

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

78/862,294

Bodyonics, Ltd.

Opposition No. 91176901

Opposer

MEMORANDUM IN OPPOSITION  
TO OPPOSER'S REQUEST FOR  
ENTRY OF ORDER GRANTING  
SUMMARY JUDGMENT

V.

Jeffrey Lee Kaplan and Ilie Ioncescu,

Applicants  

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On August 13<sup>th</sup> 2007, Opposer filed a request for entry of order granting Summary Judgment based on the fact that Applicant failed to file an opposition to Opposer's Motion for Summary Judgment dated June 29<sup>th</sup> 2007. At the same time on August 13<sup>th</sup> 2007, Opposer filed a Motion to amend their previous Notice of Opposition to conform to evidence adduced during discovery and to support Motion for Summary Judgment. At the same time on August 13<sup>th</sup> 2007 Opposer filed a Supplemental Motion for Summary Judgment.

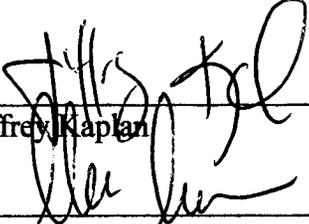
Applicant's by their filing of their Motion for Summary Judgment is in fact on its face a defacto filing of an opposition to Opposer's Motion For Summary Judgment.

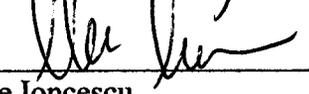
However in lieu of the fact that Opposer has now filed an amendment of their Notice of Opposition and a Supplemental Motion for Summary Judgment, the issue regarding the original cross motions for summary judgments by the parties should be considered MOOT.

08-20-2007

Applicant now has responded to the newly filed Motions submitted by the Opposer and respectfully requests that Opposer's Request for Summary Judgment be denied.

Dated: August 17<sup>th</sup> 2007

  
\_\_\_\_\_  
Jeffrey Kaplan

  
\_\_\_\_\_  
Ilie Ioncescu  
POB 11106  
Ft. Laud Fl. 33339  
(954) 793-0637  
Email: [eggcream@earthlink.net](mailto:eggcream@earthlink.net)

I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Jay A. Geller W. Tower Suite 4000, 2425 W. Olympic Bl. Santa Monica CA 90404

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposition No. 9117690

Bodyonics, Ltd

Opposer,

v.

MEMORANDUM IN OPPOSITION  
TO OPPOSER'S MOTION FOR  
SUMMARY JUDGEMENT

Jeffery lee Kaplan and Ilie Ioncescu

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Opposer has filed a Supplemental Motion for Summary Judgment based on a Likelihood of Confusion argument: It is important to note that the Opposer originally filed a Motion for Summary Judgment based on issues that were not stated in their Notice of Opposition and therefore this Supplemental Motion should not be considered.

MOTION DEADLINE

Opposer has filed a Supplemental Motion for Summary Judgment which should be denied because the deadline has passed for submission of any motions.

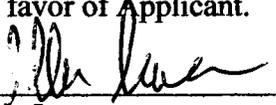
LIKELIHOOD OF CONFUSION

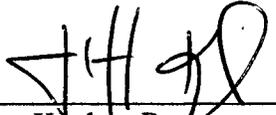
1. Applicant's mark ENERGY POPPERS for energy boosting nasal spray under International Class 5 is not a pill or in a liquid form and is not a dietary supplement as indicated by Opposer. Opposer's mark POPPERS is used on packaging for pills for "Bodybuilding" products, a specialized industry and not related to Applicants' consumers or avenue of commerce.

2. The goods on which the parties use their marks are not identical and do not closely relate to each other as shown by common law trademark usages by third parties submitted with Applicant's Notice of Reliance and the evidence attached to the Kaplan declaration. (Exhibit 5 of Applicants Motion for Summary Judgment)
3. Opposer filed his Notice of Opposition based on a claim that "Likelihood of Confusion" in the marketplace exists between Applicant's trademark when applied to the goods of the respective parties but has not submitted any evidence of possible or actual confusion in the marketplace.
4. Opposer filed his Notice of Opposition based on a claim that Applicant's trademark will result in damage to Opposer's trademark and business but has not submitted any evidence of actual damage to Opposer's trademark or business.
5. Applicant's application was reviewed by the U.S.P.T.O Examiner who found no likelihood of confusion exists between any registered marks on file including the Opposer's mark. The Examiner also found no reason to determine the mark as Descriptive or Generic.
6. The disclaiming of a descriptive word in a trademark as was requested by the Applicants' Examiner for the word "Energy" does not automatically mean a compound word cannot function as a trademark.
7. Opposer has admitted in his Notice of Opposition of filing an application for the compound word "MUSCLE POPPERS" Serial # 78/775704 with the word "Muscle" disclaimed as descriptive but then argues that Applicant cannot do the same.

8. Opposer as indicated on its own WEB PAGE has abandoned it's use of the mark "POPPERS" and has acquiesced to the use of "POPPERS" by numerous third parties.

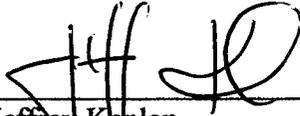
Thus, there are no genuine issues of material fact precluding summary judgment in favor of Applicant.

  
\_\_\_\_\_  
Ilie Ioncescu

  
\_\_\_\_\_  
Jeffrey Kaplan, Pro se  
POB 1110  
Ft. Laud. Fl. 33339 (954)793-0637  
email: [eggcream@earthlink.net](mailto:eggcream@earthlink.net)

Dated: August 17<sup>th</sup> 2007

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\_\_\_\_\_  
Jeffrey Kaplan

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Bodyonics, Ltd.

Opposition No. 91176901

Opposer,

NOTICE OF RELIANCE

V.

Jeffrey Lee Kaplan and Ilie  
Ioncescu,

Applicants

\_\_\_\_\_/

Pursuant to 37 CFR 2. 122(3) and TBMP 704.03(b) (12) (B), Applicants, Jeffrey Kaplan and Ilie Ioncescu, Ft. Lauderdale, Florida hereby files this Notice of Reliance with respect to its Motion for Summary Judgment on the issue of Likelihood of Confusion, Generic and Descriptive Issues and in Opposition to Opposer's Motion for Summary Judgement relying on the following documents downloaded from the Internet.

www.pinnaclebody.com web page and web site

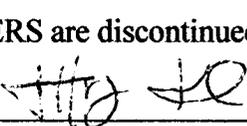
www.drugs-info.co.uk documents about generic POPPERS from Alky Nitrates

www.getanabolics.com documents about VEGAS POPPERS

www.bodybuilding.com documents for PLASMAVOL POWER POPPERS and

ANDRO-150 POPPERS are discontinued by Opposer.

Dated 8/17/07

  
Jeffery Kaplan, Pro se

and

  
Ilie Ioncescu

POB 11106 Ft Laud Fl. 33339 (954) 793-063

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Jeffrey Kaplan

Search

EXHIBIT A

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- Energy Boosters
- Glutamine
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- Nitric Oxide
- Protein
- Testosterone Boosters
- Vitamins / Herbs
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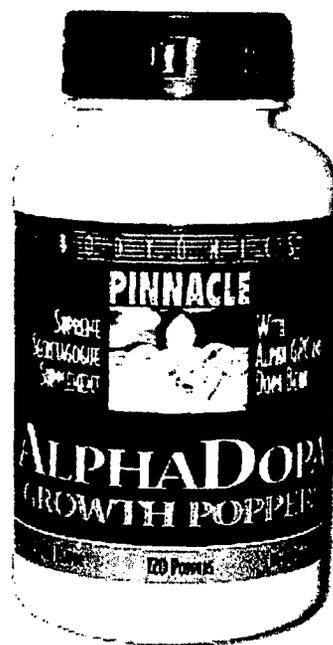
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inspiring quote

It's easier to go down a hill than up it but the view is much better at the top.  
- Henry Ward Beecher



OPPOSER'S USAGE OF  
MARK "POPPERS"  
IN COMMERCE

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EXHIBIT  
D

## Pinnacle Andro 150 Poppers

01/17/2005 - Unfortunately, this product has been discontinued by Pinnacle.

### Places To Find Products Like This:

- 4-Androstenediol Products
- Muscle Building Products
- Other Pinnacle Products

### Other Products Like This:

- Testriol 2
- Radix
- Sytenhance
- NandroTest



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Bodybuilding.com, 361 Steelhead Way, Boise, ID 83704, 1-877-991-3411

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OPPOSERS  
DISCONTINUED  
PRODUCT CALLED  
"Andro-150  
"POPPERS"

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## Diet & Weight Management



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**Complete category product listing:**

**Body Building Products**

**Alpha Dopa Growth Poppers®**

**120 poppers - \$34**



Pinnacle Alpha Dopa is a plant based, human growth hormone (HGH) secretagogue formulated to support protein synthesis, enhance lean body mass and body fat...

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**NOX2**

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Pinnacle NOX2 is a natural vasodilator suitable for fitness enhancement. This product's ingredients are natural myodilators that may help boost nitric oxide levels in ...

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**60 Tabs - \$25**



Pyruvate is an end product of energy metabolism that our bodies make every day. Pyruvate occurs naturally in many foods including red meat and apples. ...

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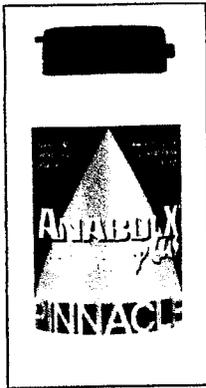
**AnabolX Plus**

--- Select One ---

ANABOLX Plus instead of Andro..... The Pinnacle AnabolX is the most amazing break ...

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[More Info](#)

**FREE Shaker**  
With the purchase of any 22 ounce Shredded Mass  
The world's first Fat Burning Creatine!



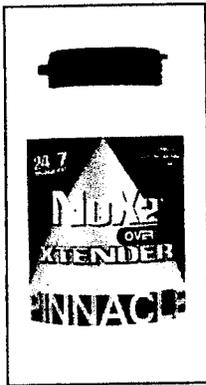
**NOX2 Overnight Xtender**

**120 tabs - \$42**

**\*\*NOW AVAILABLE\*\*\*** The next Generation of Nitric Oxide technology. NEW Pinnacle NOX2 Overnight Xtender is a breakthrough of remarkable proportions that extends the benefits ...

