

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86092038
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86092038/large
LITERAL ELEMENT	HARRY P. BODYFIT
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, :
ARGUMENT(S)	
<p>This application continues to be refused registration due to a likelihood of confusion with registration 4512 BODY FIT for supplements.</p> <p>The words “body” and “fit” are used together with goods by many in the health and fitness field. This was the last response. THIS third party use of “body” and “fit” also includes use on supplements. There is a current USPTO trademark application for FIT BODY RESEARCH for supplements that has received a merely descriptive rejection showing that the words are weak as a trademark for registrant’s goods. Please see the attached office action. Also, there are other “bodyfit” supplements on the market not owned by the cited registrant. Please see the examples.</p> <p>Evidence of third-party use falls under the sixth du Pont factor – the “number and nature of similar marks in similar goods.” In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1974). This evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.” Palm Bay v. Veuve Clicquot Ponsardin Maison Fondée en 1772, 396 F.3d 1369, 1373-74, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).</p> <p>Since BODYFIT as a trademark is weak for the cited registrant’s goods, purchasers are capable of distinguishing subtleties between the different marks and will not be confused. Registrant’s mark should be given narrow protection because of its weakness shown by third party use and the meaning of the words. Applicant’s mark has an initial HARRY P. This will lead consumers to know the source of applicant’s goods and to not confuse it with the other trademarks.</p>	

The applicant has deleted the goods which are identical to the goods of the cited registration. BODYFIT, which is weak and widely used and therefore afforded narrow protection, combined with HARMON is inherently distinctive and the stronger nondescriptive part of the mark, results in a mark that is not confusingly similar to BODYFIT. The marks are sufficiently different that consumers will distinguish the source of the respective goods. There would be no likelihood of confusion.

A notice of appeal has been filed.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_10854181106-20151019135841847746_ilding supplements_HCG Diet Injections_Fitness Injections.pdf
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	\\TICRS\EXPORT16\IMAGEOUT16\860\920\86092038\xml12\RFR0004.JPG
ORIGINAL PDF FILE	evi_10854181106-20151019135841847746_t74585.fitbodysupplementreviews.pdf
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ORIGINAL PDF FILE	evi_10854181106-20151019135841847746_t74585.facebook_BodyFit_Formula.pdf
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CONVERTED PDF FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\860\920\86092038\xml12\RFR0015.JPG

(2 pages)	
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ORIGINAL PDF FILE	evi_10854181106-20151019135841847746_.t74585.BodyFit_Supplements_Guide
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\860\920\86092038\xml12\RFR0017.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\860\920\86092038\xml12\RFR0019.JPG
ORIGINAL PDF FILE	evi_10854181106-20151019135841847746_.t74585.fitbodyresearch.pdf
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	\\TICRS\EXPORT16\IMAGEOUT16\860\920\86092038\xml12\RFR0023.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\860\920\86092038\xml12\RFR0024.JPG
DESCRIPTION OF EVIDENCE FILE	Third party use of Body Fit.
GOODS AND/OR SERVICES SECTION (005)(current)	
INTERNATIONAL CLASS	005
DESCRIPTION	
Dietary supplements; nutritional supplements; herbal supplements; vitamin and mineral supplements; dietary supplemental drinks; meal replacement and dietary supplement drink mixes; nutritional supplements in the nutrient-dense, protein based drink mix; powdered nutritional supplement drink mix; meal replacement bar replacement snacks	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (005)(proposed)	
INTERNATIONAL CLASS	005
TRACKED TEXT DESCRIPTION	
Dietary supplements ; meal replacement bars; nutritional supplements ; meal replacement snacks; herbal supplements ; vitamin and mineral supplements ; dietary supplemental drinks ; meal replacement and dietary supplement drink mixes ; nutritional supplements in the nature of a nutrient-dense, protein based drink mix ; powdered nutritional supplement drink mix	
FINAL DESCRIPTION	meal replacement bars; meal replacement snacks

FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (029)(no change)	
GOODS AND/OR SERVICES SECTION (030)(no change)	
GOODS AND/OR SERVICES SECTION (032)(no change)	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/cecilia m. perry/
SIGNATORY'S NAME	Cecelia M. Perry
SIGNATORY'S POSITION	attorney of record, New Jersey bar member
SIGNATORY'S PHONE NUMBER	914-941-5600
DATE SIGNED	10/19/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Oct 19 14:23:17 EDT 2015
TEAS STAMP	USPTO/RFR-108.54.181.106-20151019142317698271-86092038-5401ccca64c6b91fb4bd5ce1d47a7bb6a915a7e983d727fbaf3ae56e6d572d07b-N/A-N/A-20151019135841847746

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **86092038** HARRY P. BODYFIT(Standard Characters, see <http://tmngal.uspto.gov/resting2/api/img/86092038/large>) has been amended as follows:

ARGUMENT(S)

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

This application continues to be refused registration due to a likelihood of confusion with registration 4512453 for BODY FIT for supplements.

