

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	86113689
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 106
<b>MARK SECTION</b>	
<b>MARK FILE NAME</b>	http://tmng-al.uspto.gov/resting2/api/img/86113689/large
<b>LITERAL ELEMENT</b>	SGT. OTTO
<b>STANDARD CHARACTERS</b>	NO
<b>USPTO-GENERATED IMAGE</b>	NO
<b>GOODS AND/OR SERVICES SECTION (009)(current)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>DESCRIPTION</b>	
Downloadable electronic books in the field of health and weight loss information; Electronic publications, namely, books featuring health and weight loss information recorded on computer media	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 06/01/2013
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 06/01/2013
<b>GOODS AND/OR SERVICES SECTION (009)(proposed)</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>DESCRIPTION</b>	
Downloadable electronic books in the field of health and weight loss information; Electronic publications, namely, books featuring health and weight loss information recorded on computer media	
<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 06/01/2013
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 06/01/2013
	<b>"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application"[for an</b>

STATEMENT TYPE	<i>application based on Section 1(a), Use in Commerce] OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use" [for an illegible specimen].</i>
SPECIMEN FILE NAME(S)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\861\136\86113689\xml17\RFR0002.JPG</a>
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	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\861\136\86113689\xml17\RFR0007.JPG</a>
SPECIMEN DESCRIPTION	Applicant's mark in use
<b>GOODS AND/OR SERVICES SECTION (016)(no change)</b>	
<b>SIGNATURE SECTION</b>	
DECLARATION SIGNATURE	/Matthew H. Swyers/
SIGNATORY'S NAME	Matthew H. Swyers
SIGNATORY'S POSITION	Attorney of Record, Member of the Virginia State Bar
SIGNATORY'S PHONE NUMBER	(800) 906-8626 x 100
DATE SIGNED	10/28/2015
RESPONSE SIGNATURE	/Matthew H. Swyers/
SIGNATORY'S NAME	Matthew H. Swyers
SIGNATORY'S POSITION	Attorney of Record, Member of the Virginia State Bar
SIGNATORY'S PHONE NUMBER	(800) 906-8626 x100
DATE SIGNED	10/28/2015
AUTHORIZED SIGNATORY	YES

CONCURRENT APPEAL NOTICE FILED	NO
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Wed Oct 28 11:52:07 EDT 2015
TEAS STAMP	USPTO/RFR-97.67.147.154-2 0151028115207255192-86113 689-54037cb719e7ab2e6fc5a dee97ee95b622f16fb577efa5 62e8ccaa0f44deba07e1f-N/A -N/A-20151028103152577292

PTO Form 1960 (Rev 9/2007)  
OMB No. 0651-0050 (Exp. 07/31/2017)

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. **86113689** SGT. OTTO (Stylized and/or with Design, see <http://tmng-al.uspto.gov/resting2/api/img/86113689/large>) has been amended as follows:

#### CLASSIFICATION AND LISTING OF GOODS/SERVICES

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

**Current:** Class 009 for Downloadable electronic books in the field of health and weight loss information; Electronic publications, namely, books featuring health and weight loss information recorded on computer media

Original Filing Basis:

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 06/01/2013 and first used in commerce at least as early as 06/01/2013 , and is now in use in such commerce.

**Proposed:** Class 009 for Downloadable electronic books in the field of health and weight loss information; Electronic publications, namely, books featuring health and weight loss information recorded on computer media

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 06/01/2013 and first used in commerce at least as early as 06/01/2013 , and is now in use in such commerce.

Applicant hereby submits one(or more) specimen(s) for Class 009 . The specimen(s) submitted consists of Applicant's mark in use .

**"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application"** *[for an application based on Section 1(a), Use in Commerce]* OR **"The substitute (or new, or originally submitted, if appropriate)**

specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use" [for an illegible specimen]. [Specimen File 1](#)

[Specimen File 2](#)

[Specimen File 3](#)

[Specimen File 4](#)

[Specimen File 5](#)

[Specimen File 6](#)

## SIGNATURE(S)

### Declaration Signature

**DECLARATION:** The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or allegation of use (AOU) unsigned, all statements in the application or AOU and this submission based on the signatory's own knowledge are true, and all statements in the application or AOU and this submission made on information and belief are believed to be true.