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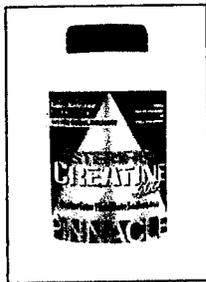
**Esterified Creatine**

**120 - \$59**

**ESTERIFIED CREATINE A Whole ...**

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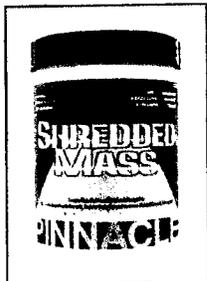
**SHREDDED MASS**

**22.24 oz - \$45**

The World's FIRST and ONLY FAT BURNING CREATINE!  
 • EXPLOSIVE STRENGTH & MENTAL FOCUS PRE-AMP.  
 • BY FAR, THE MOST ANABOLIC CREATINE ON THE MARKET.  
 • THE FIRST CREATINE RECOGNIZED ...

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**FUSE**

**84 caps - \$45**

**\*\*NEW\*\*** FUSE is powered by the innovative, proprietary compound-Penta-Hydroxy GlucoPyranoside. Fuse is the "multi tasking" bodybuilding phenomenon....

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**Shredded Mass Single/Serve Dose**

**15.57 Grams - \$3**

**\*\*AVAILABLE IN SINGLE SERVE CONVENIENCE\*\*\* ...**

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**PerMax Creatine 4000**

**PerMax creatine 4000 120's - \$59**

**\*\*NEW\*\*** PerMax Creatine helps improve circulation up to an extraordinary 40% which may aid in delivery of Creatine to the muscle tissue....

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**PerMax Amino Explode**

**PerMax Amino Explode 180 tabs - \$59**

**\*\*NEW\*\*** Amino Acids are the basic building blocks of protein as well as every muscle in the body. The more protein synthesis you stimulate, the ...

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**PerMax NOX2 6000**

**PerMax NOX2 6000 180 tabs - \$64**

**NEW** Pinnacle NOX2 6000 is a natural vasodilator suitable for fitness enhancement. This product's ingredients are natural myodilators that may help boost nitric oxide levels ...

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EXHIBIT  
BDrugs I

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## Poppers

[Forum](#)   [Search](#)**TNT, LIQUID GOLD, RAM, THRUST, KIX, ROCK HARD. Different Names For POPPERS !**

### What Are Poppers

Poppers is a term used for a group of chemicals known as Alkyl Nitrites, these include Butyl Nitrite, Amyl Nitrite and Isobutyl nitrite. The names used vary which include Rush, Thrust, Liquid Gold, Ram, Rock Hard, TNT, Amyl and others. Poppers come as a coloured liquid in bottles or tubes. Poppers are taken by inhaling the vapour thorough the mouth or nose. Care must be taken as if the substance is swallowed the consequences could be fatal. Poppers are being used lately in dance cultures as they give the user energy, the effect however do not last very long, they usually fade about two to five minutes after the initial intake.

### Effects And Risks Of Taking Poppers

#### Effects of Poppers:-

Users get a very brief but intense head rush. This is caused by a sudden surge of blood through the heart and brain

Some users indicate that they get the sense of time slowing down

Blood vessels dilate (enlarge) resulting in a flushed face and neck

<http://www.drugs-info.co.uk/drugpages/poppers/poppers.html>

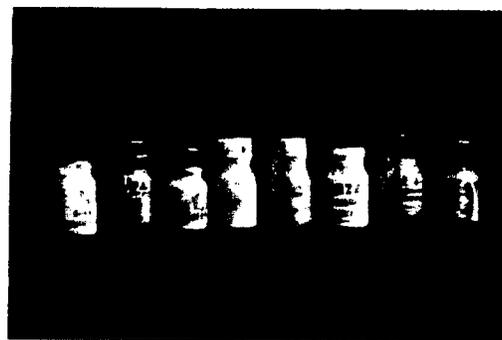
04/15/06

# Poppers

From Wikipedia, the free encyclopedia

EXHIBIT B

**Poppers** is the street term for various alkyl nitrites taken for recreational purposes through direct inhalation, particularly amyl nitrite, butyl nitrite and isobutyl nitrite.<sup>[1][2]</sup> Amyl nitrite has a centuries-long history of use in treating angina,<sup>[3]</sup> as well as an antidote to cyanide poisoning.<sup>[4]</sup> Amyl nitrite and several other alkyl nitrites which are used in over-the-counter products, such as room odorizers and video head cleaners, may be inhaled to enhance sexual pleasure.<sup>[5]</sup> Use is particularly prominent among urban male homosexuals.<sup>[5]</sup> These products have long been part of the club culture from the 1970s disco scene to the 1980s and 1990s rave scene.<sup>[6]</sup>



Variety of poppers

## Contents

- 1 Availability & legality
  - 1.1 United States
  - 1.2 United Kingdom
  - 1.3 Street names
- 2 Physiological effects
- 3 Health Issues
- 4 Chemistry
- 5 In Popular Culture and the Media
- 6 External links
- 7 References

## Availability & legality

### United States

Several alkyl nitrite compounds can be used as poppers and most are found in a variety of consumer products which are regulated by the Consumer Product Safety Commission.<sup>[3][7]</sup>

- Amyl nitrite was originally marketed as a prescription drug in 1937, and remained so until 1960, when the Food and Drug Administration removed the prescription requirement. This requirement was reinstated in 1969.<sup>[3]</sup>
- Other Alkyl nitrites used in room deodorizer products were outlawed in the USA by Congress in 1990. Manufacturers reformulated their products to abide by the law, and today nitrite based products are sold as video head cleaner, polish remover or room odorants.<sup>[3]</sup>
- Cyclohexyl nitrite is technically not a member of the class of alkyl nitrites encompassed by the law, but as a result of the Federal Analog Act, its status remains in question.

### United Kingdom

Amyl nitrite is controlled under the Medicines Act, and although possession is legal, supply may be an offence. [1][2] Other nitrites are readily available in consumer products such as room odorants and leather cleaner, and numerous shops, particularly sex shops, clubs, and shops selling drug paraphernalia, sell them as "room aromas" or similar. [1][2] However, a recent European Union directive, as well as a decision made by the Medicines and Healthcare products Regulatory Agency means that any product on sale with a psychoactive effect could be classed as a medicine regardless of how it is marketed, and so controlled under the Medicines Act. [6]

Prices are commonly in the range of £2–5 GBP. [1]

## Street names

Alkyl Nitrites were originally sold in small glass ampules that were crushed to release their vapors, and received the name "poppers" as a result of the popping sound made by crushing the ampule. [8] Today, poppers are known by a variety of names, primarily coming from the brand names by which they are sold. Brand names include Rush, [2][5][9] Locker Room, [2][5] Snappers, [2][10] and Liquid Gold. [1][2] Many brand names exist and are in use in different localities.

## Physiological effects

Inhaling nitrites relaxes smooth muscles throughout the body, including the sphincter muscles of the anus and the vagina. [4] This causes the blood vessels to dilate (which causes a sudden drop in blood pressure), increases heart rate, and produces a sensation of heat and excitement that usually lasts for a couple of minutes. [11]

The recreational use of alkyl nitrites is typically an attempt to enhance a sexual experience. [5] The head rush, euphoria, and other sensations that result from the blood pressure drop are often felt to increase sexual arousal and desire. [5] At the same time, the relaxation of the sphincters of the anus and vagina can make penetration easier. [12] Similarly, a temporary reduction in the stiffness of the erection can also make penetration easier or more comfortable, so long as an adequate degree of stiffness is retained. Some people find poppers can also moderate their gag reflex, better facilitating fellatio. Others report that poppers can enhance and prolong orgasms. [1]

While anecdotal evidence reveals that both men and women can find the experience of using poppers pleasurable, this experience is not universal. Some men report that a reduction in erection stiffness can interfere with sexual performance. [1]

## Health Issues

High doses of nitrites may cause methemoglobinemia, especially in individuals predisposed towards such a condition. [4][13] It is believed that use with Viagra can cause heart failure. [14][15] As poppers increase pressure within the eyeball, users with glaucoma take additional risks when using poppers. [13][16]

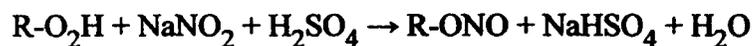
Poppers may weaken the immune system, and can lead to common cold-like symptoms, however any damage is undone in a few days. [17] Other risks include rashes around the mouth and nose, burns if spilt on skin, loss of consciousness, and headaches. [1][18]

## Chemistry

Information in this article or section has **not** been verified against sources and may not be reliable.

Please **check for inaccuracies** and modify as needed, **citing the sources** against which it was checked.

Alkyl nitrites can be synthesized from primary alcohols according to the following reaction process:



It has been reported (US Patent 4,638,094) that alkyl nitrites are also a precursor for MDP2P, a phenylacetone used in the production of MDMA, more commonly known as "ecstasy." The basic reaction process is shown below:



## In Popular Culture and the Media

Amyl nitrite was popularized in Hunter S. Thompson's *Fear and Loathing in Las Vegas* and in Radley Metzger's 1972 cult classic film *Score*. In the film, a bisexual woman glides them under the nose of a heterosexual woman in an attempt to seduce her.

During the 1970s and 1980's, the mainstream media often wrote about poppers.<sup>[19][20]</sup>

Amyl nitrite is also mentioned in *Red Dragon*, the prequel to *The Silence Of The Lambs*.

## External links

- Toronto Canada Harm Reduction ([http://www.torontovibe.com/drug\\_information.html#pop1](http://www.torontovibe.com/drug_information.html#pop1)), information on poppers from a harm reduction perspective.
- Sex Talk (<http://www.gay.com/health/sexuality/article.html?sernum=770>), an LGBT social perspective on poppers.
- All About Poppers (<http://www.virusmythpoppersmyth.org/>), a poppers information site, containing copies of numerous relevant papers and articles.
- London's Urban75 (<http://www.urban75.com/Drugs/drugamyl.html>), London organization with information on drugs, and poppers.

