

From: Rinker, Anthony

Sent: 3/4/2015 1:52:57 PM

To: TTAB E Filing

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 86081774 - CARB SHREDDER - T-8102-US - Request for Reconsideration Denied - Return to TTAB - Message 1 of 12

\*\*\*\*\*

Attachment Information:

Count: 10

Files: ubervita1-1.jpg, ubervita1-2.jpg, ubervita1-3.jpg, ubervita1-4.jpg, ubervita1-5.jpg, ubervita1-6.jpg, ubervita1-7.jpg, ubervita1-8.jpg, ubervita1-9.jpg, 86081774.doc

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

**U.S. APPLICATION SERIAL NO.** 86081774

**MARK:** CARB SHREDDER



**CORRESPONDENT ADDRESS:**

TODD BRAVERMAN

PEARL COHEN ZEDEK LATZER BARATZ LLP

1500 BROADWAY 12TH FLOOR

NEW YORK, NY 10036-4068

**GENERAL TRADEMARK INFORMATION:**

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

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** VITAMIN SHOPPE PROCUREMENT SERVICES, INC ETC.

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

T-8102-US

**CORRESPONDENT E-MAIL ADDRESS:**

tm-uspto@pczlaw.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 3/4/2015

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. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following refusal(s) made final in the Office action dated 07/31/2014 are maintained and continue to be final; Likelihood of confusion with the mark in U.S. Registration No. 4414832. Trademark

Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 et seq. See TMEP §§715.03(a)(ii)(B), 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.

In addition, the attached market place Internet evidence consists of retail websites featuring dietary supplements for weight loss and for other dietary purposes, consistent with the goods of the applicant and the cited registration. Specifically, see the product pages for weight loss supplements and other types of supplements marketed under the trademarks "Ubervita", "Natures Design", "California", "BRI Nutrition", "NexGen", "Naturo Sciences", and "GNC". This evidence establishes that the same entity commonly manufactures dietary supplements for weight loss and for other dietary purposes and markets the goods under the same mark, and that the dietary supplements for weight loss and for other dietary purposes are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use. Therefore, applicant's and registrant's goods are considered related for likelihood of confusion purposes. See, e.g., *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods and/or services are related. See, e.g., *In re G.B.I. Tile & Stone, Inc.*, 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc.*, 84 USPQ2d 1660, 1668 (TTAB 2007).

Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); see 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); see TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Anthony M. Rinker/

Law Office 102

U.S. Patent and Trademark Office

571-272-5491

[anthony.rinker@uspto.gov](mailto:anthony.rinker@uspto.gov)



Roll over image to zoom in

### Ubervita Uberday Men's Multivitamin, Superior and Optimum Quality Men's Dietary Supplement, 60 Count

by Ubervita  
★★★★☆ 717 customer reviews | 5 answered questions

Price: \$19.95 (\$0.33 / Count) & FREE Shipping on orders over \$35 Details

In Stock  
Ships from and sold by Amazon.com. Gift-wrap available.

Want it tomorrow, March 4? Order within 19 hrs 23 mins and choose Same-Day Delivery at checkout. Details

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- Complete multivitamin
- Used by Elite Athletes and Training Professionals
- 100% Satisfaction Guaranteed
- Made in the USA - Certified Ingredients in a GMP Lab

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- Ubervita W700 Thermogenic Hyper Metabolizer Capsules, 60 Count \$22.88 (\$0.38 / Count)
- Ubervita Uberest All Natural Testosterone Booster for Men, 60 Count \$22.95 (\$0.38 / Count)

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Ad feedback

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Ubervita Uberest All Natural Testosterone Booster for Men, 60 Count ★★★★★ 1,590 \$22.95 ✓Prime	Ubervita Uberday Multivitamin for Women, 60 Count ★★★★★ 184 \$19.95 ✓Prime	Ubervita Uberabris Abdominal Muscle Toner and Targeted Thermogenic Fat Burner Capsules... ★★★★★ 778 \$28.85 ✓Prime	Ubervita Uber N2 NHC Oxide Booster Capsules, 60 Count ★★★★★ 312 \$29.95 ✓Prime	Ubervita W700 Thermogenic Hyper Metabolizer Capsules, 60 Count ★★★★★ 7,279 <b>FREE SHIPPING</b> on Fat Burner Supplements \$22.88 ✓Prime	Ubervita Ubercharge Endurance Pre Workout Energy Capsules, 60 Count ★★★★★ 657 \$28.85 ✓Prime

**Important Information**

**Safety Warning**  
Uberday is safe and all natural, with no additives, preservatives, binders or fillers.

**Indications**  
Daily multivitamin for elite professional athletes and regular people alike. Take one per day to balance your vitamin and nutrition levels.