The words “body” and “fit” are used together with goods by many in the health and fitness field. This was shown in the last response. THIS third party use of “body” and “fit” also includes use on supplements. There is a current USPTO trademark application for FIT BODY RESEARCH for supplements that has received a merely descriptive rejection showing that the words are weak as a trademark for registrant’s goods. Please see the attached office action. Also, there are other “bodyfit” supplements on the market not owned by the cited registrant. Please see the attached examples.

Evidence of third-party use falls under the sixth du Pont factor – the “number and nature of similar marks in use on similar goods.” In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973). If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, it “is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.” Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772, 396 F.3d 1369, 1373-74, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005).

Since BODYFIT as a trademark is weak for the cited registrant’s goods, purchasers are capable of distinguishing subtleties between the different marks and will not be confused. Registrant’s mark should be given narrow protection because of its weakness shown by third party use and the meaning of the words. Applicant’s mark has an unique part, HARRY P. This will lead consumers to know the source of applicant’s goods and to not confuse it with the other trademarks.

The applicant has deleted the goods which are identical to the goods of the cited registration. BODYFIT, which is weak and widely used and therefore afforded narrow protection, combined with HARRY P., which is inherently distinctive and the stronger nondescriptive part of the mark, results in a mark that is not confusing with BODYFIT. The marks are sufficiently different that consumers will distinguish the source of the respective goods. There would be no likelihood of confusion.

A notice of appeal has been filed.

EVIDENCE

Evidence in the nature of Third party use of Body Fit. has been attached.

Original PDF file:

[evi_10854181106-](#)

[20151019135841847746_ilding_supplements_HCG_Diet_Injections_Fitness_Information.pdf](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

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[evi_10854181106-20151019135841847746_t74585.facebook_BodyFit_Formula.pdf](#)

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[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

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[Evidence-2](#)

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[evi_10854181106-20151019135841847746_.t74585.BodyFit_Supplements_Guide.pdf](#)

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[Evidence-2](#)

[Evidence-3](#)

Original PDF file:

[evi_10854181106-20151019135841847746_.t74585.fitbodyresearch.pdf](#)

Converted PDF file(s) (5 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

Current: Class 005 for Dietary supplements; nutritional supplements; herbal supplements; vitamin and mineral supplements; dietary supplemental drinks; meal replacement and dietary supplement drink mixes; nutritional supplements in the nature of a nutrient-dense, protein based drink mix; powdered nutritional supplement drink mix; meal replacement bars; meal replacement snacks

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Dietary supplements~~; meal replacement bars; ~~nutritional supplements~~; meal replacement snacks; ~~herbal supplements~~; ~~vitamin and mineral supplements~~; ~~dietary supplemental drinks~~; ~~meal replacement and dietary supplement drink mixes~~; ~~nutritional supplements in the nature of a nutrient-dense, protein based drink mix~~; ~~powdered nutritional supplement drink mix~~

Class 005 for meal replacement bars; meal replacement snacks

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /cecelia m. perry/ Date: 10/19/2015