## References

1. <sup>^</sup><sup>a</sup><sup>b</sup><sup>c</sup><sup>d</sup><sup>e</sup><sup>f</sup><sup>g</sup><sup>h</sup> Poppers (<http://www.talktofrank.com/drugs.aspx?id=198>). *Frank*. Retrieved on 2007-03-14.
2. <sup>^</sup><sup>a</sup><sup>b</sup><sup>c</sup><sup>d</sup><sup>e</sup><sup>f</sup><sup>g</sup> Poppers: The effects, the risks, the law (<http://www.thesite.org/drinkanddrugs/drugsafety/drugsatoz/poppers>). *TheSite.org*. YouthNet UK. Retrieved on 2007-03-14.
3. <sup>^</sup><sup>a</sup><sup>b</sup><sup>c</sup><sup>d</sup> Galson, Steven K. (2006-01-10). Letter to Gerald Austen Re Docket No. 2004P-0411/CP1

- (<http://www.fda.gov/ohrms/DOCKETS/dockets/04p0411/04p-0411-pdn0001-vol3.pdf>) (PDF). Food and Drug Administration. Retrieved on 2007-04-29.
4. ^ *abc* Amyl Nitrite (<http://www.medsafe.govt.nz/Profs/datasheet/a/Amylnitrateinh.htm>). *Medsafe*. New Zealand Medicines and Medical Devices Safety Authority (2000-05-18). Retrieved on 2007-03-15.
  5. ^ *abcdef* "Volatile Nitrites (<http://www.merck.com/mmpe/sec15/ch198/ch198m.html#sec15-ch198-ch198m-400>)". *The Merck Manual Online*. (November 2005). Ed. Porter, Robert S., et al.. Merck & Co.. Retrieved on 2007-03-16.
  6. ^ *ab* Nitrites ([http://www.drugscope.org.uk/druginfo/drugsearch/ds\\_results.asp?file=%5Cwip%5C11%5C1%5C1%5Cnitrites.html](http://www.drugscope.org.uk/druginfo/drugsearch/ds_results.asp?file=%5Cwip%5C11%5C1%5C1%5Cnitrites.html)). *Drugscope*. Retrieved on 2007-04-24.
  7. ^ U.S. Consumer Product Safety Commission Office of Compliance Bans of Butyl Nitrite and Volatile Alkyl Nitrite (<http://www.cpsc.gov/businfo/regsumbutylnitrite.pdf>) (PDF). Consumer Product Safety Commission (August 2002). Retrieved on 2007-03-29.
  8. ^ Poppers ([http://www.homohealth.org/mens\\_program/sexualhealth/poppers.htm](http://www.homohealth.org/mens_program/sexualhealth/poppers.htm)). *homohealth.org*. Lifelong AIDS Alliance. Retrieved on 2007-03-18.
  9. ^ Essential Facts (<http://www.iabuse.org/info.shtml>). *iabuse.org*. Inhalant Abuse Action Group. Retrieved on 2007-03-15.
  10. ^ Inhalants (<http://www.drugabuse.gov/DrugPages/Inhalants.html>). National Institute on Drug Abuse. Retrieved on 2007-03-15.
  11. ^ Amyl Nitrate (<http://www.calrehabguide.com/dictionary/definitions/Amyl-Nitrate.70.html>). *Addiction Recovery and Rehab Terminology Reference: Drug and Alcohol Dictionary*. California Rehab Guide. Retrieved on 2007-03-18.
  12. ^ Reds Room Odouriser (<http://www.annsummers.com/single.asp?gid=7&cat=17&pid=3358>). Ann Summers. Retrieved on 2007-03-15.
  13. ^ *ab* Horwath (2004-05-19). Chemical addictions and their effect on someone with HIV (<http://www.thebody.com/Forums/AIDS/Mental/Current/Q156977.html?h19o>). *The Body*. Retrieved on 2007-03-19.
  14. ^ Viagra May Cause Heart Attack Deaths In Younger Men With No Heart Problems, Study Finds (<http://psa-rising.com/medicalpike/vaigracardiodeaths031500.htm>). PSA Rising. Retrieved on 2007-03-15.
  15. ^ Experts See Dangerous Trend In Use Of Viagra With 'Party Pills' (<http://www.intelihealth.com/IH/ihtIH/WSIHW000/333/20789/351666.html>). Aetna IntelliHealth (2004-06-24). Retrieved on 2007-03-18.
  16. ^ Amyl Nitrate [*sic*] (<http://www.watton.org/drugsinfo/aboutnitrates.shtml>). *Drug Factfile*. Watton on the Web. Retrieved on 2007-04-30.
  17. ^ Sheppard, Simon. Speaking of Poppers ([http://www.gay.com/health/sexuality/article.html?coll=rela\\_fantasy&sernum=770&page=2](http://www.gay.com/health/sexuality/article.html?coll=rela_fantasy&sernum=770&page=2)). *Sex Talk* p. 2. Gay.com. Retrieved on 2007-03-16. "There is evidence that using poppers does lower immune function, though the damage is undone in at most a few days."
  18. ^ Wood, Ronald W. (1989). *The Acute Toxicity of Nitrite Inhalants* (<http://hdl.handle.net/1802/1150>) (PDF), National Institute on Drug Abuse, pp. 28-29. Retrieved on 2007-03-15.
  19. ^ Sansweet, Stephen J.. "A New Way to Glow And Giggle, and Get A Headache Besides (<http://alkylnitrites.blogspot.com/2006/04/1977-front-page-story-on-alkyl.html>)" (Reprint), *The Wall Street Journal*, 1977-10-10. Retrieved on 2007-04-29.
  20. ^ "Rushing to a New High (<http://www.time.com/time/magazine/article/0,9171,916269,00.html>)", *Time*, 1978-07-17. Retrieved on 2007-04-29.

### Alkyl nitrites

Amyl nitrite Butyl nitrite Ethyl nitrite Methyl nitrite Isopropyl nitrite Isobutyl nitrite Cyclohexyl nitrite  
 "Poppers" (used as a recreational drug)

Retrieved from "<http://en.wikipedia.org/wiki/Poppers>"

<http://en.wikipedia.org/wiki/Poppers>

5/2/2007

Items: 0 | Total: \$0.00

Search:

Forum | Log In | Reg  
**EXHIBIT C**



**Supplements**

- Anabolic Muscle Builders
- Anabolic Super Stacks
- Creatine
- Fat Burners
- NO - Nitric Oxide
- Pre-Workout
- Protein
- Recovery
- Testosterone
- Vegas Poppers**
- Miscellaneous

**Vegas Poppers**

**It's The Only Sex Pill Potent Enough For Whatever Happens In Vegas... Or Anywhere Else!**

If you love to "party" and meet gorgeous women... then go to Vegas NOW! Never has "Sin City" been so sinful with its decadent, palatial casinos that love to entertain "Players". But regardless of whether you're going to be a "Player" in Vegas this weekend, or at home, please check out Vegas Poppers™, the new, super potent sex and energy pill that is literally light years ahead of any other sex pill on the market!

**Testimonials** ✓

**YOURS FREE WITH PURCHASE**  
**The All New Training Course...**  
**12 Weeks To MASSIVE MUSCULARITY!**  
**A \$29.99 Value!**  
**CLICK HERE FOR DETAILS!**



**HOW TO GET YOUR FREE BOTTLE!**

Right now, but for a limited time, you can get your hands on a FREE bottle of Vegas Poppers! Be sure to select the "Auto-Ship" check box on either the Vegas Poppers Double or Triple and get hooked up today!

Displaying 1 to 3 (of 3 products)

Result Page



**Vegas Poppers**  
~~\$84.95~~ \$69.95

**Add To Cart**



**Vegas Poppers - Double**  
~~\$169.90~~ \$139.90

**Add To Cart**



**Vegas Poppers - Triple**  
~~\$254.85~~ \$209.85

**Add To Cart**

Displaying 1 to 3 (of 3 products)

Result Page

*Handwritten: "VEGAS Poppers"*

**Manufacturers**

Please Select



**ANABOLIC ALMANAC**



**FREE TO DOWNLOAD**  
**CLICK HERE**

**Bookmark Us!**



**Tell A Friend**

# BODY BUILDING.COM

EXHIBIT  
C

## Sportlab PlasmaVol Power Poppers - P3

240 Capsules  
\$64.95 **\$39.95** [Order]

Other Sportlab  
Products

About Sportlab

### What's In It?

Serving Size: 4 Capsules  
Servings Per Container: 60

Amount Per Serving:

PlasmaGen 3: 2300 mg  
(Proprietary blend of Creatine Ethyl Ester HCL, Creatine Alpha-Ketoglutarate, Glycocyamine)

PlasmaSorb 2: 200 mg  
(Proprietary blend of Micronized Taurine, Isolyn R Alpha-Lipoic Acid)

Other Ingredients:  
Microcrystalline cellulose,  
Magnesium Stearate, Gelatin

Directions: Take four capsules one to two times daily with 500ml of water or juice. Taking an additional 500ml water five minutes after ingestion is recommended.

*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.*

Sportlab Presents:  
**PlasmaVol Power Poppers - P3**  
Advanced Creatine Ester Matrix!



### Other Products

This works well with:  
• L-Phenylalanine  
• DHEA 50  
• Ether 2010  
• Neclar Grab N' Go

### Component Of The PlasmaVol Muscularity System!

**PlasmaVol Power Poppers (P3) Advanced Creatine Ester Matrix** has been formulated to provide the ultimate in convenience, while delivering a potent and powerful punch. Once again, the Sportlab Research and Development Team has raised the bar with this technologically superior product!

### The PlasmaVol Muscularity System

The PlasmaVol System consists of three separate, but important products. This product is one component of that system! This is best used in conjunction with the other products of the PlasmaVol Muscularity System. Those other two products are:

PlasmaVol - P1  
PlasmaVol Plus - P2

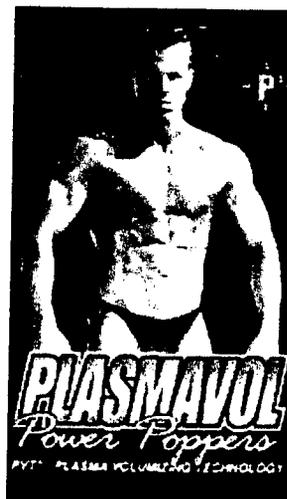
Sportlab's award-winning Research and Development Team has broken all muscle-cell volumizing barriers by being the first to bring to the world PVT - Plasma Volumizing Technology.

