

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

Bodyonics, Ltd

Opposer,

v.

Jeffery lee Kaplan and Ilie Ioncescu
_____ /

Opposition No. 9117690

7/8/06, 2/07

APPLICANT'S 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. Opposer filed his 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 (Hereby attached as Exhibit 1, Paragraph 7) but has not submitted any evidence of possible or actual confusion in the marketplace.
2. Opposer filed his opposition based on a claim that Applicant's trademark will result in damage to Opposer's trademark and Opposer's business (Hereby attached as Exhibit 1, Paragraph 8) but has not submitted any evidence of possible or actual damage to Opposer's trademark or business.
3. 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. (Hereto attached as Exhibit 2)



07-13-2007

4. 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.

5. The Opposer has admitted in his Notice of Opposition, (Hereby attached as Exhibit 1 Paragraph 3) of filing an application for the compound word "MUSCLE POPPERS" with the word "Muscle" disclaimed as descriptive (hereto attached as Exhibit 3) but then argues that Applicant cannot do the same.

6. In response to Opposer's Second Set of Written Interrogatories numbers 31 to 36 and First Set of Requests For Production Documents, To Applicant, numbers 1-30 (Hereto attached as Exhibit 4) the evidence proves that Opposer has abandoned it's use of the mark "POPPER" and has acquiesced to the use of POPPERS by numerous third parties.

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 July 9th 2007



Jeffrey Kaplan, Pro se



Ilie Ionescu

MEMORANDUM IN SUPPORT

I. FACTUAL BACKGROUND

Applicant applied to register the name ENERGY POPPERS for energy boosting nasal spray preparations on April 15th 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. 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.

In Opposer’s Notice of Opposition a likelihood of confusion issue was raised as the reason for the filing but now that issue has been withdrawn by the Opposer.

In Opposer’s Motion for Summary Judgment, the Opposer is attempting to twist the Interrogatory Answers submitted by the Applicant. Applicant stated that the word “POPPERS” by itself is generic for inhalation but Applicants statement was referencing the inhalation of “illegal chemicals known as Alkyl Nitrates:” Documents supporting this answer were submitted to the Opposer under Exhibit B in the First Set of Request For Production of Documents.

Applicants mark is for “energy boosting nasal spray preparations” which are legal and healthy for the user.

Applicant also 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.

II. ARGUMENT

Opposer has filed a Notice Of Opposition against Applicant based on a Likelihood of Confusion claim yet has not submitted any evidence. Opposer also claims damages to his business but has not submitted any evidence. Since Opposer has not submitted any evidence based on their Notice of Opposition, summary judgment for the Applicant should be allowed.

Opposer’s Notice of Opposition does not contain any claims that Applicants mark is not a trademark due to its containing a disclaimer for a descriptive word. Therefore all references to this argument should not be allowed.

Opposer claims that Applicants compound mark cannot be registered because it contains a disclaimer for a descriptive word but yet Opposer has filed an application for the compound word “MUSCLE POPPERS” with the word muscle disclaimed.

Applicant has submitted documentary evidence proving that Opposer has abandoned its use of the mark "POPPERS". Opposer's own product labels show the word POPPERS in a generic style.

Applicant has submitted documentary evidence proving that Opposer has not enforced or protected its POPPERS registration against third party usage thus it has acquiesced to others using the word POPPERS.

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.

Dated July 9th 2007

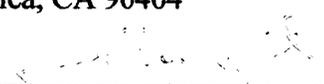


Jeffrey Kaplan, Pro se
POB 11106
Ft Lauderdale, Fl. 33339
(954) 793-0637
email: eggcream@earthlink.net



Ilie Ioncescu

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 2nd set of interrogatories (Exhibit 4 Attached) In June 2007 we responded to a request to amend our 1st set of Production Documents (Exhibit 4 Attached)
3. Exhibits 1 through 4 attached are true and accurate copies of the discovery I prepared and served on Opposer and that was received by us from the Opposer.

Dated: July 9th 2007



Jeffrey Kaplan



Ilie Ioncescu



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

Exhibit 1

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



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:

EXHIBIT 2

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, instead of submitting a written response, to expedite the application.

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

EXHIBIT
2

Ph: (571) 272-9713

Fx: (571) 273-9713

Em: 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.

