

From: Hussain, Tasneem

Sent: 2/28/2013 10:15:54 AM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85455577 - STRATEGIC
SNACKING - 020589.0200 - Request for Reconsideration Denied - Return to TTAB -
Message 1 of 5

Attachment Information:

Count: 6

Files: um-1.jpg, um-2.jpg, holy-1.jpg, holy-2.jpg, iowa-01.jpg, 85455577.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85455577

MARK: STRATEGIC SNACKING



CORRESPONDENT ADDRESS:

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NEW YORK, NY 10022-5754

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: SBD Holdings Group Corp.

CORRESPONDENT'S REFERENCE/DOCKET NO:

020589.0200

CORRESPONDENT E-MAIL ADDRESS:

pto@fkks.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 2/28/2013

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. *See* 37 C.F.R. §2.64(b); TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a). The requirement(s) and/or refusal(s) made final in the Office action dated August 27, 2012 are maintained and continue to be final. *See* TMEP §§715.03(a)(2)(B), (a)(2)(E), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Applicant has merely repeated its arguments that the wording is suggestive but does not show how any mental pause or imagination is required for a consumer viewing the wording STRATEGIC SNACKING to understand the nature or subject matter of applicant's goods other than the logical one: that applicant's goods educate and train consumers on how to snack strategically. The mark here is descriptive rather than suggestive because applicant's goods provide information on how users can engage in planned eating habits and nutritional programs. The phrase STRATEGIC SNACKING is commonly used in the nutritional and healthy eating field and consumers would immediately recognize the wording as describing a subject matter or method rather than an indicator of source of goods in any one particular entity.

To support the evidence previously attached in the February 16, 2012 Office Action, the examining attorney attaches herein additional evidence of third party use of the phrase used for the commonly understood meaning to describe nutritious and healthy meal planning which is the subject matter and purpose of applicant's goods, particularly the "meal planning," "menu planning," and "devising personalized nutrition programs and nutrition diaries". See the attached evidence supporting the previously attached evidence of record:

- University of Maryland offering a workshop in the field of nutrition: "Strategic snacking not only boosts your energy but can help you manage your weight as well. Learn how to snack wisely both in terms of your health and your wallet."
- College of the Holy Cross offering advice on meal planning with the suggestion of "Strategic snacking"
- Iowa Department of Elder Affairs compiling advice on how "Seniors Benefit from Strategic Snacking"
- Teamsters offering suggestions on meal planning: "Teach "strategic snacking." Offer healthier snacks like pop-corn to your kids instead of salty/sweet snacks."
- YMCA newsletter offering advice on meal planning: "Snack Smart - Strategic snacking can be a good way to smooth out dips in your energy level and avoid hunger cravings that can lead you to overeat. Go ahead and snack---just be as choosy in your snack selection as you are in meal planning."
- An article about a candy store owner who has learned "the art of strategic snacking."

Additionally, excerpts from several Lexis articles are attached below that support the finding that the phrase STRATEGIC SNACKING is commonly used to describe a method or advice on matters related to meal or menu planning and nutrition. Evidence of the public's understanding that the wording primarily refers to a method of diet that is the subject matter featured on applicant's goods has been established and applicant's arguments are not persuasive. Accordingly, the request is denied.

The filing of a request for reconsideration does not extend the time for filing a proper response to a final Office action or an appeal with the Trademark Trial and Appeal Board (Board), which runs from the date the final Office action was issued/mailed. *See* 37 C.F.R. §2.64(b); TMEP §715.03, (a)(2)(B), (a)(2)(E), (c).

If time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to comply with and/or overcome any outstanding final requirement(s) and/or refusal(s) and/or to file an appeal with the Board. TMEP §715.03(a)(2)(B), (c). However, if applicant has already filed a timely notice of appeal with the Board, the Board will be notified to resume the appeal when the time for responding to the final Office action has expired. *See* TMEP §715.04(a).

/Ms. Tasneem Hussain/
Trademark Examining Attorney
Law Office 105
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571.272.8273

Time of Request: Thursday, February 28, 2013 09:00:23 EST
Client ID/Project Name:
Number of Lines: 30
Job Number: 2825:396892439

Research Information

Service: Terms and Connectors Search
Print Request: Current Document: 3
Source: Magazine Stories, Combined
Search Terms: strategic snacking and not agatston

3 of 4 DOCUMENTS

Copyright 2004 Gale Group, Inc.
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Copyright 2004 Weider Publications
Joe Weider's Muscle & Fitness

January 1, 2004

SECTION: Pg. 60(2) Vol. 65 No. 1 ISSN: 0744-5105

LENGTH: 689 words

HEADLINE: Eat, drink and be ripped: don't let the see-food diet give you a Santa-like physique;
Cook Smart, Eat Better

BYLINE: Krumm, Jo Ellen

BODY:

...

