

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

In the matter of USPTO Application No.77/642,853

Mark: **CLIQUE**

Published in the Official Gazette on April 28, 2009 Filed: January 3, 2009

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CLINIQUE LABORATORIES INC

Opposer -against

STEVEN ROSENHAUS

applicant

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Commissioner for Trademarks

P.O. BOX 1451

Alexandria, VA 22313-1451

**RESPONSE TO NOTICE OF OPPOSITION / No. 91190788**

I have been in The Cosmetics, Fragrance & Beauty Business creatively for 20 years. I have worked at the highest levels with The World's most prestigious cosmetics companies. In addition, I have worked closely with The Most Successful Cosmetics/ Fragrance Companies and NBC /Universal Pictures, developing products based on my U.S. Trademarks. That said, I am quite knowledgeable about Clinique, its' image, its' advertising and its' heritage. In fact, I was approached several times to Creatively Head Clinique. I am friends with former Estee Lauder Presidents, many existing Estee Lauder Sr. Executives and Management. As such, I feel that I am qualified to respond to this opposition myself. Although frankly, I am The David against The Goliath, I know I am in the right. Please excuse me if my response is in a rather` **unique**` format.

The English Dictionary clearly states: **CLIQUE** (KLIK) as a narrow exclusive circle of persons.  
Example: a high school clique of popular teenagers.

**Clinique** is a French word and **not a word in the English language** . The French/English Dictionary translates the word **Clinique** to mean **Clinic... the very word** it immediately resembles visually and phonetically. The French Dictionary translates the word Clinique as "a class of medical instruction, A facility for diagnosis and treatment, (I emphasize the word treatment and I will explain later.), a facility in which several physicians work cooperatively.



10-19-2009

`Clinic' translates to a distinct word in every language for example: in French: Clinique, in Spanish: Clinica, Italian: Clinica. In English, looking at the word Clinique, the immediate word that comes to mind is **Clinic**, certainly not **CLIQUE**.

Clinique Laboratories, the name of the brand, has defined their products to consumers as laboratory tested, formulated, as scientific and treatment oriented, a genre which **could not be more removed** from the word **CLIQUE** and it's instantly understood definition as an exclusive narrow group of persons, as in a **teenage High School Clique**.

In the more than 20 applications for product trademarks under the Clinique laboratories, **not once** state on their USPTO applications that Clinique is a **foreign word (FRENCH)**, nor do they reveal it's translation to English is **CLINIC**. This in itself is deceptive.

Under USPTO law and the doctrine of foreign equivalents, marks with foreign words **must be translated into English to determine similarity of connotation with English words**. Had Clinique followed USPTO protocol, the so called `confusion' with the word **CLIQUE** would have been **even more diluted**. In fact, it would have raised questions regarding existing brands using the name **CLINIC** or **CLINICAL**.

The Opposer states **CLIQUE** is highly similar to The French word Clinique. It is **not**.

#### **Sound**

**CLIQUE** is pronounced **KLIK**

Clinique is pronounced **KLIN-EEK** and is similar and synonymous **ONLY** to the word `Clinic' which is in fact its' direct meaning.

They are **not** phonetically similar

#### **Structure**

**CLIQUE** is a Noun **not** a descriptive. As a Noun it is a unique 'thing', with a **uniquely identifiable meaning, appearance and structure**.

**CLIQUE** is a **one syllable** word with a **distinct meaning**.

Clinique is a **2 syllable** word **CLIN -IQUE** in which **neither syllable is a word nor understood**.

**CLIQUE**, is an **instantly identifiable, readable, understood and uniquely defined word in the English Language**.

#### **VISUAL ELEMENTS**

The letters of a logo **do not exist** as individual hieroglyphic symbols, the letters are meant to be visually combined and **read**. The English word **CLIQUE**, is instantly identifiable and understood as a uniquely,

American Cultural Phenomenon that exists in the consciousness of anyone **who ever went to High School, watched television or went to the movies.**

## **HISTORY**

The Opposer goes on at length about 40 years of Clinique( Clinic) history, yet fails to mention that the word **CLIQUE**, is a distinct English word, instantly read and understood and that **' it' has occupied a unique place in the English language for almost 100 years.**

**It seems the Opposer has a long history of citing conflicts with Clinique.** In fact, they challenged two separate trademark applications for **Unique**, serial numbers/ 75197628 & 76121788 citing a **direct conflict** with Clinique. **Unique** is an adjective and a descriptive. It does not stand on its' own. **Clique** is a widely known noun with a distinct meaning that in no way resembles the English word Clinic or Clinique. The Opposer seems to have problems with **anything ending in "nique"** (pronounced **neek**).

Now they object to an instantly understood **Iconic English word** ending in **"ique"** (pronounced **klik**, not **'neek'**). The Opposer no doubt would convolute a conflict with a USPTO application for **Technique**.

The Opposer's mark is a **French word (Clinic)** and visually and phonetically tied to the English word **Clinic**, should all English words ending 'nique 'let alone 'ique' be considered a conflict? I believe in this case, **CLIQUE** is undeniably unique in the English language and **tied historically and directly to Popular American Culture.**

Should launching a product with a French word preclude an American Trademark application for an English word that bears no relationship whatsoever in meaning or sound with the Opposer's foreign word? I think not. Particularly when it was **never disclosed** to the USPTO as being Foreign, French or translated to mean **'CLINIC'**?