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- **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



www.wilsonjones.com

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

CORRESPONDENT EMAIL ADDRESS:
 jhgeller@aol.com

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 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

EXHIBIT 3

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

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

Bodyonics, Ltd.)	Opposition No. 91176901
)	
Opposer,)	
)	
v.)	OPPOSER'S SECOND SET OF
)	WRITTEN INTERROGATORIES
Jeffrey Lee Kaplan and)	<u>TO APPLICANT</u>
Ilie Ioncescu,)	
)	
Applicants)	
)	

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, and Rule 2.120 of the Trademark Rules of Practice, Opposer propounds the following interrogatories to Applicants to be answered no later than thirty days after their receipt.

As used herein, the term "document" refers to written, printed, typed and visually or aurally reproduced material of any kind, whether or not privileged, and includes, but is not limited to, letters, notes, memoranda, books, records, minutes, bills, contracts, agreements, orders, receipts, drawings or sketches, advertising or promotional literature, cables or telegrams, tape or other recordings (audio and video), reports, labels and packaging.

To "identify" a document means to provide a brief description of the document sufficient to support a request for production, including the general nature of the subject matter, the date, identification of the author and recipient, if any, and if the document embodies an agreement, the parties to such an agreement. In answer to those interrogatories requiring the identification of any document or documents, such document or documents may be

EXHIBIT 4

produced for inspection and copying by you along with the answers to these Interrogatories in lieu of identification. Included in the definition of "identify" is the present whereabouts of the document, and the identity of the person by name and address having possession, custody and control of the document.

As used herein, the term "you" refers to the applicants collectively.

To identify a "person" means to state the person's name and business address and, in the case of a natural person, his or her home address and occupation or job title.

31. State in detail the facts that you claim support your second affirmative defense set forth in Paragraph 9 of your answer to the Notice of Opposition.

32. State in detail the facts that you claim support your second affirmative defense set forth in Paragraph 10 of your answer to the Notice of Opposition.

33. State in detail the facts that you claim support your third affirmative defense set forth in Paragraph 11 of your answer to the Notice of Opposition.

34. State each and every fact that supports your contention in your response to Interrogatory 23.

35. State each and every fact that supports your contention in your response to Interrogatory 24.

36. State each and every fact that supports your contention in your response to Interrogatory 25 and identify each and every label to which you refer in that answer.

37. Identify each and every use of the term "POPPERS" referred to in your response to Interrogatory No. 26.

Dated: May 31, 2007.



Jay H. Geller
Jay H. Geller, A Professional
Corporation
W. Tower, Suite 4000
2425 W. Olympic Bl.
Santa Monica, CA 90404
P: 310-449-1399
F: 310-449-1394
email: jhgeller@aol.com
Attorneys for Opposer

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 Ilie Ioncescu and Jeffrey Kaplan at P.O.B. 11106, Ft. Lauderdale, FL 33339 on May 31, 2007.

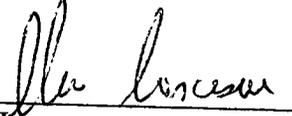


Jay H. Geller

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

EXHIBIT 4

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

Bodyonics, Ltd.)	Opposition No. 91176901
)	
Opposer,)	
)	
v.)	APPLICANT'S FIRST SET OF
)	REQUEST FOR PRODUCTION
Jeffrey Lee Kaplan and)	<u>DOCUMENTS TO APPLICANT</u>
Ilie Ioncescu,)	
)	
Applicants)	
<hr/>		

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120(c) of the Trademark Rules of Practice, Opposer requests the production of the following documents in your possession, custody or control, or to which you have reasonable access, thirty days from receipt of this request, or on the first business day following the expiration of said thirty day period if such expiration date falls on a weekend or holiday, at the offices of Jay H. Geller, a Professional Corporation, West Tower, Suite 4000, 2425 West Olympic Boulevard, Santa Monica, CA 90404 at the hour of 10:00 a.m.

As used herein, the following terms have the following meanings:

a. "Advertising materials" means: Advertisements that have appeared in print in newspapers, magazines and other written publications; story boards for video advertising; videotapes of any video advertisements; scripts for video and audio advertisements; audio cassettes or other audiotapes for audio advertisements; point of purchase display materials; displays (or photographs thereof if the displays are bulky); shelf cards; shelf talkers; posters;

EXHIBIT 4

header cards; in-store hand-out material for consumers; point-of-purchase written materials; catalogues; circulars; leaflets; direct mail pieces; and press releases.

b. "Label" means: All written, printed and/or graphic material on the immediate container of a product.

c. "Packaging" includes all containers of any product other than the immediate container, including not limited to outer wrappings, unit cartons, packing cartons and shipping cartons; package inserts and package liners.

d. "Documents" and "correspondence" exclude communications with your attorneys and attorney work-product. However, if a claim of privilege or work product is made for any document covered by any of the requests set forth below, please indicate the nature of the document and identify by name, address, occupation, title and business affiliation, the writer, the addressee and all recipients thereof, the general subject matter to which the document relates, and its date.

e. "You" refers to applicants collectively.

