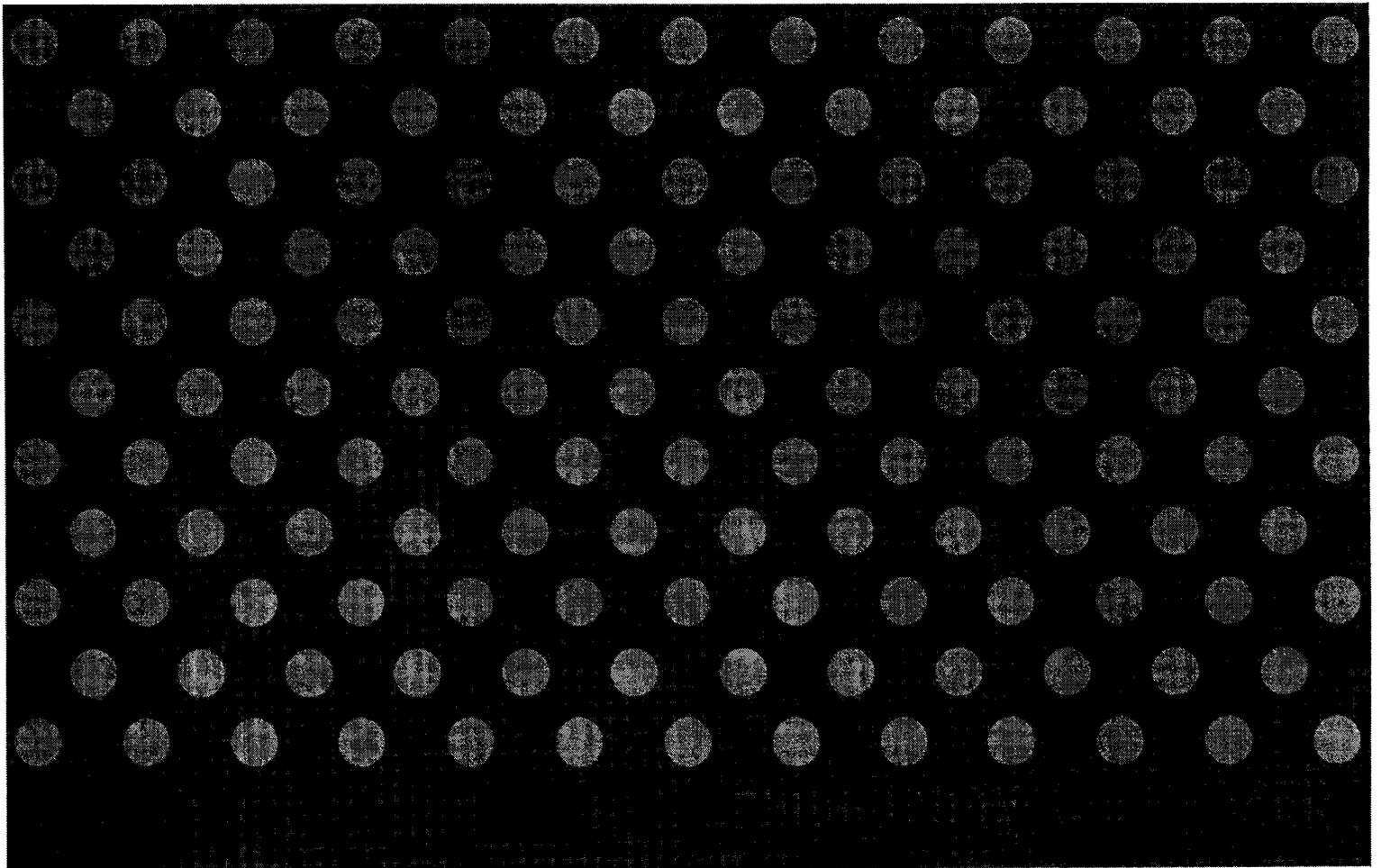


Disposable, biodegradable bikini underpants come in 4 packs: sizes small, medium or large. Wash or



toss. \$5.50





The logo for tomKIT, featuring the word "tomKIT" in a lowercase, sans-serif font. The letter "o" is replaced by a circular icon containing a stylized sun or flower.

Each kit contains biodegradable, natural
and recyclable feminine products:

- jute zippered case
- winged pads (3)
- panty liners (3)
- feminine wipe (3)
- disposal bags (3)
- cotton bikini brief
- hand sanitizer
- ganache for lips
- cycle chart

Available at
tomkit.net
a division of Prima Soriano, inc.
P.O. Box 775
Palo Alto, CA 94301

You don't have to be caught off guard, embarrassed or
harm the planet with products that pollute. We've solved
all three of those dilemmas with our Emergency Girl Pack.