When stacked properly, the three PlasmaVol components are guaranteed to deliver the most dramatic muscle gains possible, without the use of steroid-type agents. By combining the proper compounds in precise dosages, and fed to the muscle cells at just the right times, cell plasma is forced to "volumize," delivering previously unattainable size, strength, endurance, blood flow, nutrient delivery and glycogen storage.

### PlasmaVol System Component Schedule

PlasmaVol (P1) should be consumed approximately 30 minutes prior to workout. If P3 is not being added to the stack, P1 should also be consumed in the morning, 15 minutes prior to meal.

PlasmaVol Plus (P2) is the backbone of the PlasmaVol Muscularity System and should be consumed immediately after every workout. Post workout is the most



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposition No. 9117690

Bodyonics, Ltd

Opposer,

v.

Jeffery lee Kaplan and Ilie Ioncescu

APPLICANT'S SUPPLEMENTAL  
MOTION FOR SUMMARY  
JUDGMENT; MEMORANDUM  
AND DECLARATION OF  
JEFF KAPLAN IN SUPPORT

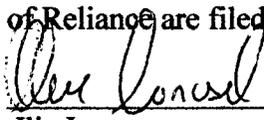
\_\_\_\_\_/

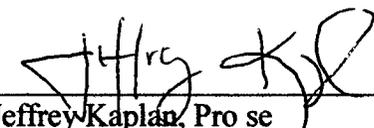
Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Applicants moves the Board For an Order Granting Summary Judgment in its favor on the ground that there are no Genuine issues of material fact precluding Summary Judgment in its favor as follows:

1. Applicant's mark ENERGY POPPERS for energy boosting nasal spray is not in a pill or liquid form under International Class 5 and is not a dietary supplement.
2. The goods on which the parties use their marks are not identical and do not closely relate to each other as shown by common law trademark usages by third parties submitted with Applicant's Notice of Reliance and the evidence attached to the Kaplan declaration. (Exhibit 5).
3. Opposer filed his Notice of Opposition based on a claim that "Likelihood of Confusion" in the marketplace exists between Applicant's trademark when applied to the goods of the respective parties but has not submitted any evidence of possible or actual confusion in the marketplace.

4. Opposer filed his Notice of Opposition based on a claim that Applicant's trademark will result in damage to Opposer's trademark and business but has not submitted any evidence of actual damage to Opposer's trademark or business.
5. Applicant's application was reviewed by the U.S.P.T.O Examiner who found no likelihood of confusion exists between any registered marks on file including the Opposer's mark. The Examiner also found no reason to determine the mark as Descriptive or Generic.
6. The disclaiming of a descriptive word in a trademark as was requested by the Applicants' Examiner for the word "Energy" does not automatically mean a compound word cannot function as a trademark.
7. Opposer has admitted in his Notice of Opposition of filing an application for the compound word "MUSCLE POPPERS" Serial # 78/775704 with the word "Muscle" disclaimed as descriptive but then argues that Applicant cannot do the same.
8. Opposer has abandoned its use of the mark "POPPER" and has acquiesced to the use of "POPPERS" by numerous parties.

Thus, there are no genuine issues of material fact precluding summary judgment in favor of Applicant. A memorandum, the declaration of Jeffery Kaplan and a Notice of Reliance are filed in support.

  
\_\_\_\_\_  
Ilie Ioncescu

  
\_\_\_\_\_  
Jeffrey Kaplan, Pro se  
POB 11106 Ft. Laud. Fl. 33339 (954)793-0637

Dated: August 17<sup>th</sup> 2007

## MEMORANDUM IN SUPPORT

### I. FACTUAL BACKGROUND

Applicant applied to register the name ENERGY POPPERS for energy boosting nasal spray preparations International Class 5 on April 15<sup>th</sup> 2006 based on a bona fide intent to use. Applicant subsequently received an Office Action dated 9/21/06 whereby the Examiner stated “the office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. 1052(d) However the Examiner requested that the descriptive word “Energy” be disclaimed. (Hereto attached as Exhibit 1)

Importantly, a disclaimer does not physically remove the disclaimed matter from the mark, but rather is a written statement that applicant does not claim exclusive rights to the disclaimed word and/or design “separate and apart” from the mark as shown in the drawing. It is the entire compound mark that is unique and distinctive and it is seen by the public. Applicant responded accordingly and amended the application. The amendment was accepted and the mark was allowed to proceed to publication.

The Opposer then filed a Notice of Opposition based on Likelihood of Confusion issues and business damages (hereby attached as Exhibit 2) but in Opposer’s Motion for Summary Judgment these issues were not mentioned. Opposer has now filed a Motion to Amend Notice of Opposition to Conform to Evidence Adduced during Discovery and has filed a Supplemental Motion For Summary Judgment.

## II. ARGUMENT

In Opposer's original Motion for Summary Judgment, the Opposer attempted to twist the Interrogatory Answers submitted by the Applicant. Applicant stated that the word "POPPERS" by itself is generic for inhalation but Applicant's statement was referencing the inhalation of "illegal chemicals known as Alkyl Nitrates." Applicant's mark is for "energy boosting nasal spray preparations" which are legal and healthy for the user. Documents supporting this answer were submitted to the Opposer under Exhibit B in the First Set of Request For Production of Documents. (Hereby attached as Exhibit 3)

In Opposer's original Motion for Summary Judgment, Opposer argued that since the word "ENERGY" was disclaimed and Applicant stated that the word "POPPERS" was generic the name "ENERGY POPPERS" cannot function as a trademark. Again the Opposer is attempting to twist the facts to the Board. Applicant did not state that the use of the word POPPERS in his mark was generic but rather POPPERS standing alone is generic. The disclaiming of a descriptive word in a trademark as was requested by the Applicants' Examiner for the word "Energy" does not automatically mean a compound word cannot function as a trademark. The mark "ENERGY POPPERS" is at least suggestive and is a unitary term that creates a commercial impression separate and apart from any unregistrable component.

In fact the Opposer's pending trademark "MUSCLE POPPERS" Serial # 78/775704 is a compound word consisting of two generic words. Applicant finds it odd that Opposer's argument against allowing registration of a compound word that uses a generic term and a disclaimed word be disallowed yet Opposer has filed for the mark

“MUSCLE POPPERS” with the descriptive word “muscle” disclaimed. (Hereby attached as Exhibit 4)

Opposer has filed a Supplemental Motion for Summary Judgment based on a Likelihood of Confusion claim yet has not submitted any evidence of actual or pending confusion. Opposer also claims damages to his business but has not submitted any evidence. In using the well established relevant factors from *In re E.I. du Pont de Nemours & Co*, 476 F. 2d 1357, 177 USPQ 563 (CCPA 1972) it is clear that there is no likelihood of confusion:

1. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression. The Opposer’s registered mark is “POPPERS” but is no longer used in commerce. As indicated from the Opposer’s web page they are using the mark “ALPHA DOPA GROWTH POPPERS”. The Applicants mark is “ENERGY POPPERS” which is dissimilar in sound and appearance.
2. The similarity or dissimilarity and nature of the goods described. The Opposer’s mark is used for packaging for a bodybuilding dietary pill and only targets “Bodybuilders”. Applicants mark is for a nasal spray and targets the average consumer who gets tired from work, etc.
3. The similarity or dissimilarity of trade channels. Opposer’s mark is used on bodybuilding pills and is sold through specialized channels of trade. The Applicants’ products can be sold in any store or trade channel and not through bodybuilding avenues of commerce. Therefore the channels of commerce are completely different.

4. The conditions under which buyers make a sale. There is no doubt that the Opposers and Applicant's products are not "impulse" items. Much thought is used in the purchase of these products. Opposer's customers are seeking bodybuilding dietary supplements and will not be confused or will believe that the goods of the Applicant emanate from the Opposer. In fact the packaging used by the Opposer specifically lists the companies name "PINNACLE" on all products in a font larger than their mark. Opposer's customers seek products bearing the PINNACLE name.

5. The number and nature of similar marks in use on similar products. Applicant has submitted third party uses of the word POPPERS on many similar products to the Opposer and there are many ENERGY related products on the market as well.

6. Evidence of any actual confusion: None

7. Evidence of concurrent use with actual confusion: None

8. The extent of potential confusion. None, especially since Opposer no longer uses the mark POPPERS standing alone in commerce.

Attached to Applicant's Notice of Reliance is (Hereby attached as Exhibit 5) is documentary evidence proving that Opposer has abandoned it use of the mark "POPPERS". Opposer's own product labels show the word POPPERS in a generic Style and are no longer used as a trademark. Opposer's products are using compound words such as ALPHA DOPA GROWTH POPPERS. Also attached are many other products on the market all selling comparable and similar products to the Opposer such as VEGAS POPPERS and PLASMAVOL POWER POPPERS.

Opposer has attached a Notice of Reliance and has submitted evidence of various energy boosting products, settlement letters, cease and desist letters and filings of Oppositions to the TTAB but all the marks related to these documents are for products in pill form and not nasal sprays. Opposer in desperation has even submitted a product called Athletic Boost consisting of an aroma RING that one wears on their finger and smells for energy and claims that Applicants product is similar. Applicant's product is a nasal spray and not a ring that one smells. In the case of the mark "Vegas Poppers", the Opposer sent a cease and desist letter on June 6<sup>th</sup> 2007 after learning of the mark from the Applicants discovery papers. It's important to note that the mark "Vegas Poppers" and all the other products listed in the Opposers Notice of Reliance were in use in commerce for many years with no consumer confusion with Opposer's products.

In fact it's interesting to learn that all these marks were approved by the U.S.P.T.O. for publication. These Application's were either abandoned because of various settlement agreements or simply because of the scare tactics initiated by the Opposer. It is important to remember that Opposer is a large and financially successful company that has the resources to scare a small company with possible enormous legal fees that one would face in litigating against the Opposer. In this case before the Board Applicant is pro se and therefore is not being blackmailed by legal fees.