**The fact is**, the history of the word **CLIQUE** far pre-dates the existence of **any** Clinique product. **CLIQUE** has been a unique part of American culture for **more than 80 years**. In countless books, magazines and in film, beginning in the 1930s with the Mickey Rooney & Judy Garland High School teenager film series and continuing decade after decade with such teenage films as Rebel Without a Cause, Grease, Fame, The Breakfast Club, Pretty In Pink, Porkies, Carrie, Ferris Bueller, Clueless, Mean Girls and High School Musical to such iconic television series as Welcome Back Kotter, Saved By The Bell, The Facts of Life to **Beverly Hills 90210** and **Gossip Girl**. The point, **CLIQUE** is **immediately identified and understood by hundreds of millions of people.**

**CLIQUE** has become a unique part of American consciousness and culture and in fact The Global success and impact of these films and television series have clearly made **CLIQUE** part of **Global Pop Culture.**

## **CLIQUE AS AN AMERICAN CULTURAL PHENOMENON**

In fact, the popularity of the word **CLIQUE** has also translated to books and music. Note the phenomenal The success of **The Clique Book Series**, the first novel was on The New York Times Best Seller List for **over 50 weeks** selling more than **9,000,000 copies**, subsequently the tremendously

successful book series has been turned into a series **movie** produced and promoted by Tyra Banks on **television nationally to millions and millions of people** .

Please note the nationally and promoted **Special CLIQUE Gift Sets**, that include **The CLIQUE Beauty Bag** containing **5 'CLIQUE Signature' Lip Glosses** .These have already been marketed to millions of people on Amazon.com, Barnes & Noble, Overstock.com, Teen Vogue.Com, **The Official CLIQUE Website** among others.

I provided such materials and other examples to the Opposer last January clearly demonstrating existing **CLIQUE** cosmetics being marketed and sold throughout The Country. Has Clinique been irreparably harmed? Has the Clinique consumer become dazed and confused? Of course not, **CLIQUE** has its' own unmistakable identity and has **NO** relationship at all to the French word Clinique (Clinic).

In addition, **Michael Eisner**, former head of **Disney** and promoter of the hugely successful **Jonas Brothers** is now globally marketing the sensational **CLIQUE GIRLZ**, a teen girl pop group. They are all over You Tube, Teen.com, My Space, Twitter etc. This all **reinforces** the unique, iconic identity and understanding of the word **CLIQUE** and clearly separates it from the French word Clinique/Clinic.

#### **See Exhibit A**

The opposing side, Clinique Laboratories cites the millions of dollars they have spent on advertising, yet they chose **not to provide** the USPTO with examples of their advertising .This is because the Clinique advertising, i.e. the image they have spent millions to visually market Clinique to the public, **so obviously separates and removes** Clinique from **any** connection to **CLIQUE** as to be ludicrous (**see attachment**).

The foundation of the Clinique Brand is clinical science, treatment, non allergenic and prevention. From the packaging, advertising, visuals and copy, they have reinforced an image that is a million miles away from any confusion with the word **CLIQUE**. After reviewing the attached Clinique public image in advertising and packaging, it is quite clear that there is **no confusion** with the word **CLIQUE** or **the world within 'it' exists in American Culture**.

In fact, **there already are** existing products in the marketplace that are a **direct conflict** with Clinique, in the same category of goods highlighting the word **clinic** and **clinical**. Have these direct conflicts 'damaged' the Clinique brand and caused mass confusion with its' customers? The answer is **no** . Furthermore, the opposing side **does not reveal** that the Clinique is a Department Store Brand and is sold behind **clearly marked** Clinique counters with professionally trained sales people. As many of the Clinique products are made for different skin types, numerous color shades and formulations, the customer asks the Clinique salesperson for assistance. Clinique it is **not sold** at Wallgreens, Walmart, Target, Supermarkets or Duane Reade, standing on shelves next to **Vaseline Intensive Care**. This further separates any confusion with **CLIQUE** as they would **never be sold near each other**.

#### **See Exhibit B**

A Non English speaking person reading the French word 'Clinique' would immediately think of **clinic** and **most certainly not CLIQUE**. To assume that anyone reading the instantly recognizable and understood

English Word **CLIQUE** would relate it to Clinique is false. The Opposer states," The mark **CLIQUE** is 'highly 'similar to Opposer's long-used and registered mark Clinique."

" **Highly similar**"?

In sound? **No** In meaning ? **No** In structure? **No** In instant readability and understanding? **No**  
In American consciousness and culture? **No** As an Iconic English word? **No**

The Opposer goes on and on about a so called confusion, attaching USPTO Application after Application as proof of **what?** The Opposer never details, explains or proves what the 'so called' conflict is.

**It is not sound, it is not structure, it is not meaning, it is not instant readability and understanding of the English word CLIQUE.**

**Please find attached photos of existing products in identical categories in the marketplace that clearly show the Opposer's position to be convoluted and false.**

**See exhibit C**

#### **IN SUMMATION**

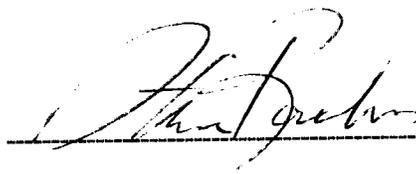
I believe that I have shown that the instantly identifiable, understood, distinct English word **CLIQUE** is **not** similar to, or a confusion with, the French word Clinique (Clinic )in meaning, in sound, in structure, in visual transmission, in public perception , in its' relevance , in its' history or in **its' totally 'unique' place in modern American Culture.**

**In conclusion, The most important fact is:** It was researched and determined by the highly trained, expert examiners at the **USPTO** that the English word **CLIQUE** represented **No conflicts** and **was approved to move forward.**

**WHEREFORE, In light of all of the above, I respectfully request that 'the opposition' to my USPTO Trademark Application S.N. 77/642853 be denied.**

**Dated: Oct.16, 2009**

**STEVEN ROSENHAUS**

 10/16/09

**Trademark Applicant/S.N.77/642853**

**CERTIFICATE OF MAILING**

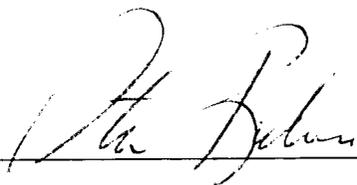
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First- Class mail in an envelope addressed to:

Commissioner for Trademarks

PO Box 1451

Alexandria, VA 22313-1451

On October, 16, 2009

 10/16/09

**STEVEN ROSENHAUS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the forgoing Response to the Notice of Opposition against U.S. Serial No. 77/642,853) has been served on Leslie Moradian, Sr. Trademark Council, Estee Lauder Companies by mailing said copy on October 16, 2008 via First Class Mail, postage prepaid to:

Leslie Moradian, Sr. Trademark Council,  
Estee Lauder Companies Inc  
767 Fifth Avenue  
New York, N.Y.10153

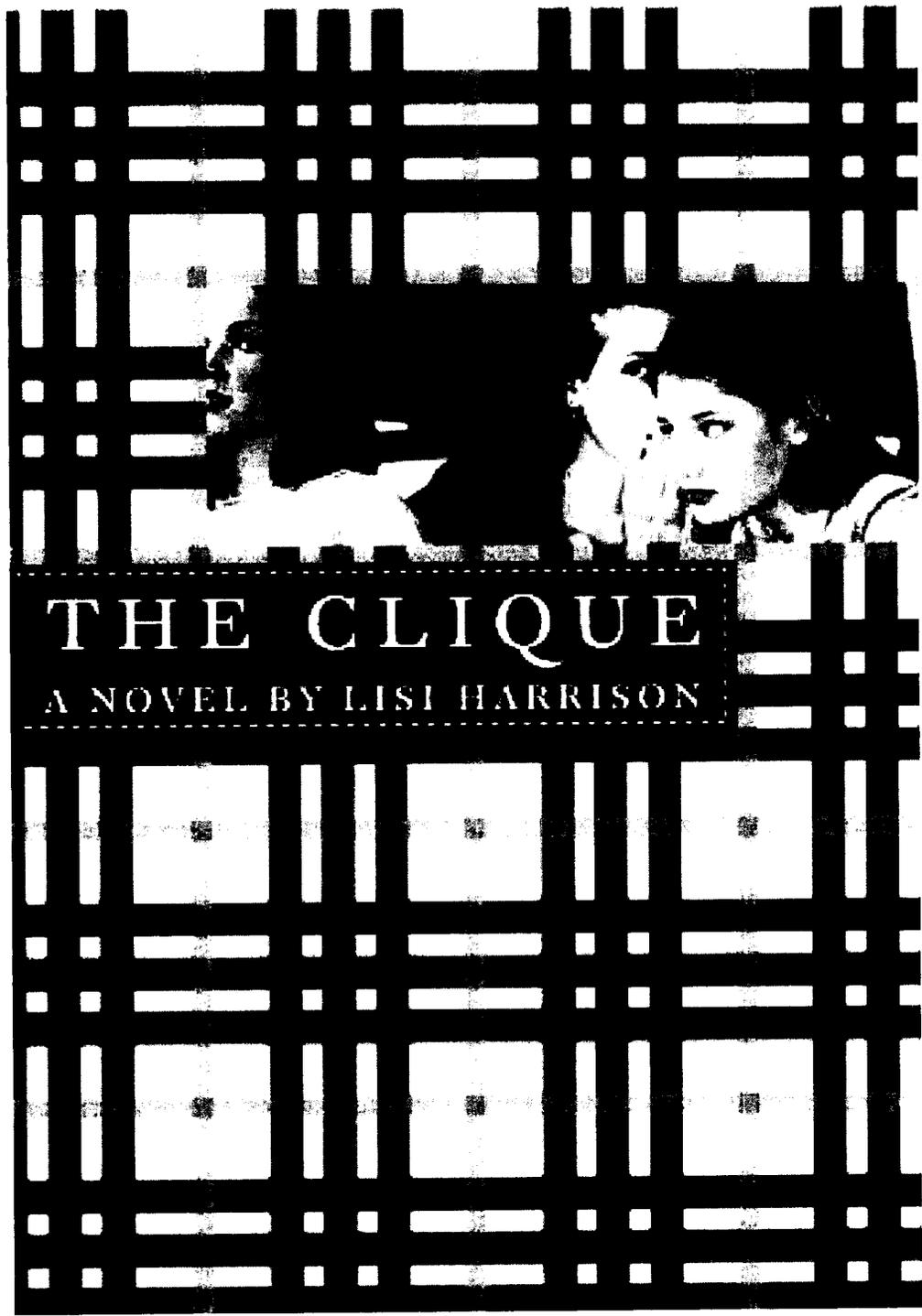
October 16, 2009

 10/16/09

STEVEN ROSENHAUS

# Exhibit A

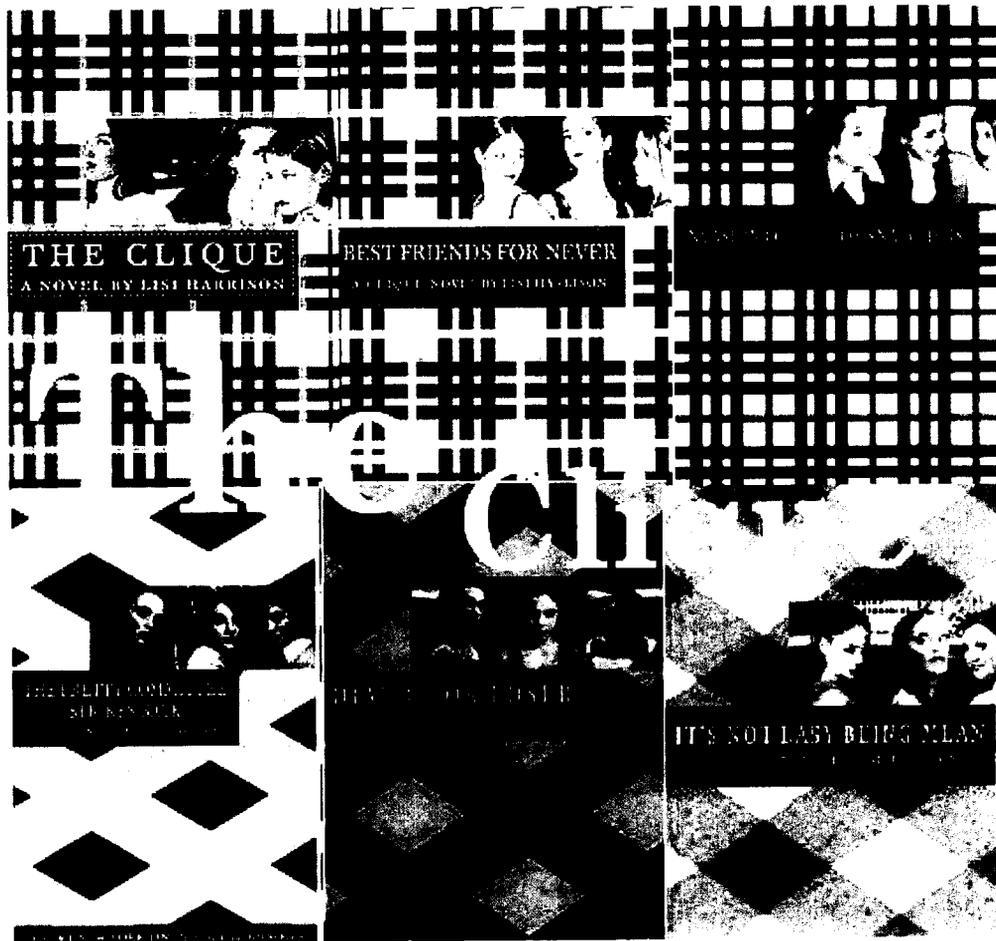




THE CLIQUE

A NOVEL BY LISI HARRISON

THE #1 NEW YORK TIMES BESTSELLING SERIES



**THE CLIQUE**  
A NOVEL BY LISA BARRISON



**BEST FRIENDS FOR NEVER**  
A CLIQUE NOVEL BY LISA BARRISON



**NEW GIRL, OLD SECRETS**  
A CLIQUE NOVEL BY LISA BARRISON

# The Clique



**THE LEFTOVERS**  
BY LISA BARRISON



**THE DAY AFTER TOMORROW**  
BY LISA BARRISON



**IT'S NOT EASY BEING MEAN**  
BY LISA BARRISON



**page1.jpg**  
153K View Download



**51KT4i5v6cL\_\_SS400\_.jpg**  
30K View Download



**0316701297\_01\_LZZZZZZZ.jpg**  
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**CGirlz\_banner.jpg**  
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**cliqgrlcovfeat.jpg**  
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# clique gift set - Bing

Web Images Videos Shopping News Maps More MSN Hotmail

Bing

clique gift set



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ALL RESULTS

1-10 of 404,000 results · [Advanced](#)

SEARCH HISTORY

clique gift set

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[Amazon.com: The \*\*Clique Ah-mazing Collector's Gift Set\*\* \(9780316030014 ...](#)