...

So what do you do when you're heading for the company holiday buffet at the country club, or that all-you-can-eat splendor at Mom's house on Christmas Day? Although the simplest strategy is to avoid buffets, Katz says, **strategic snacking** beforehand can help you avoid pigging out. Also, decide in advance what you will eat at a buffet or social event, he suggests. Eat the low-calorie, nutritious foods first--the salad and lean turkey, for example.

...

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***** Print Completed *****

Time of Request: Thursday, February 28, 2013 09:00:23 EST

Time of Request: Thursday, February 28, 2013 08:34:44 EST

Client ID/Project Name:

Number of Lines: 35

Job Number: 2825:396887584

Research Information

Service: Terms and Connectors Search

Print Request: Current Document: 2

Source: US Newspapers

Search Terms: strategic snacking



2 of 17 DOCUMENTS

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Providence Journal

November 28, 2011 Monday

SECTION: FEATURES; Lifebeat; Pg. 2

LENGTH: 151 words

HEADLINE: Taste the benefits of a more healthful granola bar

BODY:

I enjoy a snack bar at 10 a.m., before lunch. **Strategic snacking** between meals helps curb my appetite. That way I m not starving at mealtime and, as a result, I eat smaller portions.

The snack bars I prefer are low in sugar, high in protein and fiber, and low in saturated fat. Foods in my diet align with these nutritional considerations, enabling me to stay fit.

Sugar alcohols, found in most lower-calorie snack bars, can cause digestive discomfort. Certain low-carb sweeteners like sorbitol can cause bloating. My stomach is very sensitive. Digestive trouble is especially unwanted while leading morning project meetings at work.

My son William inspired this kid friendly granola bar recipe. Our bars are about 112 calories, 3.6 grams of fat, 10 net carbohydrates, 5 g protein each, and contain no sugar alcohols. Make some today for your family and take them when you leave for better on-the-go snacks..

NOTES: **Greg Ladas is the author of The Couch Potato Diet Family Edition.** E-mail Greg at GLadas@theCouchPotatoDiet.net Greg Ladas is the author of The Couch Potato Diet Family Edition. E-mail Greg at GLadas@theCouchPotatoDiet.net

LOAD-DATE: November 28, 2011

108B8C

Time of Request: Thursday, February 28, 2013 08:34:44 EST

Time of Request: Thursday, February 28, 2013 08:42:37 EST

Client ID/Project Name:

Number of Lines: 43

Job Number: 2825:396889220

Research Information

Service: Terms and Connectors Search

Print Request: Current Document: 6

Source: US Newspapers

Search Terms: strategic snacking



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Omaha World-Herald

Omaha World-Herald (Nebraska)

January 21, 2008 Monday

Midlands; Iowa; Metro; Nebraska; Sunrise Editions

SECTION: LIVING; Pg. 01E

LENGTH: 249 words

HEADLINE: SKINNY MONDAY Welcome to the day of clean slates, renewed willpower and good choices -- and the third installment of our January series to help you eat smart and slim down post-holidays.

BYLINE: Nichole Aksamit, WORLD-HERALD STAFF WRITER

BODY:

Tip of the week

Snack better.

You don't have to skip your daily pick-me-up to slim down. In fact, said Shelly Asplin, dietitian at the Hy-Vee Supermarket near 97th and Q Streets, **strategic snacking** can help you avoid overeating at meals.

Small changes can make a big calorie difference over time. Plain coffee and tea are virtually calorie-free. It's the extras that get you in trouble. Cut back on cream and sugar. A tall "skinny" latte (made with skim milk, sugar-free syrup and no whipped topping) is just 90 calories....

LOAD-DATE: January 22, 2008

Time of Request: Thursday, February 28, 2013 08:42:37 EST



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National Nutrition Month

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- [For Parents](#)
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- [Forms](#)

Join the University Health Center in Celebrating National Nutrition Month

Kick-Off Tabling Event

Featuring nutrition information, games, prizes and free food!

Wednesday, March 2 from 5:00 pm – 8:00 pm Location: Eppley Recreation Center

Nutrition Workshop Series*

Snacks that Benefit your Wallet and your Waistline

Wednesday, March 9 from 5:00 pm – 6:00 pm

Looking for a quick and easy energy boost to get you through a long class or afternoon at work?

Strategic snacking not only boosts your energy but can help you manage your weight as well. Learn how to snack wisely both in terms of your health and your wallet. *Presented by Colleen Abbott and Alex Bogucki – UMD Dietetic Students.*

Decoding your Menu: What are you Really Eating?