**Ingredients**  
Veostatan Capsules. Vegan, Vegetarian, Kosher, and Halal friendly. No additives, fillers, binders, or preservatives. Completely natural formula made for elite athletes.

[http://www.amazon.com/UberDay-Uberday-Multivitamin-Superior-Supplement/dp/B00HK9RFBK/ref=sr\\_1\\_cc\\_1?smags&ie=UTF8&qid=1425418564&sr=1-1-catcorr&keywords=dietary+supplements+uberday](http://www.amazon.com/UberDay-Uberday-Multivitamin-Superior-Supplement/dp/B00HK9RFBK/ref=sr_1_cc_1?smags&ie=UTF8&qid=1425418564&sr=1-1-catcorr&keywords=dietary+supplements+uberday) 03/03/2015 04:36:49 PM

Vegetarian Capsules. Vegan, Vegetarian, Kosher, and Halal friendly. No additives, fillers, binders, or preservatives. Completely natural formula made for elite athletes.

**Directions**

Take Uberday as your daily multivitamin.

**Legal Disclaimer**

Actual product packaging and materials may contain more and different information than what is shown on our website. We recommend that you do not rely solely on the information presented and that you always read labels, warnings, and directions before using or consuming a product. Please see our full disclaimer below.

**Product Description**

A Men's Multivitamin that owns the rest. The very best multivitamin is now within your grasp. Developed by professional trainers for elite athletes, Uberday delivers professional results. UberDay was designed for men who wish to supplement their diet with a complete range of essential vitamins and minerals. Fresh and extremely potent ingredients deliver abundant nutrients which are vital human performance.

**From the Manufacturer**



Uberday by UberVita: the top-ranked multivitamin for men.

**Uberday Men's Multivitamin**

*Top Rated multivitamin for men.*

The very best multivitamin is now within your grasp. Developed by professional trainers for elite athletes, Uberday delivers top industry results. Uberday was designed for men who wish to supplement their diet with a complete range of essential vitamins and minerals. Fresh and extremely potent ingredients deliver abundant nutrients which are vital human performance. See what other customers say; they agree it's the best!

- Made in the USA
- Formulated by doctors and biochemists
- GMP Certified, manufactured under strict FDA regulations
- Complete range of vitamins and nutrients for men of all ages
- Used by elite athletes and regular guys alike
- 100% Satisfaction guaranteed



Men's Multivitamin Excellence Best in the industry

- Increased health
- Better stamina
- More energy
- Amplified endurance
- Feel better, live better
- Subscribe & Save
- Give your body the best!
- Made in USA
- GMP Certified
- Veggie caps
- Vegan, vegetarian, Halal, and Kosher friendly product

**Five Star Quality**

Amazon customers agree, Uberday Men's Multivitamin is a 5-star quality multivitamin. With a 100% satisfaction guarantee, and a 5-star rating you can't go wrong with Uberday.



**Uberday delivers cutting edge nutrition for men.**



**The Brand You Trust**

Customers agree, Uberday is one of the most trusted, and hottest selling vitamin brands in the world. If you're serious about your health and nutrition, Uberday is the right choice for you. Our Made in USA products are second to none.



**All Natural Vegetarian Capsules**

Would you settle for anything else? Our veggie caps are easy on the gut, and great for the rapid absorption and delivery of nutrients.



**For your daily life**

You don't have to be an athlete to enjoy the elite nutrition provided by Uberday. Our men's multivitamin was designed to be used by elite athletes and regular guys alike.



**Perfect for Men of All Ages**

Uberday has the perfect balance of vitamins and nutrients for men of all ages. Our ingredient list contains the perfect balance of GMP certified excellence, and is made in the USA under strict FDA regulations.

