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Sent: 9/29/2014 12:18:09 PM

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Subject: U.S. TRADEMARK APPLICATION NO. 85544660 - COCOA SUNCARE - 1011-TM-1272 - Request for Reconsideration Denied - Return to TTAB - Message 1 of 10

Attachment Information:

Count: 12

Files: 1-1.jpg, 1-2.jpg, 1-3.jpg, 1-4.jpg, 2-1.jpg, 2-2.jpg, 2-3.jpg, 3-1.jpg, 3-2.jpg, 3-3.jpg, 3-4.jpg, 85544660.doc

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

U.S. APPLICATION SERIAL NO. 85544660 MARK: COCOA SUNCARE	
CORRESPONDENT ADDRESS: KATHLEEN A COSTIGAN HEDMAN & COSTIGAN PC ONE ROCKEFELLER PLAZA 11TH FLOOR NEW YORK, NY 10020	GENERAL TRADEMARK INFORMATION: http://www.uspto.gov/trademarks/index.jsp VIEW YOUR APPLICATION FILE
APPLICANT: VIVIPHARMA S.p.A.	
CORRESPONDENT'S REFERENCE/DOCKET NO: 1011-TM-1272 CORRESPONDENT E-MAIL ADDRESS: ipdocket@hgcpatent.com	

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 9/29/2014

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 January 27, 2014 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. 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. *See* TMEP §715.04(a).

See attached additional evidence showing the use of cocoa in skincare products and for medicinal purposes.

- 1) <http://www.womansday.com/style-beauty/beauty-tips-products/chocolate-beauty-products>

- 2) <http://www.hotelchocolat.com/uk/cocoa-juvenate/beauty-guide>

- 3) <http://www.cosmeticsdesign-europe.com/Formulation-Science/Cocoa-re-emerges-as-beneficial-skin-care-ingredient>

- 4) <http://beauty.doctissimo.com/holistic-beauty/natural-beauty-products/Cocoa-in-cosmetics.html>
- 5) <http://www.herbhedgerow.co.uk/cocoa-in-natural-skincare/>
- 6) <http://www.sensationchocolat.com/en/beauty-cocoa/>
- 7) <http://colinsbeautypages.co.uk/benefits-of-cocoa-for-the-skin/>
- 8) <http://www.thestar.com.my/News/Nation/2014/09/28/Looking-good-with-cocoa-on-your-face/>
- 9) <http://www.sheknows.com/food-and-recipes/articles/1002009/4-yummy-cocoa-infused-beauty-products>
- 10) http://www.thebodyshop.com/values/Ingredient_cocoa.aspx
- 11) <http://www.eufic.org/article/en/artid/health-benefits-cocoa-flavanoids/>
- 12) <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&ved=0CDQQFjAB&url=http%3A%2F%2Fauthoritynutrition.com%2F7-health-benefits-dark-chocolate%2F&ei=ToEpVOC5H8yAygTZtID4Bw&usg=AFQjCNFCQIxb07qbbf-kLPsHllpx0mrMwg>

- 13) <http://www.webmd.com/vitamins-supplements/ingredientmono-812-cocoa.aspx?activeingredientid=812&activeingredientname=cocoa>

- 14) <http://www.botanical.com/botanical/mgmh/c/cacao-02.html>

- 15) <http://www.drugs.com/npp/cocoa.html>

- 16) <http://www.copal-cpa.org/benefits.php>

- 17) <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2956371/>

/Rebecca Smith/

Rebecca A. Smith

Trademark Attorney

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571-272-9223

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Chocolate Beauty Products

Indulge from head to toe with these yummy beauty treats
By Woman's Day Staff

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Using Cocoa in Beauty Guide from Hotel Chocolat





The Beauty of Cocoa

The beauty and health benefits of Cocoa are ancient, well documented and understood by consumers. Cocoa as an ingredient is widely used within beauty for a variety of reasons thanks to its multi faceted benefits. Cocoa Butter melts deliciously at body temperature making it easy to absorb and deliver the nutrients to skin. The benefits are wide and plentiful, but it has really tangible skin benefit in improving suppleness, evening skin tone and texture from first application the improvement can be felt.

Happy Skin: We all know chocolate has the "feel good" factor. Cocoa as a raw ingredient contains MAO inhibitors "feel good" chemicals, which means that neurotransmitters are allowed into our blood stream more readily and levels are sustained giving a feeling of wellbeing / bliss / euphoria.

Anti-Oxidant: Cocoa is high in anti-oxidant properties, specifically polyphenols belonging to group flavanols. This particular group of anti-oxidants is reported to improve and increase blood flow and vessel function, thereby improving skin texture, tone, hydration and smoothness. Anti-oxidant polyphenols helps to prevent cells from breaking down due to oxidative stress from lifestyle and the environment. In beauty anti-oxidants help protect the skin from free radical damage that manifests in premature skin ageing maintaining a more youthful skin tone. Cocoa has shown to have the highest amount of these anti-oxidants, higher than grapes (red wine).

Mineral Rich: Magnesium – the happy mineral. It is cited that 80% of us in the west are deficient in Magnesium. Cocoa is reported as the number one food source for magnesium which helps stimulate the memory. Sulphur - helps promote healthy skin, hair nails Vitamins A, B, D, E and K- cellular renewal and regenerates skin

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Cocoa re-emerges as beneficial skin care ingredient

By Louise Prance , 11-May-2007

Related tags: Cocoa, Symrise

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Ingredients provider Symrise has harnessed the power of chocolate in a bid to bring some diversification to the natural cosmetics industry - a move that continues to blur the boundaries between the food and the cosmetics industry.

Introduced into its Botanicals range, the new Chocolate Extrapone line will make use of the cocoa extracted from the Theobroma Cacao (cocoa) tree and provide a vital source of nutrients to the skin.



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As female consumers become more critical about beauty manufacturers complicated marketing strategies and ingredient lists, many are now looking to have the same simplicity as they receive in their natural food produce.

Symrise are capitalising on this consumer need and are marketing the versatility of chocolate. It is not only a food ingredient, but also a safe and beneficial ingredient in skin care products.

Research has found that chocolate is not only rich in polyphenols but has a high quality and quantity of anti-oxidants, compared to other foods.

Anti-oxidants contained in the cocoa shell help delay the signs of ageing, keep skin healthy, activate fat-burn and have a psychologically stimulating effect.

The company has stated that the ingredient shows positive results in cosmetics whether it is the sole ingredient or accompanied by others, such as mint, rose, and vanilla.

Many companies have already bridged the food and cosmetics gap by using chocolate as a principle ingredient in its products. Paris based company Zelka Gavizon used it in its 'Chocoatherapie' treatments.

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Zelda Gavzon spokesperson Gabriel Jacquet stated, "Cocoa has a lot to give, the Cocoa pod has over 800 complex molecules with 30 of them being beneficial to the skin."

A recent report by market research company, Organic Monitor, estimated that the European market for natural and organic cosmetic products is currently growing at 20 per cent a year, and is set to surpass a value of €1bn. The increased market activity is likely to give way to big changes, including the rise of food based cosmetics.

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