CONCLUSION

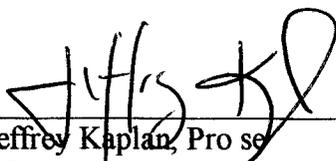
Based upon the submitted evidence Applicant is entitled to registration of the mark,

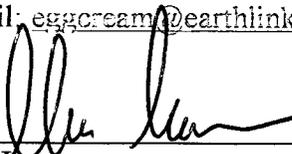
“ENERGY POPPERS”

Applicant’s Motion for Summary Judgment is well founded and Applicants respectfully requests that its Motion be granted and registration allowed to Applicants.

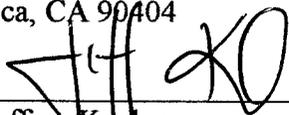
Wherefore, Applicants prays that the Board grant it’s Motion, grant Applicants it’s registration and deny the opposition by the Opposer. A memorandum and the Declaration of Jeffrey Kaplan and Ilie Ionescu are filed in support of this Motion and are filed contemporaneously with this Motion.

Dated August 17<sup>th</sup> 2007

  
\_\_\_\_\_  
Jeffrey Kaplan, Pro se  
POB 11106  
Ft Lauderdale, Fl. 33339  
(954) 793-0637  
email: [eggcream@earthlink.net](mailto:eggcream@earthlink.net)

  
\_\_\_\_\_  
Ilie Ionescu

I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Jay Geller at W. Tower Suite 4000, 2425 W. Olympic Bl. Santa Monica, CA 90404

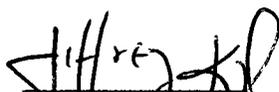
  
\_\_\_\_\_  
Jeffrey Kaplan

## DECLARATION OF JEFFREY KAPLAN AND ILIE IONCESCU

Jeffrey Kaplan and Ilie Ioncescu under penalty of the laws of the United States, declares and states as follows:

1. We are presenting ourselves pro se. If called as witness we would and could testify to the following of our personal knowledge.
2. In June 2007 we responded to a 2<sup>nd</sup> set of interrogatories. In June 2007 we responded to a request to amend our 1<sup>st</sup> set of Production Documents.
3. In May 2007 we researched on the Internet and downloaded documents that are referenced in our August 17<sup>th</sup> 2007 Supplemental Motion for Summary Judgment. These documents include information about Pinnacles Alpha Dopa Growth Poppers at [www.pinnaclebody.com](http://www.pinnaclebody.com) , documents about the generic version of POPPERS and the effects of taking POPPERS which are known as Alkyl Nitrates at [www.drugs-info.co.uk](http://www.drugs-info.co.uk), Web Page information from [www.getanabloics.com](http://www.getanabloics.com) and VEGAS POPPERS, Web Page information from [www.bodybuilding.com](http://www.bodybuilding.com) for PLASMAVOL POWER POPPERS and the fact that ANDRO-150 POPPERS have been discontinued.
4. On August 17<sup>th</sup> 2007 we researched on the Internet and downloaded documents from Opposer own WEB PAGE at [www.pinnaclebody.com](http://www.pinnaclebody.com) including pages listing their current product lines for sale to the public.
5. Exhibits 1-5 attached are true and accurate copies of the discovery I prepared and served on Opposers counsel and that was received by us from the Opposers counsel.

Dated 8/17/07

  
Jeffrey Kaplan

  
Ilie Ioncescu



# EXHIBIT 1

Document Description: **Offc Action Outgoing**  
 Mail / Create Date: **21-Sep-2006**



## UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 78/862294

**APPLICANT:** Kaplan, Jeffrey, Lee

**\*78862294\***

**CORRESPONDENT ADDRESS:**  
 KAPLAN, JEFFREY, LEE  
 PO BOX 11106  
 FT LAUDERDALE, FL 33339-1106

**RETURN ADDRESS:**  
 Commissioner for Trademarks  
 P.O. Box 1451  
 Alexandria, VA 22313-1451

**MARK:** ENERGY POPPERS

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

**CORRESPONDENT EMAIL ADDRESS:**

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

### OFFICE ACTION

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/862294

The assigned trademark examining attorney has reviewed the referenced application and has determined the following.

**Search**

The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

**Requirement(s)**

Applicant must respond to the following:

## Identification

The wording "nasal preparations" in the identification needs clarification because it is indefinite. Per TMEP §1402.01, Applicant may change this wording to, if accurate: **Energy boosting nasal spray preparations --** in International Class 5

Please also note that, while an application may be amended to clarify or limit the identification, additions to or broadening the scope of the identification are not permitted. 37 C.F.R. Section 2.71(b); TMEP section 1402.06. Therefore, the applicant may not amend to include any goods or services that are not within the scope of the goods and/or services recited in the present identification.

## Disclaimer

The Office can require an applicant to disclaim exclusive rights to an unregistrable part of a mark, rather than refuse registration of the entire mark. Trademark Act Section 6(a), 15 U.S.C. §1056(a). Under Trademark Act Section 2(e), 15 U.S.C. §1052(e), the Office can refuse registration of the entire mark where it is determined that the entire mark is merely descriptive, deceptively misdescriptive, or primarily geographically descriptive of the goods. Thus, the Office may require the disclaimer of a portion of a mark which, when used in connection with the goods or services, is merely descriptive, deceptively misdescriptive, primarily geographically descriptive, or otherwise unregistrable (e.g., generic). TMEP §1213.03(a). If an applicant does not comply with a disclaimer requirement, the Office may refuse registration of the entire mark. TMEP §1213.01(b).

A "disclaimer" is thus a written statement that an applicant adds to the application record that states that applicant does not have exclusive rights, separate and apart from the entire mark, to particular wording and/or to a design aspect. The appearance of the applied-for mark does not change.

Applicant must disclaim the descriptive wording "ENERGY" apart from the mark as shown because it merely identifies an important feature of the goods – that they provide energy. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a). See applicant's identification.

Importantly, a disclaimer does *not* physically remove the disclaimed matter from the mark, but rather is a written statement that applicant does not claim exclusive rights to the disclaimed wording and/or design separate and apart from the mark as shown in the drawing.

The computerized printing format for the Office's *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

No claim is made to the exclusive right to use "ENERGY" apart from the mark as shown.

See *In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

## PLEASE NOTE:

The issue(s) raised may be resolved by telephone. The applicant may telephone the examining attorney at (571) 272-9713 or [skye.young@uspto.gov](mailto:skye.young@uspto.gov), instead of submitting a written response, to expedite the application.

/C. Skye Young/  
 Trademark Examining Attorney  
 Law Office 117

Ph: (571) 272-9713

Fx: (571) 273-9713

Em: [skye.young@uspto.gov](mailto:skye.young@uspto.gov)

(Email/Fax for informal correspondence only. Official responses may be faxed to (571) 273-9117)

#### HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office, not the postmarked date.** To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

TDR Home

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- **General trademark information:** Please e-mail [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov), or telephone either 571-272-9250 or 1-800-786-9199.
- **Technical help:** For instructions on how to use TDR, or help in resolving technical glitches, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). If outside of the normal business hours of the USPTO, please e-mail Electronic Business Support, or call 1-800-786-9199.
- **Questions about USPTO programs:** Please e-mail USPTO Contact Center (UCC).

**NOTE:** Within any e-mail, please include your telephone number so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.



## EXHIBIT 2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Bodyonics, Ltd.

Opposer,

v.

Jeffrey Lee Kaplan and Ilie  
Ionescu,

Applicants.

NOTICE OF OPPOSITION

Serial No. 78862294  
ENERGY POPPERS

Bodyonics, Ltd., Farmingdale, NY hereby opposes registration of the trademark, ENERGY POPPERS, published in the Official Gazette of April 3, 2007. The following allegations are submitted in support of this Notice of Opposition:

1. Opposer is a Delaware corporation, with its principal place of business in Farmingdale, NY.

2. Applicant, Jeffrey Lee Kaplan is, upon information and belief, a United States citizen residing in Fort Lauderdale, FL. Applicant, Ilie Ionescu is, upon information and belief, a Romanian citizen residing in Ft. Lauderdale, FL.

3. Applicant has applied for serial number 78862294 for the trademark ENERGY POPPERS on April 15, 2006 in International Class 5 claiming a bona fide intent to use for energy boosting nasal spray preparations.

4. Opposer has at least since 1999 used the trademark POPPERS in interstate commerce in the United States with respect to goods in International Classes 5, particularly dietary and nutritional supplements. Opposer is the owner of United States trademark registration 2447342 for POPPERS which registration has

become incontestable. Opposer is also the owner of Serial Number 78775704 for the trademark MUSCLE POPPERS for dietary supplements which is the subject of a Notice of Allowance issued on November 21, 2006 and has not been abandoned.

5. Applicant's mark wholly incorporates Opposer's trademark POPPERS, and the marks are virtually identical with the exception that the word "ENERGY" is disclaimed as descriptive.

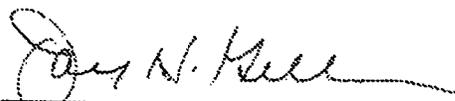
6. The goods upon which applicant intends to use its mark ENERGY POPPERS are closely related to those goods upon which Opposer uses its mark POPPERS.

7. The likelihood of confusion in the marketplace exists between Opposer's trademark when applied to the goods of the respective parties, and applicant's trademark.

8. Registration of applicant's trademark will result in damage to Opposer's trademark and Opposer's business.

Wherefore, Opposer requests that this Opposition be sustained and that the registration to the Applicant be refused.

Dated: April 20, 2007



Jay H. Geller  
Jay H. Geller, A  
Professional Corporation  
West Tower, Suite 4000  
2425 West Olympic Boulevard  
Santa Monica, CA 90404

Telephone: 310-449-1399  
Facsimile: 310-449-1394  
Email: JHGELLER@aol.com



**EXHIBIT 3**

RESPONSE TO SECOND SET OF WRITTEN INTERROGATORIES

31. Opposer has not submitted any evidence of a likelihood confusion since Applicants mark is not in use in commerce.

32. Opposer has abandoned it's use of the mark "POPPERS" as evidenced by its own labels on its current product line and has discontinued the only product and label that once utilized the mark "POPPERS" as a trademark. Opposer has acquiesced to many third party usage of the generic word POPPERS such as VEGAS POPPERS and PLASMA VOL POWER POPPERS.