The Pretty Committee is spending the summer apart, but they're never far from drama. . . . Five girls. Five stories. One Ah-mazing **Gift Set**. This one-of-a-kind deluxe **gift set** ...

User rating: 4/5 · Paperback · 16 reviews

[www.amazon.com/Clique-Ah-mazing-Collectors-Gift-Set/dp/0316030015](http://www.amazon.com/Clique-Ah-mazing-Collectors-Gift-Set/dp/0316030015) · [Cached page](#)

[The \*\*Clique Ah-Mazing Collector's Gift Set, Clique Series, Lisi ...\*\*](#)

The Pretty Committee is spending the summer apart, but they're never far from drama. . . . Five girls. Five stories. One Ah-mazing **Gift Set**. This one-of-a-kind deluxe **gift set** ...

User rating: 5/5 · Paperback · 14 reviews

[search.barnesandnoble.com/The-Clique-Ah-Mazing-Collectors-Gift-Set/Lisi-Harrison/e/...](http://search.barnesandnoble.com/The-Clique-Ah-Mazing-Collectors-Gift-Set/Lisi-Harrison/e/...) · [Cached page](#)

[The \*\*Clique Ah-mazing Collector's Gift Set\*\* \(Paperback\) | Overstock.com](#)

Buy The **Clique Ah-mazing Collector's Gift Set** (Paperback) at the lowest price, guaranteed! \$2.95 shipping and customer reviews on all products.

[www.overstock.com/Books-Movies-Music-Games/The-Clique-Ah-mazing-Collectors-Gift-Set...](http://www.overstock.com/Books-Movies-Music-Games/The-Clique-Ah-mazing-Collectors-Gift-Set...) · [Cached page](#)

[The \*\*Clique Store - The Clique Ah-mazing Collector's Gift Set\*\*](#)

Availability: Usually ships in 24 hours Ships from and sold by Amazon.com. 32 new or used available from \$21.35. Average customer review:

[astore.amazon.com/theclique-20/detail/0316030015](http://astore.amazon.com/theclique-20/detail/0316030015) · [Cached page](#)

[The \*\*Clique Ah-Mazing Collector's Gift Set \[With Lip Gloss and Makeup ...\*\*](#)

booksamillion.com offers The **Clique Ah-Mazing Collector's Gift Set [With Lip Gloss and Makeup Bag and Jewelry Box]** by Lisi Harrison at a discount (9780316030014, (Paperback)).