If you object to a portion of a Request, you are obligated to produce documents in response to any portion of the Request to which no objection has been posed.

Please produce the following:

1. All documents pertaining to the creation and adoption of the mark ENERGY POPPERS for each good identified in your response to Interrogatory No. 3.

2. Documents containing sales figures in connection with your use of the mark ENERGY POPPERS in connection with each good

EXHIBIT 4

identified in your response to Interrogatory No. 3.

3. Documents that contain advertising expenditures in connection with your use of the mark ENERGY POPPERS in connection with each good identified in your response to Interrogatory No. 3.

4. Documents that establish the channels of trade in which you sell each good in connection with the mark ENERGY POPPERS identified in your response to Interrogatory No. 3.

5. Documents sufficient to show each geographical location in the United States in which you sell each good in connection with the mark ENERGY POPPERS identified in your response to Interrogatory No. 3.

6. Documents pertaining to the use of the mark ENERGY POPPERS or what you believe to be a conflicting similar name by persons other than you.

7. Representative exemplars of all labels, currently being used and used at any time in the past, appearing on the immediate container of each and every good you sell, or have sold, in connection with the mark ENERGY POPPERS.

8. One copy of each different advertisement or promotional material, currently being used and used at any time in the past, that include your use of the mark ENERGY POPPERS for each good identified by you in your response to Interrogatory No. 3.

9. Representative exemplars of all packaging materials, currently being used and used at any time in the past, that bear the mark ENERGY POPPERS for each good identified by you in your response to Interrogatory No. 3.

10. All graphic representations, currently being used and used at any time in the past, of the mark ENERGY POPPERS used by you in connection with each good identified in your response to Interrogatory No. 3.

11. Each and every licensing agreement into which you have entered licensing any other person to use the mark ENERGY POPPERS in connection with any goods and/or services.

12. Documents relating to your exhibition of products in connection with the mark ENERGY POPPERS at trade shows, conventions or similar events.

13. A list of names and addresses of each dealer, distributor or other seller of each good and/or service identified by you in your response to Interrogatory No. 3.

14. Documents relating to the sale of your products bearing the name ENERGY POPPERS by the same persons who sell applicant's products bearing the mark POPPERS.

15. Records identifying the publications and/or radio and/or television stations in and/or on which you have advertised, are advertising, or plan to advertise, any and all of the products you have sold and/or have sold bearing the name ENERGY POPPERS.

16. Documents issued by you in connection with publicity for products bearing the name ENERGY POPPERS, including press releases and promotional literature of any kind.

17. Documents referring or relating to the manner in which you control the manner of use of the name ENERGY POPPERS in connection with each and every licensee's goods or services

identified by the mark ENERGY POPPERS.

18. All documents received by you from, or sent by you to, the general public, which refer or relate to opposer and/or opposer's mark POPPERS.

19. All documents pertaining to your first use of the name ENERGY POPPERS o each good identified in your response to Interrogatory No. 3.

20. All documents pertaining to your first use in interstate commerce of the name ENERGY POPPERS on each good identified in your response to Interrogatory No. 3.

21. Documents pertaining to any policy you may now have, or may have had, concerning use, display and advertising of the name ENERGY POPPERS.

22. All documents pertaining to each variation of the name ENERGY POPPERS you use or have used.

23. Documents pertaining to the date you first became aware of Opposer's use of the trademark POPPERS and describe the circumstances by which you acquired that first awareness.

24. Documents that support your denial of the allegations in Paragraph 5 of the Notice of Opposition.

25. Documents that support your denial of the allegations in Paragraph 6 of the Notice of Opposition.

26. Documents that support your denial of the allegations in Paragraph 7 of the Notice of Opposition.

27. Documents that support your denial of the allegations in Paragraph 8 of the Notice of Opposition.

28. Documents that support your second affirmative defense set forth in Paragraph 9 of the Notice of Opposition.

29 Documents that support your second affirmative defense set forth in Paragraph 10 of the Notice of Opposition.

30. Documents that support your third affirmative defense set forth in Paragraph 11 of the Notice of Opposition.

Dated: May 14, 2007.



Jay H. Geller
Jay H. Geller, A Professional
Corporation
W. Tower, Suite 4000
2425 W. Olympic Bl.
Santa Monica, CA 90404
P: 310-449-1399
F: 310-449-1394
email: jhgeller@aol.com
Attorneys for Opposer

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 Ilie Ioncescu and Jeffrey Kaplan at P.O.B. 11106, Ft. Lauderdale, FL 33339 on May 14, 2007.