Signatory's Name: Cecelia M. Perry

Signatory's Position: attorney of record, New Jersey bar member

Signatory's Phone Number: 914-941-5600

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86092038

Internet Transmission Date: Mon Oct 19 14:23:17 EDT 2015

TEAS Stamp: USPTO/RFR-108.54.181.106-201510191423176

98271-86092038-5401ccca64c6b91fb4bd5ce1d

47a7bb6a915a7e983d727fbaf3ae56e6d572d07b

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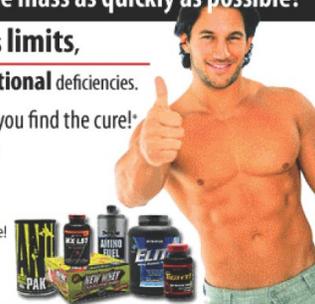
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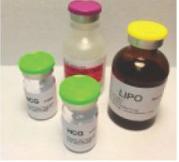
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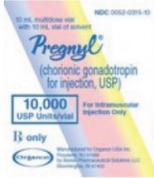
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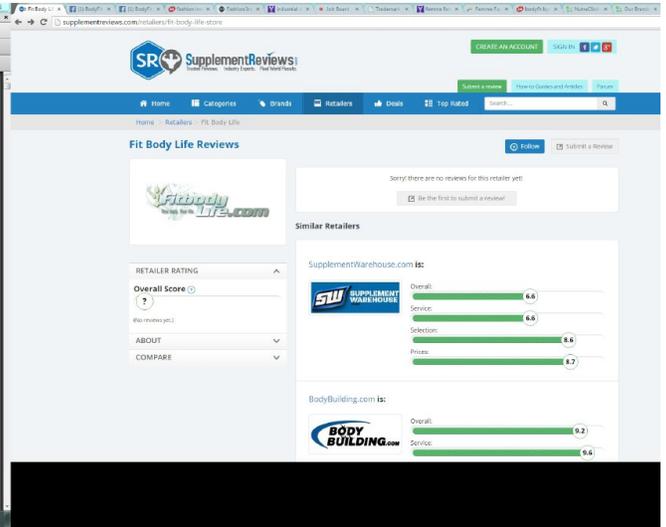
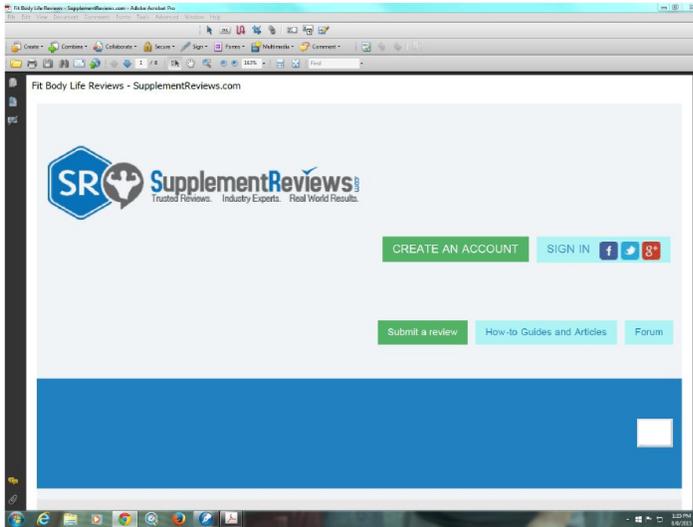
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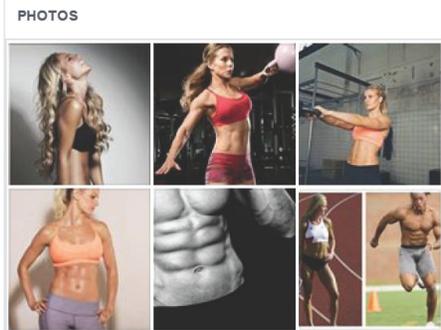
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Switching Things Up
June 24, 2012

Work out of the... Night? 6-19-12
June 20, 2012

VISITOR POSTS

 **Benjamin Bergman**
February 15 at 11:01pm

See photo

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 **Benjamin Bergman**
February 13 at 5:27am

Just ordered Superhero Sprints. Awesome course bro. Sprinting is my t... [See More](#)

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 **Stephen Craig**
January 1 at 12:30pm

I have a few questions about the "Double Your Pullups" program. where do I send those questions to get answered? Stephen

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 **BodyFit Formula**
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Superhero Body: Bodyweight Edition | Superhero Bodyweight Workouts

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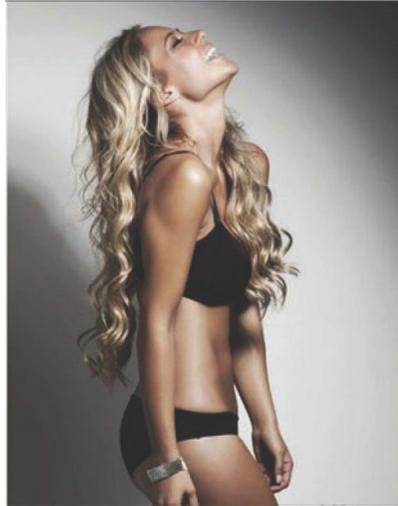
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October 28, 2014 ·

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October 27, 2014 · Edited ·

BURN 20.2 CALORIES PER MINUTE WITH THIS EXERCISE!