**STATEMENTS FOR UNSIGNED SECTION 1(a) APPLICATION/AOU:** If the applicant filed an unsigned application under 15 U.S.C. §1051(a) or AOU under 15 U.S.C. §1051(c), the signatory additionally believes that: the applicant is the owner of the mark sought to be registered; the mark is in use in commerce and was in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; the original specimen(s), if applicable, shows the mark in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; ***for a collective trademark, collective service mark, collective membership mark application, or certification mark application,*** the applicant is exercising legitimate control over the use of the mark in commerce and was exercising legitimate control over the use of the mark in commerce as of the filing date of the application or AOU; ***for a certification mark application,*** the applicant is not engaged 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. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

**STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION AND FOR SECTION 66(a) COLLECTIVE/CERTIFICATION MARK APPLICATION:** If the applicant filed an unsigned application under 15 U.S.C. §§ 1051(b), 1126(d), and/or 1126(e), or filed a collective/certification mark application under 15 U.S.C. §1141f(a), the signatory additionally believes that: ***for a trademark or service mark application,*** the applicant is entitled to use the mark in commerce on or in connection with the goods/services specified in the application; the applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the

application filing date; *for a collective trademark, collective service mark, collective membership mark, or certification mark application*, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; *for a certification mark application*, 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. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

Signature: /Matthew H. Swyers/ Date: 10/28/2015  
Signatory's Name: Matthew H. Swyers  
Signatory's Position: Attorney of Record, Member of the Virginia State Bar  
Signatory's Phone Number: (800) 906-8626 x 100

#### **Request for Reconsideration Signature**

Signature: /Matthew H. Swyers/ Date: 10/28/2015  
Signatory's Name: Matthew H. Swyers  
Signatory's Position: Attorney of Record, Member of the Virginia State Bar  
  
Signatory's Phone Number: (800) 906-8626 x100

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: 86113689  
Internet Transmission Date: Wed Oct 28 11:52:07 EDT 2015  
TEAS Stamp: USPTO/RFR-97.67.147.154-2015102811520725  
5192-86113689-54037cb719e7ab2e6fc5adee97  
ee95b622f16fb577efa562e8ccaa0f44deba07e1  
f-N/A-N/A-20151028103152577292



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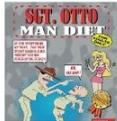
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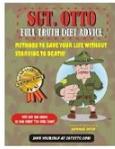
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by Lonnie Otto

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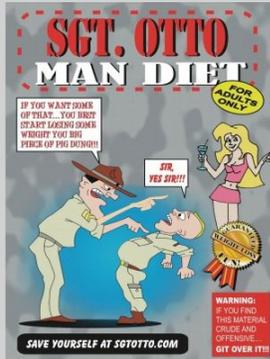


Results for "Sgt. Otto Full Truth Diet Advice" (Showing all results)



as visual reminders to help initiate new habits and prevent the "yo-yo" when confronted with food and drinking choices at work, home, and social events.

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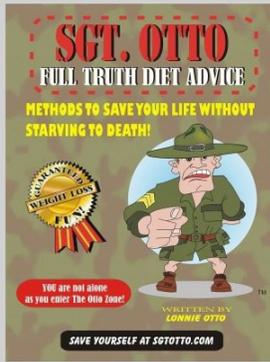


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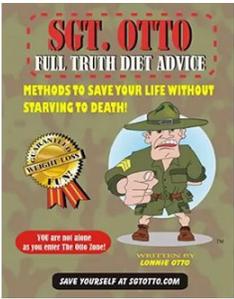


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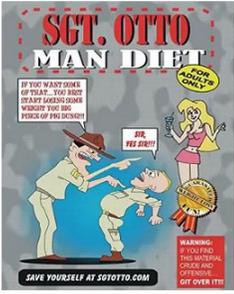
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