Jay H. Geller

LAW OFFICES OF
JAY H. GELLER
A PROFESSIONAL CORPORATION
WEST TOWER, SUITE 4000
2425 WEST OLYMPIC BOULEVARD
SANTA MONICA, CALIFORNIA 90404

TELEPHONE
(310) 449-1399
FACSIMILE
(310) 449-1394
E-MAIL
jhgeller@aol.com

May 31, 2007

Ilie Ioncescu
Jeffrey Kaplan
P.O.B. 11106
Ft. Lauderdale, FL 33339

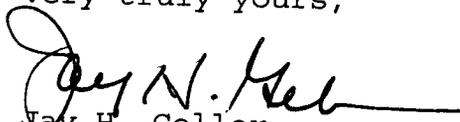
Re: Opp. No. 91176901

Gentlemen:

Your responses to the First Set of Request for Production of Documents was inadequate in that you readily admitted you have responsive documents that you did not produce. If the requested documents are not produced at my office by the close of business on Friday, June 8, 2007, I will file a Motion to Compel production with the Trademark Trial and Appeal Board with a request for sanctions.

I look forward to hearing from you.

Very truly yours,


Jay H. Geller

JHG:mk

EXHIBIT 4

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

EXHIBIT 4

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

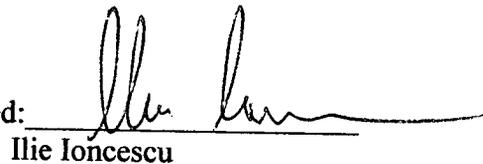
29. These documents are attached as Exhibit C

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

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Search

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Mon-Fri 9am-5pm (pacific)

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EXHIBIT
A

categories

- Amino Acids
- Antioxidants
- Iron
- Creatine
- Vitamins
- BHA/GLA/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...

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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

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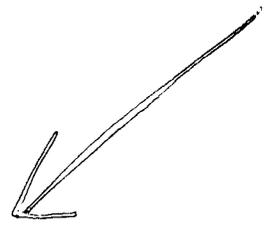
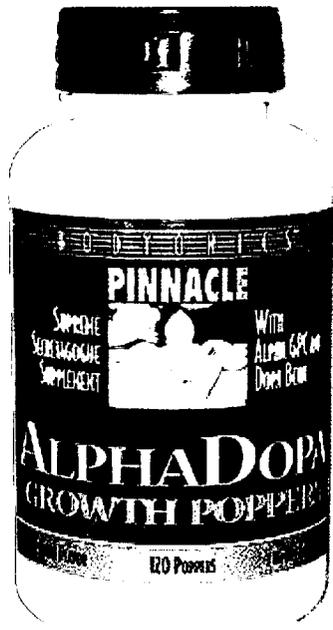
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- [Check Order Status](#)
- [My Reviews](#)
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- [Privacy Policy](#)
- [Security Information](#)
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★ Poppers used in
A GENERIC fashion by
DIPUSOR on his
OWN PRODUCTS

EXHIBIT 4

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

Product Profile

EXHIBIT A



Available in
 120 poppers - \$34.99
 Quantity
 1

Alpha Dopa Growth Poppers®

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

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

What does it do? Pinnacle Alpha Dopa contains natural secretagogues which may support your body's ability to stimulate the natural release of growth hormone. Increased HGH levels can be beneficial in stimulating muscle growth through amino acid sparing and promotion of amino acid transport into muscle cells as well as burning fat from fat cells. Mucuna pruriens, commonly known as velvet bean, contains L-Dopa, a peptide that has been shown to promote HGH secretion. Alpha GPC is a soy derived substance that, through its interactions with the neurotransmitter acetylcholine, also has been shown to promote HGH secretion. Bacopa is an herb which plays an indirect but supportive role in HGH secretion by helping to build new neurons (nerve/brain cells).

How do I take it? Pop 2 Poppers into your mouth in the morning, 30 minutes to 1 hour before a meal, and in the evening 30 minutes to one hour before bedtime. Do not swallow them like capsules or chew them like gum. Bite down on them and break the Poppers into little pieces, swish them around in your mouth, under your tongue and particularly in the space between your cheek and gum allowing them to completely dissolve. For added benefits, stack Alpha Dopa Growth Poppers with Pinnacle Androstat Poppers creating the ultimate GH, Testosterone stimulating combination.