A spin class burns 9.8 calories per minute... Running at a 6-minute mile pace burns 10.2 calories per minute... Jumping rope burns up to 19 calories per minute... But THIS exercise =>

<http://thesuperhumanlife.com/challenge>

This exercise takes the cake.....

[Continue Reading](#)



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Michael J. McDonald likes this.

1 share

Press Enter to post.



BodyFit Formula

October 25, 2014 ·

I'm always up for a challenge. So when my good friend emailed me yesterday with one of his new kettlebell challenge workouts... I was ALL about it.

=> <http://thesuperhumanlife.com/kettlebellchallenge>

Forest and I have known each other for about 2-years now and have become good friends over those two years, talking weekly and sharing

(1) BodyFit Formula

what's working in our training, business, and life. Here's just a few fun facts that Forest and I share:... [See More](#)



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13 people like this.

1 share

Write a comment...
Press Enter to post.



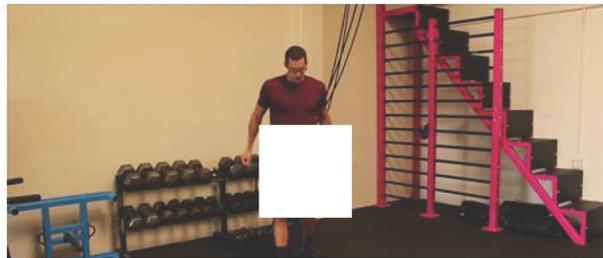
BodyFit Formula

October 24, 2014 ·

Had fun filming this short workout video for some Superhero Inner Circle Members. Give it a go if you dare

Workout Description:

Perform 30-seconds on each exercise without rest. Rest 30-seconds between full rounds. After 2-rounds, move to the next circuit... [See More](#)



Superhero Inner Circle Workout Add-On

VIMEO.COM

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6 people like this.

[Top Comments](#)

2 shares

Write a comment...
Press Enter to post.



Anne Schmidt Great little workout Dennis will have to add that on tomorrow or Sunday.

Like · Reply · 1 · October 24, 2014 at 6:49pm



BodyFit Formula Thanks Anne! Enjoy

Like · October 25, 2014 at 11:53am



Reid Englund Nice gym! Wheres it at? Also, is it bad that I watched this while eating a hot pocket on my couch? I need you to come home to get me back in shape Dennis!!!

Like · Reply · 1 · October 24, 2014 at 5:30pm

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BodyFit Formula Reid, its at my brothers wife's new gym! It's SUCH a cool gym. Definitely had fun filming some vids there. And hot pockets huh? As long as it's your cheat day
Like · October 25, 2014 at 11:54am



BodyFit Formula shared their photo.
October 22, 2014 ·

Have you tried these yet?



BodyFit Formula

Here's My 5 BEST "Bulletproof Ab Exercises" That I Use To Keep My Core Strong And Lean!

=> <http://thesuperhumanlife.com/fit/bulletproof-abs-1/>

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3 people like this.



Write a comment...

Press Enter to post.



MaryAnn Koopman wow!!! that was a great core workout
Like · Reply · October 23, 2014 at 8:13pm



BodyFit Formula
October 21, 2014 ·

Here's My 5 BEST "Bulletproof Ab Exercises" That I Use To Keep My Core Strong And Lean!

=> <http://thesuperhumanlife.com/fit/bulletproof-abs-1/>



Like Comment Share

Chris Rosi likes this.

3 shares



Write a comment...

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BodyFit Formula

October 21, 2014 · Edited ·

CRAZY NEW (And Old) Training Method...

I've been a long time follower of Rusty Moore, and I am sure many of you have heard his name thrown around before.

=> <http://thesuperhumanlife.com/visualimpact...>

Continue Reading



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Shelley Howard Abernathy likes this.



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BodyFit Formula

October 17, 2014 ·

100% FREE Fitness Products at <http://FreeFitnessProducts.com/october-2014/> for the next 2-days ONLY!