[www.booksamillion.com/product/9780316030014](http://www.booksamillion.com/product/9780316030014) · [Cached page](#)

[The \*\*Clique Ah-mazing Collector's Gift Set - Hachette Book Group\*\*](#)

Read detailed information about the book The **Clique Ah-mazing Collector's Gift Set** by Lisi Harrison from the publisher, Hachette Book Group US (ISBN: 9780316030014). Includes ...

[www.hachettebookgroup.com/teens\\_books\\_9780316030014.htm](http://www.hachettebookgroup.com/teens_books_9780316030014.htm) · [Cached page](#)

[The \*\*Clique Ah-mazing Collector's Gift Set: Harrison, Lisi ...\*\*](#)

eCampus.com: The **Clique Ah-mazing Collector's Gift Set: Harrison, Lisi: 9780316030014** : \$21.77 :

[www.ecampus.com/book/9780316030014](http://www.ecampus.com/book/9780316030014) · [Cached page](#)

[The \*\*Clique Ah-mazing Collector's Gift Set - 9780316030014 - Lisi ...\*\*](#)

0316030015, The **Clique Ah-mazing Collector's Gift Set, 9780316030014, Lisi Harrison, Paperback, The Clique Summer Collection**

[www.borders.com/online/store/TitleDetail?sku=0316030015](http://www.borders.com/online/store/TitleDetail?sku=0316030015) · [Cached page](#)

[Christmas Teen Box \*\*Sets, Teen Box Set Gifts\*\* - Barnes & Noble](#)

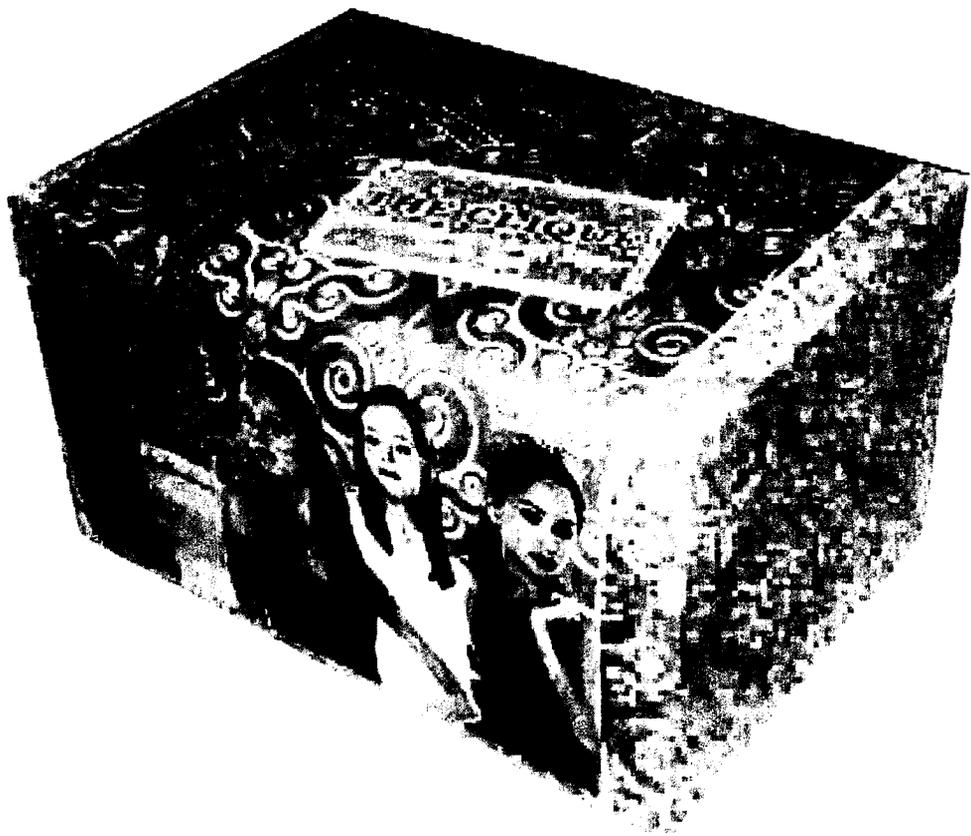
Catch up on your favorite series with brilliant boxed **sets**! From the Inheritance Cycle to The **Clique** collections, these **sets** make the perfect **gift** for teen fantasy and fiction buffs

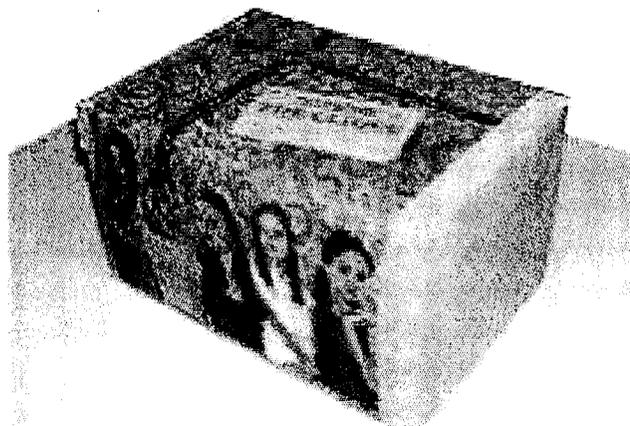
[www.barnesandnoble.com/u/christmas-gifts-teen-box-sets/379000372](http://www.barnesandnoble.com/u/christmas-gifts-teen-box-sets/379000372) · [Cached page](#)

[Clique Boxed Set #1 \(Clique Series\), Clique Series, Lisi Harrison ...](#)

HOME & GIFT Decorative Accents Journals & Notebooks Lighting & Furniture Reading ... A boxed **set** of three books (The **Clique** #1, The **Clique** #2: Best Friends for Never, The **Clique** #3 ...