**Product Details**

**Product Dimensions:** 2.2 x 2.2 x 4.8 inches

**Shipping Weight:** 0.3 ounces (View shipping rates and policies)

**Shipping:** Currently, item can be shipped only within the U.S.

**Origin:** USA

**ASIN:** B00HK9RFBK

**UPC:** 700115352765

Average Customer Review: **★★★★☆** (717 customer reviews)

Amazon Best Sellers Rank: #2,304 in Health & Personal Care (See Top 100 in Health & Personal Care)

#83 in Health & Personal Care > Vitamins & Dietary Supplements > Multi & Prenatal Vitamins > **Multivitamins**

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### Product Ads from External Websites (what's this?)

 <p>Optimum Nutrition Opti-Men-150 Tablets ★★★★★ (1,771) \$36.39 + Free Shipping baultra's Trade</p>	 <p>New Chapter Every Woman's One Daily 72 tablets ★★★★★ (283) \$35.97 + Free Shipping Pharmacia Integrative Pharmac, Inc.</p>	 <p>New Chapter Every Man's One Daily 72 tablets ★★★★★ (258) \$35.97 + Free Shipping Pharmacia Integrative Pharmac, Inc.</p>	 <p>Fiber Gummies Peach Strawberry 90 Gummies by VitaFusion ★★★★★ (283) \$11.99 + \$4.99 Est. shipping Swanson Vitamins</p>	 <p>Source of Life Women's Multi-Vitamin 120 Tabs by Nature's Plus ★★★★★ (16) \$52.06 + \$4.99 Est. shipping Swanson Vitamins</p>	 <p>Source of Life Multi Color Lightning Whole Food .5 lb Pwdr ★★★★★ (9) \$43.61 + \$4.99 Est. shipping Swanson Vitamins</p>	 <p>New Chapter Every Woman's One Daily 40+ 72 tablets ★★★★★ (262) \$41.97 + Free Shipping Pharmacia Integrative Pharmac, Inc.</p>	 <p>Opti-women 120 Caps by Optimum Nutrition ★★★★★ (444) \$17.99 + \$4.99 Est. shipping Swanson Vitamins</p>	 <p>ZMA Nighttime Recovery Support 180 Caps by Optimum Nutrition ★★★★★ (263) \$24.49 + \$4.99 Est. shipping Swanson Vitamins</p>	 <p>ADAM Superior Men's Multi 90 Sgels by NOW Foods ★★★★★ (324) \$17.99 + \$4.99 Est. shipping Swanson Vitamins</p>
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### Customer Questions & Answers

Have a question? Ask the owners here

Don't see what you're looking for? Submit your question to our community by clicking the 'star' button above.

**▲** **4** votes **▼**  
**Q:** what is the significance of copper and why is there so much in this multi V  
**A:** Copper is required for various functions including the formation of the pigment melanin in the skin. It helps in the transport of electrons. It maintains the strength of the myelin sheath covering the nerves. Copper helps in the synthesis of phospholipids. It is necessary for the formation of hemoglobin in the blood... [See more](#)  
Tamer Abdalla answered on October 23, 2014

**▲** **4** votes **▼**  
**Q:** Does this have caffeine in it?  
**A:** This is a multivitamin, not an energy supplement... so unless I'm missing something, there's no caffeine.  
Globele answered on July 26, 2014  
[See all 3 answers](#)

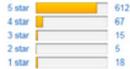
**▲** **3** votes **▼**  
**Q:** Has anyone tried replacing entire meals with these pills for weight loss? Do they really provide all the nutrition you need?  
**A:** [directions](#)  
Frank Kosinski answered on January 04, 2015  
[See all 4 answers](#)

[See all 5 answered questions](#)

### Customer Reviews

★★★★★ (717)

4.7 out of 5 stars



[See all 717 customer reviews](#)

It has a great energy boost and I feel better when I am done with my day.  
Derek Tyler Braun

Great ingredient profile and only one pill a day needed to get your daily intake of essential vitamins.  
dwadez

I haven't tried this product yet but the things I have tried all work really well.  
Michael

### Most Helpful Customer Reviews

23 of 30 people found the following review helpful

★★★★★ Great Product!!