Wednesday, March 16 from Noon – 1:00 pm

Eating out has become an American pastime. Whether it is for entertainment purposes or a necessity of our fast paced lifestyle, eating outside the home has become a fact of life for many. Learn how to navigate this potentially health-sabotaging environment and maintain your wellbeing. *Presented by Lindsay Shack and Sarah Bigbee - UMD Dietetic Students.*

How to Have your Cake and Health Too! Healthy Adjustments to Classic Favorites

Wednesday, March 30 from 5:00 pm – 6:00 pm

Eliminate your "forbidden foods" list! You don't have to choose between your favorite foods and a healthy diet. Simple



Click for a listing of events.

Calendar

February						
M	T	W	T	F	S	S
					1	2
4	5	6	7	8	9	10

11 12 13 14 15 16 17
18 19 20 21 22 23 24
25 26 27 28

Eliminate your "ketchup foods" risk. You don't have to choose between your favorite foods and a healthy diet. Simple modifications can improve the nutrient quality of any dish and create a delicious and guilt-free indulgence. *Presented by Jill Corbin and Catherine Schroeder-UMD Dietetics Students.*

* All Workshops are FREE and held in room 0121 in the Eppley Recreation Center (Membership to ERC is not required)

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Win At Losing

Many people know that they should eat better when striving for a healthy weight, but don't know where to begin. Use the following tips to pinpoint the behaviors and actions that will help make these lifestyle changes a reality!

Plan your eating game plan. Plan your meals and snacks. Make a shopping list, try some new recipes, and get in the habit of bringing food to work when you can. This will prevent you from being unprepared and making unhealthy choices.

Write it down. Write down when, what, how much you eat and how you are feeling when you eat. This will teach you a lot about your eating habits and help you pinpoint problem areas.





Serve food from the kitchen. You will be less apt to overeat if there are no serving dishes on the table, as you may think twice before getting up for seconds.

Pick your eating area. Designate a relaxing place in your home as your eating area. All eating should take place in this designated space, while you are seated.

Don't multitask. Avoid reading the newspaper, watching TV, or surfing the web while eating. These distractions can make it hard to keep track of how much you are eating.

Start small—but think big. Plan on losing no more than 1-2 pounds per week. You will be more likely to lose fat instead of water or muscle, and won't feel deprived.

Strategic snacking. Having a healthy snack, such as a piece of fresh fruit or a low-fat yogurt, will help take the edge off your hunger and help prevent you from overeating later.

Eat slowly. Chew your food thoroughly and focus on how it tastes. By slowing down and enjoying every bite, you give your brain a few extra minutes to respond to the food in your stomach.

Don't join the clean plate club. If you are in the habit of finishing everything on your plate, try serving smaller portions and eating slowly. Listen to your stomach, and stop eating when you feel satisfied, not stuffed.

Ask for a doggie bag. If you are dining out, chances are the portions are going to be large. Ask for a doggie bag before you start eating your entrée.

Reward yourself. What will your reward be for making positive changes? Rewards can serve as a positive reinforcement and can help you stay on a healthy track.

Burn, baby—burn. Exercise will not only help to boost energy levels and your metabolic rate, but research shows that people who are most successful with long term weight loss are those who exercise regularly.

Eliminate tempting situations. Certain temptations may be difficult to resist. Take steps to change them. For example, find a different route to the bathroom to avoid the office candy jar, or have your husband store his ice cream elsewhere so you don't have to see it.

Brown bag it. Skip the local drive-thru or cafeteria. Pack your own lunch and save money while boosting your nutrition.



Set realistic goals. Start small with simple yet specific changes you can make in your eating or exercise habits. For example, switch to 1% or skim milk from whole milk, and/or eat whole grain breads and cereals rather than refined bread products.

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HealthyAgingupdateOct-2007.doc

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Q iowa "strategic snacking"



Healthy Aging Update

Iowa Department of Elder Affairs

October 1, 2007 Volume 2, Issue 6

In This Issue

- USDA Meal Patterns
- Evidence-based Health Promotion
- Eat Better & Move More
- Partnering with the Food Bank
- Resources

Welcome

This issue of Healthy Aging Update continues to provide information on the Dietary Guidelines for Americans with this issue focusing on the meal patterns with the recommended amounts of food to eat for good health. Additional information is included to serve as a resource for providing nutrition and health promotion services to older adults.

USDA Meal Patterns: Dietary Guidelines for Americans

The following information on the recommended number of servings within food groups for various calorie levels is from the U.S. Department of Health and Human Services www.health.gov/DietaryGuidelines/

Overview

The USDA Food Guide in the following table shows the suggested amounts of food to consume for good health to reflect the Dietary Guidelines for Americans. The table is organized by basic food groups, subgroups, and oils to meet recommended nutrient intakes at 6 different calorie levels. It is assumed that nutrient-dense forms of foods are used such as lean meats and fat-free milk. The table also shows the discretionary calorie allowance or the extra calories that remain after eating the recommended foods.

Daily Amount of Food From Each Group