You can pick up my 'Get Ripped Pack' which includes FOUR different programs (yes, 100% FREE!)

Included is: ... [See More](#)



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7 people like this.

3 shares



Write a comment...

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BodyFit Formula

October 15, 2014 ·

Top 3 Ways To Get Abs <= Try This!

Every 4-years, there's a time of year that I just cannot wait for... In fact, during this time of year, you will see me with my laptop, iPad, and TV all streaming a different event.

=> <http://thesuperhumanlife.com/fighterabs...> See More



Like Comment Share

2 people like this.



Write a comment...

Press Enter to post.



BodyFit Formula changed their profile picture.

October 15, 2014 ·



Like Comment Share

8 people like this.

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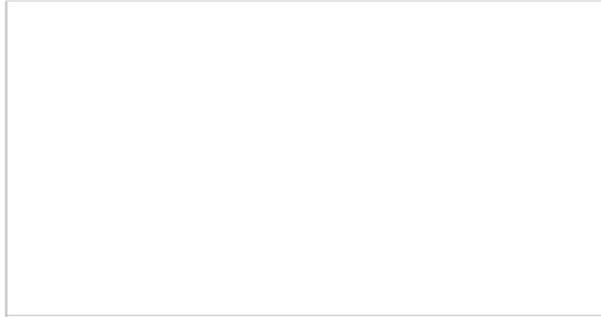


BodyFit Formula

October 9, 2014 ·

This was my results!
I Scored 6-8! What can you score? Take the Squat Test TODAY!

<http://thesuperhumanlife.com/squat-test/>



Squat Test: Do This Today!

I Scored 6-8! What can you score? Take the Squat Test TODAY!

THESUPERHUMANLIFE.COM | BY DENNIS HEENAN

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9 people like this.

2 shares

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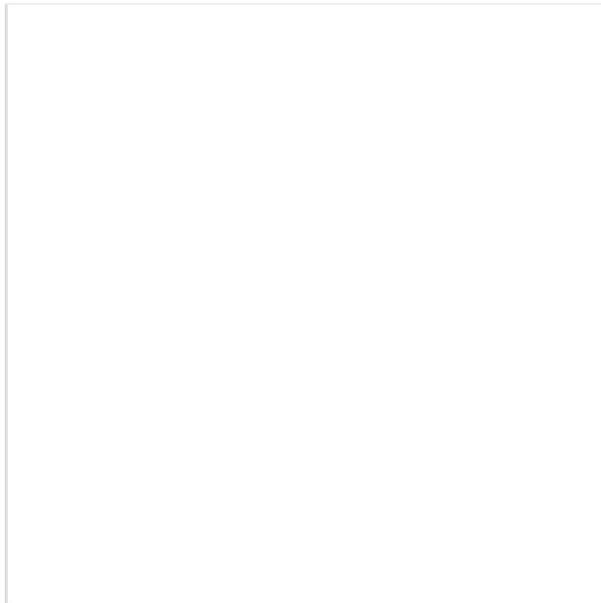
BodyFit Formula

September 25, 2014 ·

If you eat AT LEAST 1-2 Snacks per day... Here's an AMAZING resource that you should pick up!

101 Fat Burning Snack Recipes for just \$5.99! =>

<http://thesuperhumanlife.com/fit/fat-burning-snacks-special/>



Fat Burning Snacks – SPECIAL – The Superhuman Life

Here's 101 NEW, Deliciously Healthy Snack Recipes That Satisfy Your Cravings, BOOST Your Slowed Metabolism, Shrink Your Waistline, And Give You ALL-DAY...
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BODYSTRONG Body Fit - Natural Fat Burner 360 caps



Retail Price: ~~\$54.06~~

Our Price: \$24.99

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Body Fit - Natural Fat Burner Overview

Body Fit Natural Fat Burner is a safe, healthy and effective natural fat loss **supplement**. It contains all natural ingredients that have been shown to quickly and naturally reduce unwanted body fat and suppress the appetite. And unlike many other natural fat burners, Body Fit actually works. Body Fit contains the unique combination of eleuthero, caffeine, taurine, green tea extract, kola nut extract, Korean ginseng, guarana extract, chromium, iodine and vitamin B6 & B12 to help optimize metabolic rate and adrenal function so you can lose weight as fast as possible. *