[search.barnesandnoble.com/Clique-Boxed-Set-1/Lisi-Harrison/e/9780316030015](http://search.barnesandnoble.com/Clique-Boxed-Set-1/Lisi-Harrison/e/9780316030015) · [Cached page](#)





## The Clique Ah-mazing Collector's Gift Set

From Poppy

**List Price:** ~~\$39.99~~

**Price:** **\$26.39** & eligible for FREE Super Saver Shipping on orders over \$25. [Details](#)

 **Add to Shopping Cart**

**Availability:** Usually ships in 24 hours  
Ships from and sold by Amazon.com

32 new or used available from \$21.35

Average customer review: 

## Product Description

The Pretty Committee is spending the summer apart, but they're never far from drama. . . . Five girls. Five stories. One Ah-mazing Gift Set.

This one-of-a-kind deluxe gift set includes:

- All five bestselling Clique Summer Collection novellas: Massie, Dylan, Alicia, Kristen, and Claire.
- A special edition CLIQUE jewelry box with mirror and lift-out tray
- Five signature flavored lip glosses
- Stylish CLIQUE makeup bag

## Product Details

- Amazon Sales Rank: #20551 in Books

# THE CLIQUE



The only thing  
harder than getting in  
is staying in.

WARNER BROS. PICTURES

# THE CLIQUE



The only thing  
harder than getting in  
is staying in.

  
WARNER PREMIERE



**TUNE INTO**



**TO HEAR OUR  
NEW SINGLE  
THEN I WOKE UP**

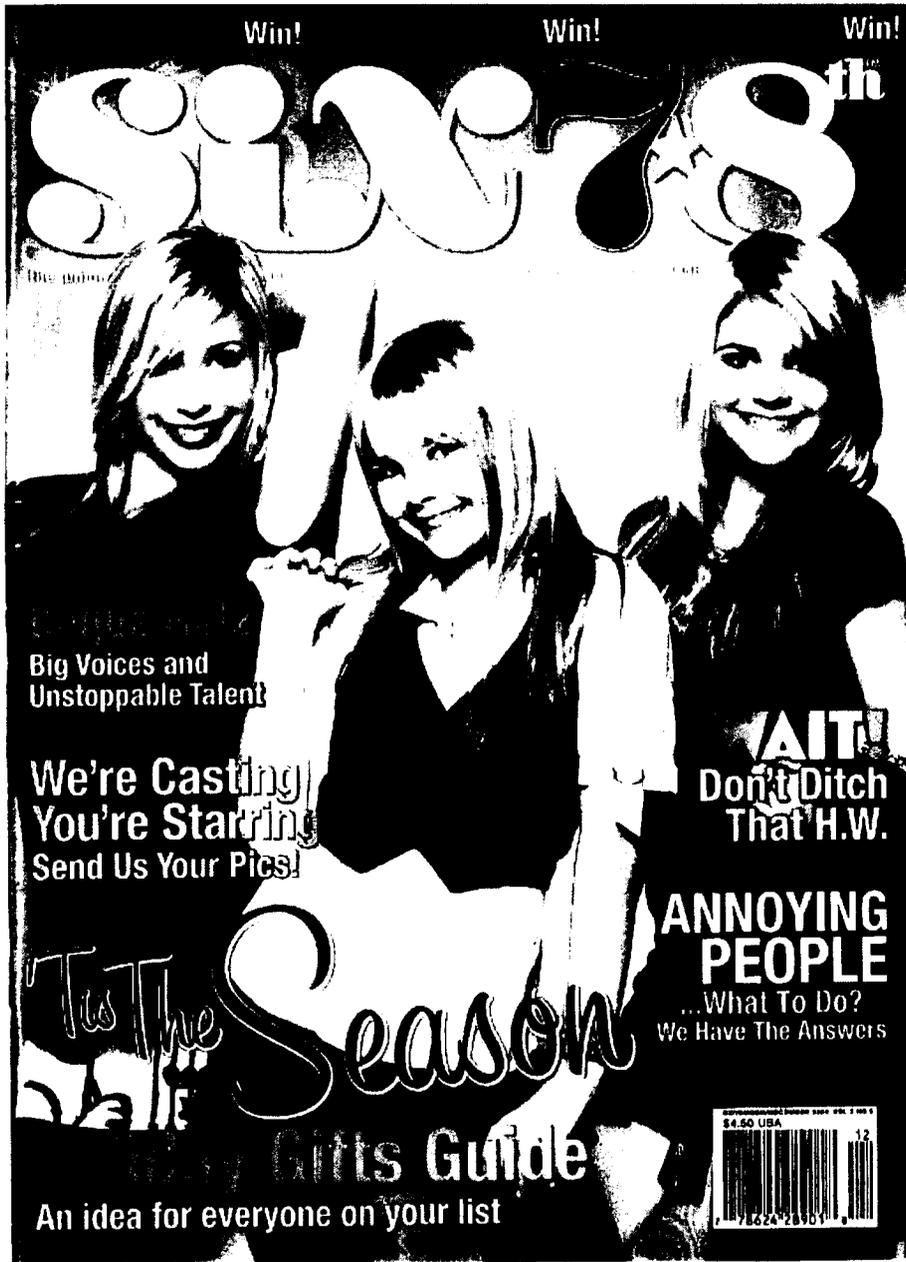


**Request Clique Girlz at  
1-888-327-7018**

*Clique Girls*  
*incredible*

**AS HEARD  
IN THE NEW  
PRINCESS BRIDE  
GAME**





Win!

Win!

Win!

# SILVER<sup>th</sup>

The... ..

... ..