Additional Notes CAUTION: Not intended for use by persons under the age of 18. Alpha Dopa is not intended for long-term use. If you are pregnant, nursing a baby, or have a serious medical condition, seek the advice of a health professional before using this product. As with any dietary product, to receive the desired benefits, this product should be used in conjunction with a well-balanced diet and exercise program. Please consult your physician before beginning any nutritional program. The maximum recommended dosage of Alpha Dopa for a healthy

EXHIBIT 4

EXHIBIT
BDrugs I:[Home](#) ◦ [Drugs Index](#) ◦ [Help Pages](#) ◦ [The Law](#) ◦ [News](#) ◦ [Links](#) ◦ [Contact](#) ![Click here to go back to Drugs Index](#)

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 street the names used vary which include Rush, Thrust, Liquid Gold, Ram, Rock Hard, TNT, Amyl and others. Poppers come in coloured liquid in bottles or tubes. Poppers are taken by inhaling the vapour thorough the mouth or nose. Care must be take 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

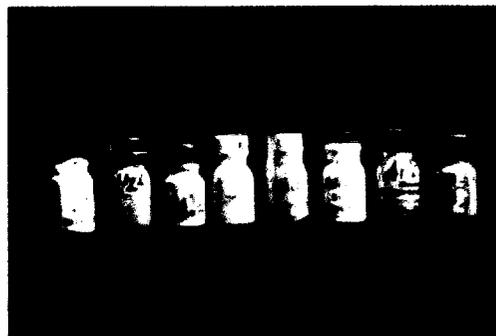
EXHIBIT 4

Poppers

EXHIBIT B

From Wikipedia, the free encyclopedia

Poppers is the street term for various alkyl nitrites taken for recreational purposes through direct inhalation, particularly amyl nitrite, butyl nitrite and isobutyl nitrite.^{[1][2]} Amyl nitrite has a centuries-long history of use in treating angina,^[3] as well as an antidote to cyanide poisoning.^[4] 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.^[5] Use is particularly prominent among urban male homosexuals.^[5] These products have long been part of the club culture from the 1970s disco scene to the 1980s and 1990s rave scene.^[6]



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.^{[3][7]}

- 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.^[3]
- 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.^[3]
- 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

EXHIBIT 4

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]}

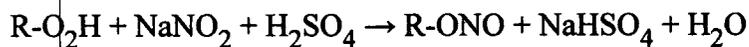
Poppers may weaken the immune system, and can lead to common cold-like symptoms, however any damage is undone in a few days.^[17] Other risks include rashes around the mouth and nose, burns if spilt on skin, loss of consciousness, and headaches.^{[1][18]}

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.^{[19][20]}

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), 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. [^] ^a ^b ^c ^d ^e ^f ^g ^h Poppers (<http://www.talktofrank.com/drugs.aspx?id=198>). *Frank*. Retrieved on 2007-03-14.
2. [^] ^a ^b ^c ^d ^e ^f ^g 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. [^] ^a ^b ^c ^d 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). *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). *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). *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

EXHIBIT 4

Items: 0 | Total: \$0.00

Search:

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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

**YOURS HERE
WITH PUMPS!**
The All New
Training
Course...
12 Weeks To
**MASSIVE
MUSCULARITY!**
A \$29.90 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

Manufacturers

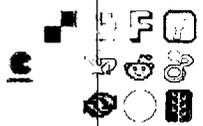
Please Select



**FREE TO
DOWNLOAD
CLICK HERE**

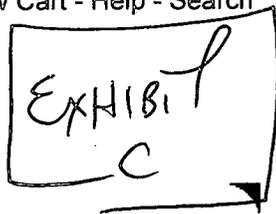
*Third Party Usage
of "Poppers"*

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Tell A Friend

Exhibit 4



Sportlab PlasmaVol Power Poppers - P3

200 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, sdyn 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 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

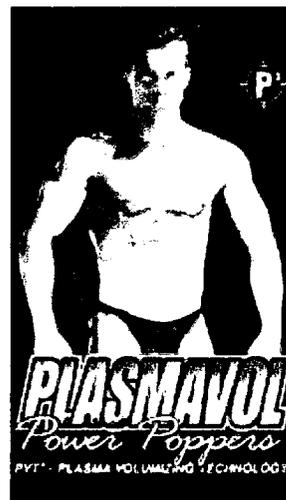




EXHIBIT
D

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:

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- [Radix](#)
- [Sytenhance](#)
- [NandroTest](#)



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Bodybuilding.com, 361 Steelhead Way, Boise, ID 83704, 1-877-991-3411
[Disclaimer](#)

☆ "Poppers" mark on products
discontinued by
08/05/06

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