By Miguel Stremopoulos on June 11, 2014

Verified Purchase

Very good product Uberday is a complete multivitamin and unlike others I have purchased as GNC, here with one pill a day you're done. I've been taking this product for two weeks and I realized the effects since week one... this product keeps you active and energized throughout the day. Highly recommended for people who likes to exercise and usually do not have time to have a balanced diet.

Comment | Was this review helpful to you?  Yes  No

20 of 26 people found the following review helpful

★★★★★ Game Changer

By Eric J. on June 17, 2014

Verified Purchase

I was using One A Day Mens for quite some time and was feeling like it was no longer working for me. I was already on Amazon so decided to see what I could find for Multivitamins. I came

### Product Ads from External Websites

Elite Athlete Multi-Vitamin 240 Tabs  
\$56.10  
+ No Shipping Info  
[MyHealthScore](#)

Lancome BIENFAIT MULTI-VITAL SPF 30  
\$46.00  
+ \$5.50 Est. Shipping  
[Lancome.com](#) [Read Content](#)

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### Most Recent Customer Reviews

★★★★★ shipped fast

I got these for my boyfriend and he likes them  
Published 17 hours ago by Love to shop on Amazon!

★★★★★ highly suggested

I replaced my multivitamin with this one and have noticed similar results, but I feel like this is more geared for a man, which it is. [Read more](#)  
Published 1 day ago by Vinni

★★★★★ Five Stars

All the products working as advertised. Thank!  
Published 2 days ago by bobbyc

[http://www.amazon.com/Uberday-Uberday-Multivitamin-Superior-Supplement/dp/B00HK9RFBK/ref=sr\\_1\\_cc\\_1?smags&ie=UTF-8&qid=1425418564&sr=1-1-catcom&keywords=dietary+supplements+uberivita](http://www.amazon.com/Uberday-Uberday-Multivitamin-Superior-Supplement/dp/B00HK9RFBK/ref=sr_1_cc_1?smags&ie=UTF-8&qid=1425418564&sr=1-1-catcom&keywords=dietary+supplements+uberivita) 03/03/2015 04:36:49 PM

I was using Ume A Lay Mens for quite some time and was feeling like it was no longer working for me. I was already on Amazon so decided to see what I could find for multivitamins. I came across these and was hesitant with all the good reviews. I took a leap of faith and bought them to try. It's been about a month now and I noticed a difference the first day. Maybe it's just me but it gives me a burst of energy to where coffee is no longer necessary but lasts all day.

Comment Was this review helpful to you?

24 of 32 people found the following review helpful

★★★★★ **Best Multivitamin I've taken**  
By J. Hamilton on June 13, 2014

Verified Purchase

This has to be the best multivitamin I've ever taken. I've been taking W700 so I decided to give Uberday a try and I couldn't be happier. I feel great. I'm able to stay active and energized all day. In addition, I don't always have time for a balanced diet since my days are always so hectic. Uberday covers me. It gives me all the vitamins and nutrients I need for the day. The best part is I only have to take one pill and I'm done for the day. If you are looking for the best multivitamin on the market stop looking and purchase Uberday.

1 Comment Was this review helpful to you?

2 of 2 people found the following review helpful

★★★★★ **stop looking, you found it!**  
By Joseph Permen on May 22, 2014

Verified Purchase

I've tried so many different multivitamins, from crazy expensive brands to the "I've never heard of this" generic brands. Some were effective, most were just horse pills you had to take 4 times a day, not my style. I am very happy with uberday multivitamins because they are smaller, easy to swallow pills that you only need to take once a day. Not to mention you can feel positive results in only a few days. I'm a big believer in all the uberivita products I've tried, this definitely being on of them. And yes your pee is gonna glow! Don't be alarmed, it's all good!

Comment Was this review helpful to you?

2 of 2 people found the following review helpful

★★★★★ **Truly Uber**  
By Christopher ascencio on April 23, 2014

Verified Purchase

These are the BEST multivitamins I have ever taken and I have taken a lot instead of having to take 8 pills I now only need take 1 and what I use to pay for a 1 month supply from the other guys I get 2 months for half the price of the other guys multivitamins and on the bottle it tells you just vitamins are in there and not like the other guys with Uber they say vitamin A then mean the real vitamin A not like the other guys where their vitamin A was taken from some word that I can't even pronounce! Trust Me take this Multivitamin and truly have a UBERDAY!