**Big Voices and Unstoppable Talent**

**We're Casting You're Starring!**  
Send Us Your Pics!

**AIT!**  
Don't Ditch That H.W.

**ANNOYING PEOPLE**

...What To Do?  
We Have The Answers

*Twins* **The Season**

**Gifts Guide**

An idea for everyone on your list



# Exhibit B







CLINIQUE

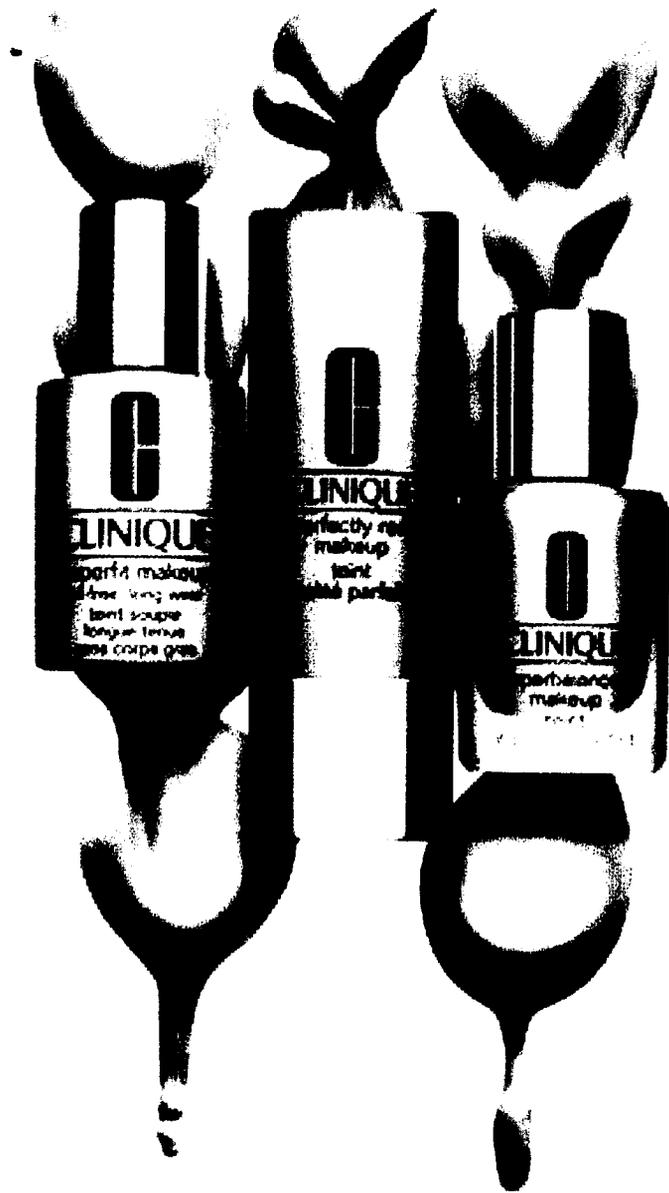
Moisturizing Cream  
with Hyaluronic Acid  
and Vitamin E

CLINIQUE

Cleansing Lotion  
with Salicylic Acid

CLINIQUE

Acne-Fighting  
Lotion  
with Salicylic Acid  
and Benzoyl Peroxide





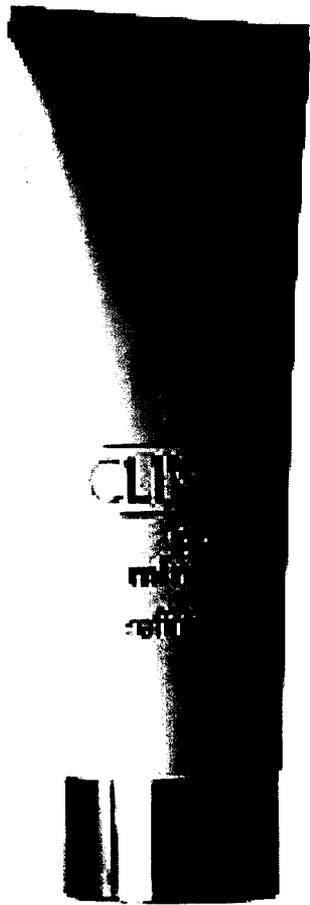


**CLINIQUE**

dramatically different  
moisturizing lotion  
émulsion hydratante  
tellement différente

The Breast  
Cancer

Research  
Foundation





3

CLINIQUE

CLINIQUE

CLINIQUE

CLINIQUE

CLINIQUE

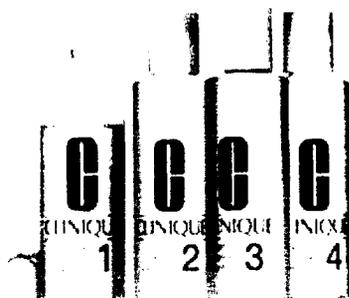
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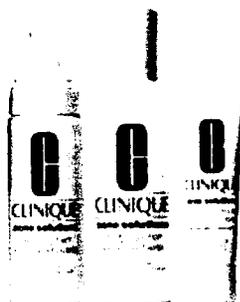




**CLINIQUE 16.jpg**  
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**clinique\_mask.jpg**  
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**2007-07-24-clinique.jpg**  
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**CLINIQUE14.jpg**  
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**clinique06.jpg**  
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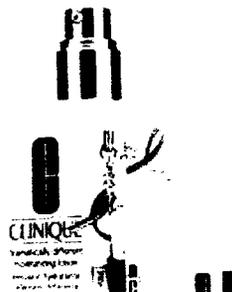
**CLINIQUE8.jpg**  
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**CLINIQUE 13.jpg**  
11K View Download