Eleuthero is a powerful adaptogen that has been speculated to help promote weight loss by positively affecting adrenal gland function, particularly during stressful periods such as dieting and caloric restriction. Caffeine is included because of its stimulating effects on the central nervous system, metabolic rate and energy levels. Taurine works synergistically with caffeine by enhancing metabolism at the cellular energy, helping your body burn more fat. Taurine also increases protein synthesis and improves insulin sensitivity, helping your body burn more fat and spare more muscle while dieting. *

Green tea extract, kola nut extract, Korean ginseng and guarana extract are included for their fat oxidizing and adaptogenic properties. Green tea and kola nut extract have also been shown to possess natural appetite suppressing effects, reducing the changes that you'll sidetrack your diet with unproductive snacking or binge eating. Chromium, iodine and vitamin B6 & B12 are included to help support fat burning at the cellular level by optimizing metabolism and supporting thyroid production. If you're looking to quickly and safely lose unwanted body fat, BodyStrong Body Fit can help you achieve the results you are looking for in a natural and healthy manner. *

Body Fit - Natural Fat Burner Benefits

- All Natural, Safe & Effective Fat Burner*
- Lose Weight & Maintain Muscle*
- Feel Naturally Energized*
- Reduce Appetite & Dieting Stress*

* These statements have not been evaluated by the FDA. This product is not intended to diagnose, treat,

Similar Products



BODYSTRONG Body Fit - Natural Fat Burner 90 caps

Our Price \$7.99



BODYSTRONG Body Burn V2 - The Ultimate Fat Burner 60 caps

Our Price \$13.99



BODYSTRONG Body Burn for Her V2 - The Ultimate Fat Burner 240 caps

Our Price \$29.99

cure or prevent any diseases.

Body Fit - Natural Fat Burner Description from BODYSTRONG

Body Fit from BodyStrong gives you a powerful blend of natural ingredients to help you lose weight fast. This comprehensive formula contains well known fat burning herbs like green tea, kola nut and guarana extracts. Ginseng, chromium and iodine are also included to assist with energy support and thyroid function.

Supplement Facts

Serving Size: 1 Capsule
Servings Per Container: 360

Ingredient	Amount	% Daily Value**
Vitamin B-6	10mg	500
Vitamin B-12	25mg	417
Iodine	75mg	50
Chromium	50mg	42
Body Fit Proprietary Blend	640mg	
-Eleuthero, Taurine, Caffeine, Green Tea Extract, Kola Nut Extract, Korean Ginseng, Guarana Extract		

** Percent Daily Value is based on a 2000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.
† Daily Value not established.

Ingredients:

Other ingredients: Gelatin, Magnesium Stearate.

Manufacturer's Directions

Take 1-2 capsules twice daily with meals.

Manufacturer's Disclaimer

If you are pregnant, nursing or taking any prescription medication, consult your doctor before use. Discontinue use and consult your doctor if any adverse reactions occur.

Get In Touch

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Mobile Site

BodyFit Supplements Guide

By Dennis Heenan

BodyFit Supplements Guide

There is no one supplement that will ever bring you the results that you desire. When first starting out it is very tempting to buy the next "magic pill" that is going to make you thin or get you ripped. The reality is, 95% of the supplements out there are right crap.



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As for the other 5%, there are some that will help in improving your overall health and help with the results you are looking for. Once again though, supplements alone will not bring you results. The combination of eating the right foods and doing the right exercises is what your focus should be on! Supplements are simply an *add on* to your daily regimen.

The supplements list below is just a small list for starters. Depending on your goals, there are other supplements that will help, but that is a topic for another day. The four we will be going over today are ones we can all benefit from:

1. Multi Vitamin

If you eat a balanced diet with lots of vegetables and [whole natural foods](#), many times you will not need to take a multi-vitamin. The reason to take one however is to *ensure* that you are getting enough vitamins and minerals into your diet.

It is a good back up plan to have, and it won't hurt to take one daily.

One that I have been hearing a lot of talk about as of late is a product called, [Athletic Greens](#). It is a multi vitamin on steroids (ok not actual steroids!) and I have only heard very positive reviews about it.

It is a little pricier than most multi-vitamins (and I have heard the taste is pretty bad) but other than that it is said to be an incredible product. I will be ordering my first batch soon so I will give you my full review after cycling through it!