33. POPPERS as utilized in "inhalation" is a generic term therefore Opposer cannot prevent fair use of the word.

34. Opposer has abandoned it's use of the mark "POPPERS" as evidenced by its own labels on its current product line and has discontinued the only product and label that once utilized the mark "POPPERS" as a trademark.

35. Opposer has abandoned it's use of the mark "POPPERS" as evidenced by its own labels on its current product line and has discontinued the only product and label that once utilized the mark "POPPERS" as a trademark.

36. Opposer has abandoned it's use of the mark "POPPERS" as evidenced by its own labels on its current product line and has discontinued the only product and label that once utilized the mark "POPPERS" as a trademark. EG; Pinnacle Alpha Dopa Growth Poppers, eg: Pinnacle Andro 150 Poppers

37. VEGAS POPPERS, PLASMA VOL POWER POPPERS

Signed: \_\_\_\_\_

Jeffrey Kaplan

Signed: \_\_\_\_\_

Ilie Ioncescu

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Jay Geller. A Professional Corp. W. Tower Suite 4000 2425 W. Olympic Bl. Santa Monica CA 90404

AMENDED RESPONSE TO FIRST SET OF REQUEST  
FOR PRODUCTION DOCUMENTS

1. None
2. None
3. None
4. None
5. None
6. None
7. None
8. None
9. None
10. None
11. None
12. None
13. None
14. None
15. None
16. None
17. None
18. None
19. None
20. None
21. None
22. None

23. We learned of the use of the word POPPERS upon receiving your Notice of Opposition, which you have a copy of.

24. These documents are attached as Exhibit A

25. These documents are attached as Exhibit B

26. These documents are attached as Exhibit C

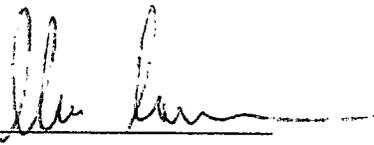
27. These documents are attached as Exhibit C

28. These documents are attached as Exhibit C

29. These documents are attached as Exhibit C

30. These documents are attached as Exhibit D

Signed:   
Jeffrey Kaplan

Signed:   
Ilie Ioncescu

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Jay Geller. A Professional Corp. W. Tower Suite 4000 2425 W. Olympic Bl. Santa Monica CA 90404



## EXHIBIT 4

Document Description: **Examiners Amendment**  
Mail / Create Date: **19-Jun-2006**



**To:** Bodyonics, Ltd. (jhgeller@aol.com)  
**Subject:** TRADEMARK APPLICATION NO. 78775704 - MUSCLE POPPERS - N/A  
**Sent:** 6/19/2006 2:34:28 PM  
**Sent As:** ECOM103@USPTO.GOV  
**Attachments:**

## UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 78/775704

**APPLICANT:** Bodyonics, Ltd.

**\*78775704\***

**CORRESPONDENT ADDRESS:**

JAY H. GELLER  
JAY H. GELLER, A PROF. CORP.  
2425 OLYMPIC BLVD STE 4000  
SANTA MONICA, CA 90404-4030

**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

If no fees are enclosed, the address should include  
the words "Box Responses - No Fee."

**MARK:** MUSCLE POPPERS

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

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**

jhgeller@aol.com

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and email address.

Serial Number 78775704

### EXAMINER'S AMENDMENT

**OFFICE RECORDS SEARCH:** The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052 (d). TMEP §704.02.

**ADVISORY – AMENDMENTS TO GOODS/SERVICES:** If the identification of goods and/or services has been amended below, any future amendments must be in accordance with 37 C.F.R. §2.71(a) and TMEP

§1402.07(e).

**AMENDMENT(S) AUTHORIZED:** As authorized by Jay Geller on June 19, 2006, the application is amended as noted below. *If applicant disagrees with or objects to any of the amendments below, please notify the undersigned trademark examining attorney immediately.* Otherwise, no response is necessary. TMEP §707.

### Disclaimer

The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use "MUSCLE" apart from the mark as shown.

Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a).

### TEAS Plus Applicants – Documents Must Be Submitted via TEAS or Fee Required

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: TEAS Plus applicants should submit the following documents using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index/html>: (1) responses to Office actions; (2) preliminary amendments; (3) changes of correspondence address; (4) changes of owner's address; (5) appointments and revocations of attorney; (6) amendments to allege use; (7) statements of use; (8) requests for extension of time to file a statement of use, and (9) requests to delete a §1(b) basis. If any of these documents are filed on paper, they must be accompanied by a \$50 per class fee. 37 C.F.R. §§2.6(a)(1)(iv) and 2.23(a)(i). NOTE: In addition to the above, applicant must also continue to accept correspondence from the Office via e-mail throughout the examination process in order to avoid the additional fee. 37 C.F.R. §2.23(a)(2).

/Sung In/  
Sung In  
United States Patent and Trademark Office  
Law Office 103  
Phone: (571) 272-9097  
Fax: (571) 273-9097

TDR Home

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- **Technical help:** For instructions on how to use TDR, or help in resolving technical glitches, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). If outside of the normal business hours of the USPTO, please e-mail Electronic Business Support, or call 1-800-786-9199.



**EXHIBIT 5**

viewcart

myaccount

help?

Search

call toll free

**1-800-877-2881**  
Mon-Fri 9am-5pm (p. est. dt.)

■ Return to the Product Page

EXHIBIT  
A

categories

- Amino Acids
- Antioxidants
- Bars
- Creatine
- Drinks
- EFA / CLA / Oils
- Energy Boosters
- Glutamine
- Growth Hormones
- Joint Health
- Mass Builders
- Meal Replacements
- Nitric Oxide
- Protein
- Testosterone Boosters
- Vitamins / Herbs
- Weight Gainers
- Weight Loss
- More Categories...

view our

- Supplement Stacks
- New Products

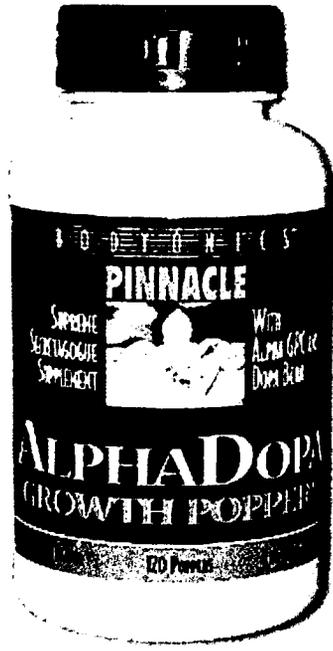
browse by

Manufacturers

Top Sellers

inspiring quote

It's easier to go down a hill than up it but the view is much better at the top.  
- Henry Ward Beecher



OPPOSER'S USAGE OF  
MARK "POPPERS"  
IN COMMERCE

Helpful Links

- Read More About Us
- View Customer Testimonials
- Buy a Gift Certificates
- Become an Affiliate

My Account

- Track Your Order
- Check Order Status
- My Reviews
- Subscribe To Our Mailing List

Shopping Help

- View Shopping Cart
- Frequently Asked Questions
- Forgot Your Password ?
- Contact Us

Our Policies

- Return Policy
- Privacy Policy
- Security Information
- Terms of Use



EXHIBIT  
D

# Pinnacle Andro 150 Poppers

01/17/2005 - Unfortunately, this product has been discontinued by Pinnacle.

### Places To Find Products Like This:

- 4-Androstenediol Products
- Muscle Building Products
- Other Pinnacle Products

### Other Products Like This:

- Testriol 2
- Radix
- Sytenhance
- NandroTest



Go Back to the  
CyberStore Home Page.

Shipping Info | Home | CyberStore | Brand Listing | How 2 Shop | E-mail | Checkout  
Bodybuilding.com, 361 Steelhead Way, Boise, ID 83704, 1-877-991-3411

Disclaimer

OPPOUSERS  
DISCONTINUED  
Product called  
Andro-150  
"Poppers"

# PINNACLE

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## Diet & Weight Management

- Standard
- Product Profiles
- Company Profile
- Science & Research
- Diet & Exercise
- Pinnacle Pros
- Calendar of Events

**FREE Shaker**

With the purchase of any 22 ounce Shredded Mass The world's first Fat Burning Creatine!

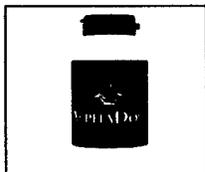


**Complete category product listing:**

**Body Building Products**

**Alpha Dopa Growth Poppers®**

120 poppers - \$34

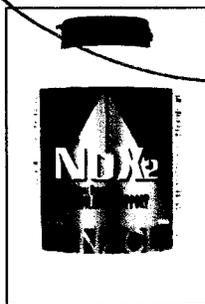


Pinnacle Alpha Dopa is a plant based, human growth hormone (HGH ) secretagogue formulated to support protein synthesis, enhance lean body mass and body fat...



**NOX2**

--- Select One ---



Pinnacle NOX2 is a natural vasodilator suitable for fitness enhancement. This product's ingredients are natural myodilators that may help boost nitric oxide levels in ...

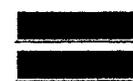


**Pyruvate 1000™**

60 Tabs - \$29



Pyruvate is an end product of energy metabolism that our bodies make every day. Pyruvate occurs naturally in many foods including red meat and apples. ...

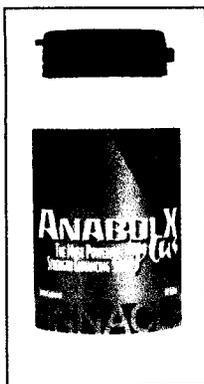


**AnabolX Plus**

--- Select One ---

ANABOLX Plus instead of Andro..... The Pinnacle AnabolX is the most amazing break ...

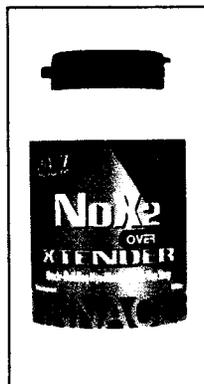




**NOX2 Overnight Xtender**

120 tabs - \$42

**\*\*NOW AVAILABLE\*\*** The next Generation of Nitric Oxide technology. NEW Pinnacle NOX2 Overnight Xtender is a breakthrough of remarkable proportions that extends the benefits ...