Comment Was this review helpful to you?

2 of 2 people found the following review helpful

★★★★★ **Gotta love it!**  
By Janel Harrell on September 4, 2014

Verified Purchase

I read a number of the reviews regarding this product and wondered what was real and what was hype. I've been taking it for 2wks and holy hell its real !!! Real meaning i have more bounce in my step, not the kind that caffiene gives but sharper focus. Now i am getting the same volume of sleep as before and my diet is the same with MVM being the only thing that's different. I would not recommend MVM to my father in law because it would make him feel better. Bad bad bad I know but if you knew him you would understand.

Jh

Comment Was this review helpful to you?

2 of 2 people found the following review helpful

★★★★★ **Productivity Booster**  
By Brian Northrup on September 2, 2014

Verified Purchase

I take one in the morning before work (sometimes with breakfast but usually without) and it leaves me feeling very significantly more focused and energized for the first half of the day at work. I notice that around 1pm I start to slow down to a bit more "normal" focus and energy. I'm not sure if this is related to a bio-chemistry thing as far as whatever is in it has started to wear off / be used up or if its just a reaction to lunch setting in. Either way, it makes for a more productive morning so I won't argue with that.

-----

★★★★★ **The best multivitamins I tried**

The best multivitamins I tried, gives me more energy and feel active.  
Published 3 days ago by MiHammed

★★★★★ **Turns my pee really yellow, other than that they ...**

Turns my pee really yellow, other than that they seem to provide the vitamins needed. I will probably move to a liquid vitamin due to absorption properties.  
Published 4 days ago by SmartGuy

★★★★★ **Great product, Great company**

Great product. Great company if you have any issue.  
Published 5 days ago by Mitam

★★★★★ **Excellent Product**

I have had many different kinds of multi-vitamins and these were amazing. I have been taking them ever since and have gone from taking 4 or 5 different kinds of vitamins a day to [Read more](#)  
Published 5 days ago by M. Messer

★★★☆☆ **Three Stars**

Not really sure if it works. I take with other supplements which work well.  
Published 6 days ago by MJP

★★★★★ **This multivitamin I love!!**

Good!  
Published 7 days ago by volkassend

★★★★★ **This is a great multivitamin!**

These are really great pills. I have felt really great, and have had a lot more energy since I have started taking these. [Read more](#)  
Published 7 days ago by Amazon Customer

Search Customer Reviews

Search these reviews only

[http://www.amazon.com/Uberday-Uberday-Multivitamin-Superior-Supplement/dp/B00HK9RFBK/ref=sr\\_1\\_cc\\_1?ie=UTF8&qid=1425418564&sr=1-1-catcom&keywords=dietary+supplements+uberday](http://www.amazon.com/Uberday-Uberday-Multivitamin-Superior-Supplement/dp/B00HK9RFBK/ref=sr_1_cc_1?ie=UTF8&qid=1425418564&sr=1-1-catcom&keywords=dietary+supplements+uberday) 03/03/2015 04:36:49 PM

up or it is just a reaction to sunb seeing in. either way, it makes for a more productive morning so i won't argue with that.

Comment Was this review helpful to you?

9 of 12 people found the following review helpful

★★★★★ **Great Product**

By [kesholiz](#) on June 23, 2014

**Verified Purchase**

I've tried several different types of men's multi vitamins over the years and Uberday is by far the best. I love that it is just one smaller size capsule per day and you can feel the difference immediately! I highly recommend it, you can't beat it for the price and quality.

Comment Was this review helpful to you?

[See all 717 customer reviews \(newest first\)](#)

## Set up an Amazon Giveaway

Amazon Giveaway allows you to run promotional giveaways in order to create buzz, reward your audience, and attract new followers and customers. [Learn more](#)



This item: Uberday Men's Multivitamin, Superior and Optimum Quality Men's Dietary Supplement, 60 Count

Price: \$19.95

Ships from and sold by Amazon.com

Want to discover more products? You may find many from [multi-vitamin for men](#) shopping list.

### Feedback

► If you have a question or problem, visit our [Help pages](#).

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