[Athletic Greens](#)

2. Fish-Oils

There has been much talk about fish oil over the past several years about all the incredible benefits that it brings. Take a look at a few of the many benefits below:

- Lowers body fat
- Improved cardiovascular health
- Better recovery
- Better brain function

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POPULAR

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FASTEST FAT LOSS
IN UNDER 30-DAYS
GUARANTEED

SUPERHERO SPRINTS
Train Like A Superhero
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WHY CARB CYCLE?
Unique Secrets That
All Models Use

GET SIX PACK ABS
COMPLETE 7 PART
SIX-PACK ABS SERIES

BodyFit Formula
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- Less inflammation
- Less depression

These are just a few of the many benefits that fish oils can bring. Fish oils are a “must” supplement that people should take.

For the recommended dosage, I highly encourage you to read [this article](#). It has tons of science and does a great job of explaining the importance of just how much fish oil you should take each day:

[Fish Oil Supplementation](#)

3. Protein Powder

You do not technically NEED to take a protein powder supplement but it is an easy way to help meet your protein needs for the day or to get in a quick meal. If possible, **always try and get your protein from real food sources first** (eggs, chicken, grass fed meats, fish, etc.)

I do not recommend having more than one protein shake a day. The best times to have your protein shake is either after a workout or first thing in the morning. Other than that, fill yourself with real food!

The best kind of protein you can get is [grass fed whey protein](#). Grass Fed Whey is much more expensive but if you can pocket it, that is the way to go. If not, you can stick with any good **whey protein powder**. Just be sure to take it after workouts or within 30 minutes of waking up.

For Grass Fed Whey, [click HERE!](#)

You can find lots of different whey protein options [HERE!](#)

4. Vitamin D

Vitamin D supplements have been getting more and more popular as of late and for good reason. Take a look at a few of the benefits:

- It helps absorb nutrients such as calcium and phosphorus which play a big part in keeping your bones and immune system strong
- Helps regulate blood pressure
- Reduces stress
- Helps relieve body aches
- Reduces respiratory infections
- Aids in insulin secretion
- Improves cardiovascular health

And many more! My brother swears by Vitamin D supplements especially when it comes to getting sick. He will take 4-5 capsules when he feels a sickness coming on, and says it works every time to stop the oncoming sickness in its tracks.

The best way to get your Vitamin D is through the natural source of sunlight. For some however, sunlight isn't always an option for one reason or another (winter, work inside all day, etc.) If that's the case, be sure to supplement with some Vitamin D to make up for the missed sunlight.

For supplementation it is recommended to take 4000 IU per day if you cannot get into the sunlight. If the sun is available, I always recommend doing that first to get your Vitamin D for the day. 20-30 minutes is usually enough time to soak up all the Vitamin D you would need!

Conclusion

You have always got to be careful when it comes to the supplements that are out there. The supplements above are ones that anyone can take and find benefits from.

Remember, for optimal health, *your focus should always be on the foods you eat and the workouts you do*. This is what will bring you lifelong lasting health!

**Questions or Comments?
I would love to hear your feedback below!**

P.S. If you liked this post, could you please "Like", "Tweet", and +1 it!

P.P.S. If you haven't already, be sure to check out the awesome [free gift](#) I have for you!

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To: Fit Body Research Corp. (trademark@fitbodyresearch.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86404250 - FIT BODY RESEARCH - N/A

Sent: 1/15/2015 12:23:30 PM

Sent As: ECOM119@USPTO.GOV

Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
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[Attachment - 16](#)
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

<p>U.S. APPLICATION SERIAL NO. 86404250</p> <p>MARK: FIT BODY RESEARCH</p>	<p align="center">*86404250*</p>
<p>CORRESPONDENT ADDRESS: FIT BODY RESEARCH CORP. FIT BODY RESEARCH CORP. 42 ORCHARD FARM RD PORT WASHINGTON, NY 11050-3338</p>	<p>CLICK HERE TO RESPOND TO THIS I http://www.uspto.gov/trademarks/teas/response</p> <p>VIEW YOUR APPLICATION FILE</p>
<p>APPLICANT: Fit Body Research Corp.</p>	
<p>CORRESPONDENT'S REFERENCE/DOCKET NO : N/A</p> <p>CORRESPONDENT E-MAIL ADDRESS: trademark@fitbodyresearch.com</p>	

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 1/15/2015

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SEARCH OF OFFICE'S DATABASE OF MARKS

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

SECTION 2(e)(1) REFUSAL - MERELY DESCRIPTIVE

Registration is refused because the applied-for mark merely describes a feature of applicant's goods and/or services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods and/or services. TMEP §1209.01(b); *see, e.g., DuoProSS Meditech Corp. v. Invivo Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 543 (1920)).