**Esterified Creatine**

120 - \$59

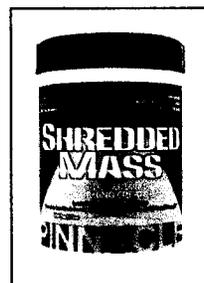
ESTERIFIED CREATINE A Whole ...



**SHREDDED MASS**

22.24 oz - \$45

The World's FIRST and ONLY FAT BURNING CREATINE!  
• EXPLOSIVE STRENGTH & MENTAL FOCUS PRE-AMP.  
• BY FAR, THE MOST ANABOLIC CREATINE ON THE MARKET.  
• THE FIRST CREATINE RECOGNIZED ...



**FUSE**

84 caps - \$45

**\*\*NEW\*\*** FUSE is powered by the innovative, proprietary compound-Penta-Hydroxy GlucoPyranoside. Fuse is the "multi tasking" bodybuilding phenomenon....



**Shredded Mass Single/Serve Dose**

15.57 Grams - \$3

**\*\*AVAILABLE IN SINGLE SERVE CONVENIENCE\*\*** ...



**PerMax Creatine 4000**

**PerMax creatine 4000 120's - \$59**



**\*\*NEW\*\*** PerMax Creatine helps improve circulation up to an extraordinary 40% which may aid in delivery of Creatine to the muscle tissue....



**PerMax Amino Explode**

**PerMax Amino Explode 180 tabs - \$59**



**\*\*NEW\*\*** Amino Acids are the basic building blocks of protein as well as every muscle in the body. The more protein synthesis you stimulate, the ...



**PerMax NOX2 6000**

**PerMax NOX2 6000 180 tabs - \$64**



**NEW** Pinnacle NOX2 6000 is a natural vasodilator suitable for fitness enhancement. This product's ingredients are natural myodilators that may help boost nitric oxide levels ...



Engineered by Zyphon Media Inc.

EXHIBIT  
BDrugs I

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## Poppers

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TNT, LIQUID GOLD, RAM, THRUST, KIX, ROCK HARD. Different Names For POPPERS !



### What Are Poppers

Poppers is a term used for a group of chemicals known as Alkyl Nitrites, these include Butyl Nitrite, Amyl Nitrite and Isobutyl nitrite. The names used vary which include Rush, Thrust, Liquid Gold, Ram, Rock Hard, TNT, Amyl and others. Poppers come in various forms, some as coloured liquid in bottles or tubes. Poppers are taken by inhaling the vapour through the mouth or nose. Care must be taken as if the substance is swallowed the consequences could be fatal. Poppers are being used lately in dance cultures as they give the user a boost of energy, the effect however does not last very long, they usually fade about two to five minutes after the initial intake.

### Effects And Risks Of Taking Poppers

#### Effects of Poppers:-

Users get a very brief but intense head rush. This is caused by a sudden surge of blood through the heart and brain.

Some users indicate that they get the sense of time slowing down.

Blood vessels dilate (enlarge) resulting in a flushed face and neck.

<http://www.drugs-info.co.uk/drugpages/poppers/poppers.html>

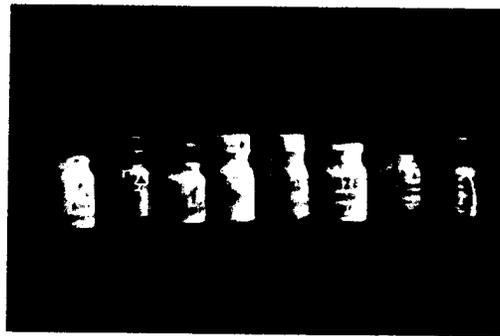
04/15/06

# Poppers

From Wikipedia, the free encyclopedia

EXHIBIT B

**Poppers** is the street term for various alkyl nitrites taken for recreational purposes through direct inhalation, particularly amyl nitrite, butyl nitrite and isobutyl nitrite.<sup>[1][2]</sup> Amyl nitrite has a centuries-long history of use in treating angina,<sup>[3]</sup> as well as an antidote to cyanide poisoning.<sup>[4]</sup> Amyl nitrite and several other alkyl nitrites which are used in over-the-counter products, such as room odorizers and video head cleaners, may be inhaled to enhance sexual pleasure.<sup>[5]</sup> Use is particularly prominent among urban male homosexuals.<sup>[5]</sup> These products have long been part of the club culture from the 1970s disco scene to the 1980s and 1990s rave scene.<sup>[6]</sup>



Variety of poppers

## Contents

- 1 Availability & legality
  - 1.1 United States
  - 1.2 United Kingdom
  - 1.3 Street names
- 2 Physiological effects
- 3 Health Issues
- 4 Chemistry
- 5 In Popular Culture and the Media
- 6 External links
- 7 References

## Availability & legality

### United States

Several alkyl nitrite compounds can be used as poppers and most are found in a variety of consumer products which are regulated by the Consumer Product Safety Commission.<sup>[3][7]</sup>

- Amyl nitrite was originally marketed as a prescription drug in 1937, and remained so until 1960, when the Food and Drug Administration removed the prescription requirement. This requirement was reinstated in 1969.<sup>[3]</sup>
- Other Alkyl nitrites used in room deodorizer products were outlawed in the USA by Congress in 1990. Manufacturers reformulated their products to abide by the law, and today nitrite based products are sold as video head cleaner, polish remover or room odorants.<sup>[3]</sup>
- Cyclohexyl nitrite is technically not a member of the class of alkyl nitrites encompassed by the law, but as a result of the Federal Analog Act, its status remains in question.

### United Kingdom

Amyl nitrite is controlled under the Medicines Act, and although possession is legal, supply may be an offence.<sup>[1][2]</sup> Other nitrites are readily available in consumer products such as room odorants and leather cleaner, and numerous shops, particularly sex shops, clubs, and shops selling drug paraphernalia, sell them as "room aromas" or similar.<sup>[1][2]</sup> However, a recent European Union directive, as well as a decision made by the Medicines and Healthcare products Regulatory Agency means that any product on sale with a psychoactive effect could be classed as a medicine regardless of how it is marketed, and so controlled under the Medicines Act.<sup>[6]</sup>

Prices are commonly in the range of £2–5 GBP.<sup>[1]</sup>

## Street names

Alkyl Nitrites were originally sold in small glass ampules that were crushed to release their vapors, and received the name "poppers" as a result of the popping sound made by crushing the ampule.<sup>[8]</sup> Today, poppers are known by a variety of names, primarily coming from the brand names by which they are sold. Brand names include Rush,<sup>[2][5][9]</sup> Locker Room,<sup>[2][5]</sup> Snappers,<sup>[2][10]</sup> and Liquid Gold.<sup>[1][2]</sup> Many brand names exist and are in use in different localities.

## Physiological effects

Inhaling nitrites relaxes smooth muscles throughout the body, including the sphincter muscles of the anus and the vagina.<sup>[4]</sup> This causes the blood vessels to dilate (which causes a sudden drop in blood pressure), increases heart rate, and produces a sensation of heat and excitement that usually lasts for a couple of minutes.<sup>[11]</sup>

The recreational use of alkyl nitrites is typically an attempt to enhance a sexual experience.<sup>[5]</sup> The head rush, euphoria, and other sensations that result from the blood pressure drop are often felt to increase sexual arousal and desire.<sup>[5]</sup> At the same time, the relaxation of the sphincters of the anus and vagina can make penetration easier.<sup>[12]</sup> Similarly, a temporary reduction in the stiffness of the erection can also make penetration easier or more comfortable, so long as an adequate degree of stiffness is retained. Some people find poppers can also moderate their gag reflex, better facilitating fellatio. Others report that poppers can enhance and prolong orgasms.<sup>[1]</sup>

While anecdotal evidence reveals that both men and women can find the experience of using poppers pleasurable, this experience is not universal. Some men report that a reduction in erection stiffness can interfere with sexual performance.<sup>[1]</sup>

## Health Issues

High doses of nitrites may cause methemoglobinemia, especially in individuals predisposed towards such a condition.<sup>[4][13]</sup> It is believed that use with Viagra can cause heart failure.<sup>[14][15]</sup> As poppers increase pressure within the eyeball, users with glaucoma take additional risks when using poppers.<sup>[13][16]</sup>

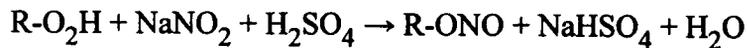
Poppers may weaken the immune system, and can lead to common cold-like symptoms, however any damage is undone in a few days.<sup>[17]</sup> Other risks include rashes around the mouth and nose, burns if spilt on skin, loss of consciousness, and headaches.<sup>[1][18]</sup>

## Chemistry

Information in this article or section has **not** been verified against sources and may not be reliable.

Please **check for inaccuracies** and modify as needed, **citing the sources** against which it was checked.

Alkyl nitrites can be synthesized from primary alcohols according to the following reaction process:



It has been reported (US Patent 4,638,094) that alkyl nitrites are also a precursor for MDP2P, a phenylacetone used in the production of MDMA, more commonly known as "ecstasy." The basic reaction process is shown below:



## In Popular Culture and the Media

Amyl nitrite was popularized in Hunter S. Thompson's *Fear and Loathing in Las Vegas* and in Radley Metzger's 1972 cult classic film *Score*. In the film, a bisexual woman glides them under the nose of a heterosexual woman in an attempt to seduce her.

During the 1970s and 1980's, the mainstream media often wrote about poppers.<sup>[19][20]</sup>

Amyl nitrite is also mentioned in *Red Dragon*, the prequel to *The Silence Of The Lambs*.

## External links

- Toronto Canada Harm Reduction ([http://www.torontovibe.com/drug\\_information.html#pop1](http://www.torontovibe.com/drug_information.html#pop1)), information on poppers from a harm reduction perspective.
- Sex Talk (<http://www.gay.com/health/sexuality/article.html?sernum=770>), an LGBT social perspective on poppers.
- All About Poppers (<http://www.virusmythpoppersmyth.org/>), a poppers information site, containing copies of numerous relevant papers and articles.
- London's Urban75 (<http://www.urban75.com/Drugs/drugamyl.html>), London organization with information on drugs, and poppers.