The applicant's mark is "FIT BODY RESEARCH" for "Dietary and nutritional supplements."

The applied for mark is merely descriptive of the identified goods/services because it immediately refers to a primary feature of applicant's goods/services, namely, that use of applicant's products will provide the whole person a good shape based on detailed studies of the efficacy of applicant's supplements.

Furthermore, as evidenced by the applicant's website attached hereto, the applicant refers to "the science behind the *body*" and the consumer's "*fit* journey."

For the reasons stated above, the proposed mark merely describes the main feature of applicant's goods/services and registration on the Principal Register must be refused under Trademark Act Section 2(e)(1).

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

If applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

RESPONSE OPTIONS

Supplemental Register

The applied-for mark has been refused registration on the Principal Register. Applicant may respond to the refusal by submitting evidence and arguments in support of registration and/or by amending the application to seek registration on the Supplemental Register. See 15 U.S.C. §1091; 37 C.F.R. §§2.47, 2.75(a); TMEP §§801.02(b), 816. Amending to the Supplemental Register does not preclude applicant from submitting evidence and arguments against the refusal(s). TMEP §816.04.

SPECIMEN REQUIRED

Registration is refused because the specimen in International Class 5 is not acceptable as a display associated with the goods and appears to be mere advertising material; thus, the specimen fails to show the applied-for mark in use in commerce for each international class. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). Specifically, the specimen consists of a web page that does not include a picture or textual description of the goods or the means for ordering the goods. See *In re Sones*, 590 F.3d 1282, 1286-89, 93 USPQ2d 1118, 1122-24 (Fed. Cir. 2009); *In re Azteca Sys., Inc.*, 102 USPQ2d 1955, 1957 (TTAB 2012); TMEP §§904.03(i) *et seq.* Without these features, the specimen is mere advertising material, which is not acceptable as a specimen to show use in commerce for goods. See *In re Genitope Corp.*, 78 USPQ2d 1819, 1822 (TTAB 2006); *In re MediaShare Corp.*, 43 USPQ2d 1304, 1307 (TTAB 1997); TMEP §904.04(b), (c).

An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each international class of goods identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Examples of specimens for goods include tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, and displays associated with the actual goods at their point of sale. See TMEP §§904.03 *et seq.* As stated above, webpages may also be specimens for goods when they include a picture or textual description of the goods associated with the mark and the means to order the goods. See *In re Sones*, 590 F.3d at 1286-89, 93 USPQ2d at 1122-24; *In re Azteca Sys., Inc.*, 102 USPQ2d at 1957; TMEP §§904.03(i) *et seq.*

Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified [“substitute” specimen](#)) that (a) was in actual use in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the goods identified in the application or amendment to allege use.
- (2) Amend the filing basis to [intent to use under Section 1\(b\)](#), for which no specimen is required. This option will later necessitate additional fee(s) and filing requirements such as providing a specimen.

For an overview of *both* response options referenced above and instructions on how to satisfy either option online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/specimen.jsp>.

RESPONSE TO OFFICE ACTION

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. See 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to active status. See 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. See 37 C.F.R. §§2.6, 2.66(b)(1).

Because of the legal technicalities and strict deadlines involved in the USPTO application process, applicant may wish to hire a private attorney specializing in trademark matters to represent applicant in this process and provide legal advice. Although the undersigned trademark examining attorney is permitted to help an applicant understand the contents of an Office action as well as the application process in general, no USPTO attorney or staff is permitted to give an applicant legal advice or statements about an applicant's legal rights. TMEP §§705.02, 709.06.

For attorney referral information, applicant may consult the American Bar Association's Consumers' Guide to Legal Help at <http://www.abanet.org/legalservices/findlegalhelp/home.cfm>, an attorney referral service of a state or local bar association, or a local telephone directory. The USPTO may not assist an applicant in the selection of a private attorney. 37 C.F.R. §2.11.

/Jill I. Prater/
Jill I. Prater
USPTO, Law Office 119
Trademark Examining Attorney
571-272-8257
jill.prater1@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online

forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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