## References

1. <sup>^</sup><sup>a</sup><sup>b</sup><sup>c</sup><sup>d</sup><sup>e</sup><sup>f</sup><sup>g</sup><sup>h</sup> Poppers (<http://www.talktofrank.com/drugs.aspx?id=198>). *Frank*. Retrieved on 2007-03-14.
2. <sup>^</sup><sup>a</sup><sup>b</sup><sup>c</sup><sup>d</sup><sup>e</sup><sup>f</sup><sup>g</sup> Poppers: The effects, the risks, the law (<http://www.thesite.org/drinkanddrugs/drugsafety/drugsatoz/poppers>). *TheSite.org*. YouthNet UK. Retrieved on 2007-03-14.
3. <sup>^</sup><sup>a</sup><sup>b</sup><sup>c</sup><sup>d</sup> Galson, Steven K. (2006-01-10). Letter to Gerald Austen Re Docket No. 2004P-0411/CP1

- (<http://www.fda.gov/ohrms/DOCKETS/dockets/04p0411/04p-0411-pdn0001-vol3.pdf>) (PDF). Food and Drug Administration. Retrieved on 2007-04-29.
4. ^ *a b c* Amyl Nitrite (<http://www.medsafe.govt.nz/Profs/datasheet/a/Amylnitrateinh.htm>). *Medsafe*. New Zealand Medicines and Medical Devices Safety Authority (2000-05-18). Retrieved on 2007-03-15.
  5. ^ *a b c d e f* "Volatile Nitrites (<http://www.merck.com/mmpe/sec15/ch198/ch198m.html#sec15-ch198-ch198m-400>)". *The Merck Manual Online*. (November 2005). Ed. Porter, Robert S., et al.. Merck & Co.. Retrieved on 2007-03-16.
  6. ^ *a b* Nitrites ([http://www.drugscope.org.uk/druginfo/drugsearch/ds\\_results.asp?file=%5Cwip%5C11%5C1%5C1%5Cnitrites.html](http://www.drugscope.org.uk/druginfo/drugsearch/ds_results.asp?file=%5Cwip%5C11%5C1%5C1%5Cnitrites.html)). *Drugscope*. Retrieved on 2007-04-24.
  7. ^ U.S. Consumer Product Safety Commission Office of Compliance Bans of Butyl Nitrite and Volatile Alkyl Nitrite (<http://www.cpsc.gov/businfo/regsumbutylnitrite.pdf>) (PDF). Consumer Product Safety Commission (August 2002). Retrieved on 2007-03-29.
  8. ^ Poppers ([http://www.homohealth.org/mens\\_program/sexualhealth/poppers.htm](http://www.homohealth.org/mens_program/sexualhealth/poppers.htm)). *homohealth.org*. Lifelong AIDS Alliance. Retrieved on 2007-03-18.
  9. ^ Essential Facts (<http://www.iabuse.org/info.shtml>). *iabuse.org*. Inhalant Abuse Action Group. Retrieved on 2007-03-15.
  10. ^ Inhalants (<http://www.drugabuse.gov/DrugPages/Inhalants.html>). National Institute on Drug Abuse. Retrieved on 2007-03-15.
  11. ^ Amyl Nitrate (<http://www.calrehabguide.com/dictionary/definitions/Amyl-Nitrate.70.html>). *Addiction Recovery and Rehab Terminology Reference: Drug and Alcohol Dictionary*. California Rehab Guide. Retrieved on 2007-03-18.
  12. ^ Reds Room Odouriser (<http://www.annsummers.com/single.asp?gid=7&cat=17&pid=3358>). Ann Summers. Retrieved on 2007-03-15.
  13. ^ *a b* Horwath (2004-05-19). Chemical addictions and their effect on someone with HIV (<http://www.thebody.com/Forums/AIDS/Mental/Current/Q156977.html?h19o>). *The Body*. Retrieved on 2007-03-19.
  14. ^ Viagra May Cause Heart Attack Deaths In Younger Men With No Heart Problems, Study Finds (<http://psa-rising.com/medicalpike/vaigracardiodeaths031500.htm>). PSA Rising. Retrieved on 2007-03-15.
  15. ^ Experts See Dangerous Trend In Use Of Viagra With 'Party Pills' (<http://www.intelihealth.com/IH/ihtIH/WSIHW000/333/20789/351666.html>). Aetna IntelliHealth (2004-06-24). Retrieved on 2007-03-18.
  16. ^ Amyl Nitrate [*sic*] (<http://www.watton.org/drugsinfo/aboutnitrates.shtml>). *Drug Factfile*. Watton on the Web. Retrieved on 2007-04-30.
  17. ^ Sheppard, Simon. Speaking of Poppers ([http://www.gay.com/health/sexuality/article.html?coll=rela\\_fantasy&sernum=770&page=2](http://www.gay.com/health/sexuality/article.html?coll=rela_fantasy&sernum=770&page=2)). *Sex Talk* p. 2. Gay.com. Retrieved on 2007-03-16. "There is evidence that using poppers does lower immune function, though the damage is undone in at most a few days."
  18. ^ Wood, Ronald W. (1989). *The Acute Toxicity of Nitrite Inhalants* (<http://hdl.handle.net/1802/1150>) (PDF), National Institute on Drug Abuse, pp. 28-29. Retrieved on 2007-03-15.
  19. ^ Sansweet, Stephen J.. "A New Way to Glow And Giggle, and Get A Headache Besides (<http://alkylnitrites.blogspot.com/2006/04/1977-front-page-story-on-alkyl.html>)" (Reprint), *The Wall Street Journal*, 1977-10-10. Retrieved on 2007-04-29.
  20. ^ "Rushing to a New High (<http://www.time.com/time/magazine/article/0,9171,916269,00.html>)", *Time*, 1978-07-17. Retrieved on 2007-04-29.

### Alkyl nitrites

Amyl nitrite Butyl nitrite Ethyl nitrite Methyl nitrite Isopropyl nitrite Isobutyl nitrite Cyclohexyl nitrite  
 "Poppers" (used as a recreational drug)

Retrieved from "<http://en.wikipedia.org/wiki/Poppers>"

<http://en.wikipedia.org/wiki/Poppers>

5/2/2007

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EXHIBIT C



### Supplements

- Anabolic Muscle Builders
- Anabolic Super Stacks
- Creatine
- Fat Burners
- NO - Nitric Oxide
- Pre-Workout
- Protein
- Recovery
- Testosterone
- Vegas Poppers**
- Miscellaneous

### Vegas Poppers

## It's The Only Sex Pill Potent Enough For Whatever Happens In Vegas... Or Anywhere Else!

If you love to "party" and meet gorgeous women... then go to Vegas NOW! Never has "Sin City" been so sinful with its decadent, palatial casinos that love to entertain "Players". But regardless of whether you're going to be a "Player" in Vegas this weekend, or at home, please check out Vegas Poppers™, the new, super potent sex and energy pill that is literally light years ahead of any other sex pill on the market!

### Testimonials v

**YOURS FREE WITH PURCHASE**

The All New Training Course...



12 Weeks To **MASSIVE MUSCULARITY!**

A \$29.99 Value! [CLICK HERE FOR DETAILS!](#)

### HOW TO GET YOUR FREE BOTTLE!

Right now, but for a limited time, you can get your hands on a FREE bottle of Vegas Poppers! Be sure to select the "Auto-Ship" check box on either the Vegas Poppers Double or Triple and get hooked up today!

Displaying 1 to 3 (of 3 products)

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**Vegas Poppers**  
~~\$84.95~~ \$69.95  
[Add To Cart](#)



**Vegas Poppers - Double**  
~~\$169.90~~ \$139.90  
[Add To Cart](#)



**Vegas Poppers - Triple**  
~~\$254.95~~ \$209.85  
[Add To Cart](#)

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### Manufacturers

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### Tell A Friend

11 "VEGAS Poppers" 11

**BODY  
BUILDING.com**

EXHIBIT  
C

## Sportlab PlasmaVol Power Poppers - P3

240 Capsules  
\$64.95 **\$39.95** [Order]

Other Sportlab  
Products

About Sportlab

### What's in It?

Serving Size: 4 Capsules  
Servings Per Container: 60

Amount Per Serving:

PlasmaGen 3: 2800 mg  
(Proprietary blend of Creatine Ethyl Ester HCL, Creatine Alpha-Ketoglutarate, Glycocyamine)

PlasmaSorb 2: 200 mg  
(Proprietary blend of Micronized Taurine, Isolyn R Alpha-Lipoic Acid)

Other Ingredients:  
Microcrystalline cellulose,  
Magnesium Stearate, Gelatin

Directions: Take four capsules one to two times daily with 500ml of water or juice. Taking an additional 500ml water five minutes after ingestion is recommended.

*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.*

Sportlab Presents:  
**PlasmaVol Power  
Poppers - P3**  
Advanced Creatine Ester Matrix!



### Other Products

This works well with:  
->L-Phenylalanine  
->DHEA 50  
->Ether 2010  
->Nectar Grab N' Go

### Component Of The PlasmaVol Muscularity System!

**PlasmaVol Power Poppers (P3) Advanced Creatine Ester Matrix** has been formulated to provide the ultimate in convenience, while delivering a potent and powerful punch. Once again, the Sportlab Research and Development Team has raised the bar with this technologically superior product!

### The PlasmaVol Muscularity System

The PlasmaVol System consists of three separate, but important products. This is product is one component of that system! This is best used in conjunction with the other products of the PlasmaVol Muscularity System. Those other two products are:

PlasmaVol - P1  
PlasmaVol Plus - P2

Sportlab's award-winning Research and Development Team has broken all muscle-cell volumizing barriers by being the first to bring to the world PVT - Plasma Volumizing Technology.

When stacked properly, the three PlasmaVol components are guaranteed to deliver the most dramatic muscle gains possible, without the use of steroid-type agents. By combining the proper compounds in precise dosages, and fed to the muscle cells at just the right times, cell plasma is forced to "volumize," delivering previously unattainable size, strength, endurance, blood flow, nutrient delivery and glycogen storage.

### PlasmaVol System Component Schedule

PlasmaVol (P1) should be consumed approximately 30 minutes prior to workout. If P3 is not being added to the stack, P1 should also be consumed in the morning, 15 minutes prior to meal.

PlasmaVol Plus (P2) is the backbone of the PlasmaVol Muscularity System and should be consumed immediately after every workout. Post workout is the most