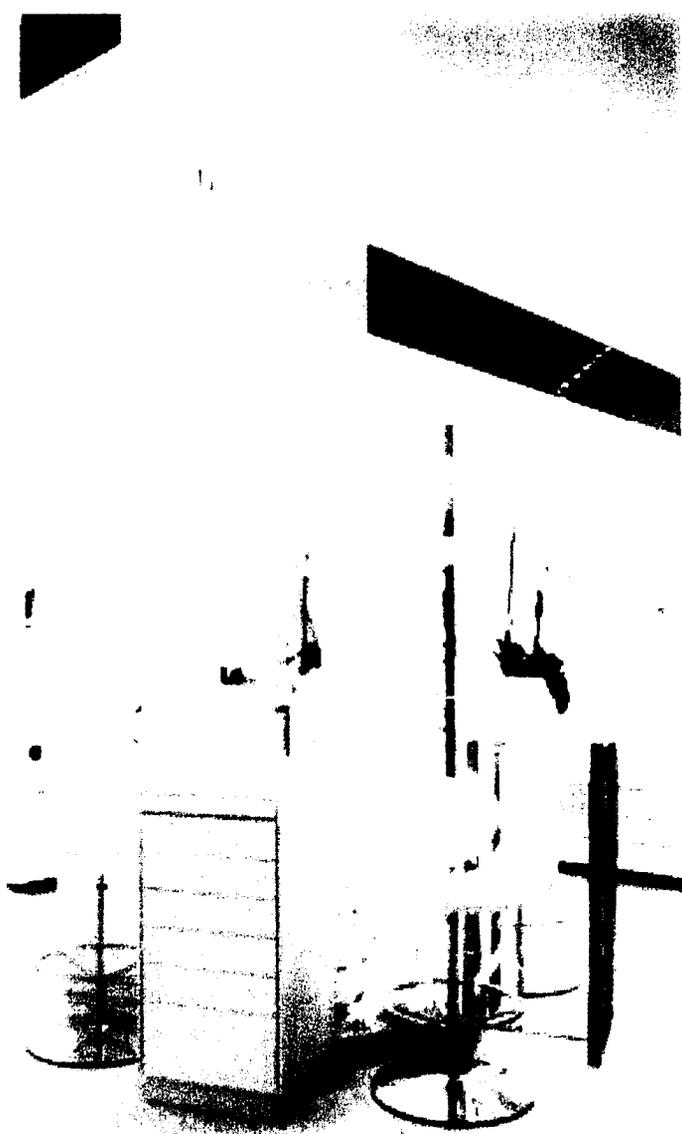


**Clinique 1.jpg**  
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**CLINIQUE 15.jpg**  
20K View Download

10-10-1964



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Bing

clinique counter



## ALL RESULTS

ALL RESULTS

1-10 of 292,000 results · [Advanced](#)

## News

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[Clinique at Macy's](#) · [Macys.com/Clinique](#)

Get \$5 Flat Rate Shipping with \$75 Order at Macy's Online!

[Buy Clinique w/ Free Gift](#) · [eCosmeticWorld.com/Clinique](#)

Free Gift with any **Clinique** Purchase. Free Shipping & Great Benefits

[Clinique](#) · [www.clinique.com](#)

**Clinique** offer Skin care products, Makeup, Fragrance

[Skin Care, Makeup and Cosmetics Online > Clinique](#)

Buy skin care, makeup and cosmetics from **Clinique**. Shop our full line of custom-fit skin care, makeup & fragrance products. Great skin can be created. Allergy Tested. 100 ...

[www.clinique.com](#) · [Cached page](#)

[Clinique Counter Manager Jobs | Indeed.com](#)

Job search for **Clinique Counter** Manager Jobs at [indeed.com](#). one search. all jobs.

[www.indeed.com/q-Clinique-Counter-Manager-jobs.html](#) · [Cached page](#)

[Beauty products celebrity Clinique Counter :: Beauty News :: handbag ...](#)

Handbag.com bring you the hottest new beauty products and celebrity news including **Clinique's** new beauty **counter** in Selfridges. Visit [handbag.com](#) for all your beauty and hair care ...

[www.handbag.com/beauty/-Beauty-products-celebrity-Clinique-Counter/v1](#) · [Cached page](#)

[Gottschalks Department Store](#)

Laure Olson is our **Clinique counter** manager and will be heading the Apply Yourself seminars. She has been working for the **Clinique** line for two years and is ...

[esprit2007.espritconf.com/bios/Gottschalks/Gottschalks.html](#) · [Cached page](#)

[Employment | Counter Manager](#)

The **Counter** Manager/Business Manager manages a **counter** team to achieve daily **counter** goals. If you're a high school graduate or equivalent with **counter** management experience and/or ...

[www.clinique.com/cms/customer\\_service/employment\\_countermanager.tmpl](#) · [Cached page](#)

[My trip to the Clinique counter - GWP and yellow powder in Archives in ...](#)

My trip to the **Clinique counter** - GWP and yellow powder: I went with one of my co-workers to the **Clinique counter** over lunch. I bit my lip and bought the yellow powder. (We ...

[community.qvc.com/topic/Beauty-Banter/Trip-Clinique-Counter/5800073809&](#) · [Cached page](#)

[Getting a makeover at Clinique counter question+++ in Archives in QVC ...](#)

Getting a makeover at **Clinique counter** question+++; I wanted to try the new Almost Powder and the SA said that in a couple weeks they were having an event and if I signed up I ...

[community.qvc.com/topic/Beauty-Banter/Getting-Makeover-Clinique/5800049862&](#) · [Cached page](#)

[UC Davis Bookstore - Clinique Counter](#)

Location: Located on the left side of the main Bookstore, near the TechHUB. Phone: (530) 754-8775; Email: [clinique@ucdavis.edu](mailto:clinique@ucdavis.edu); Hours:

[bookstore.ucdavis.edu/gifts/Clinique.cfm](#) · [Cached page](#)

[Clinique](#)

**Clinique**. The Student Union is happy to welcome its newest addition next to the Student Store, the complete line of **Clinique** cosmetics. The Student Union **Clinique counter** opened in ...

## SEARCH HISTORY

clinique counter

clinica skincare

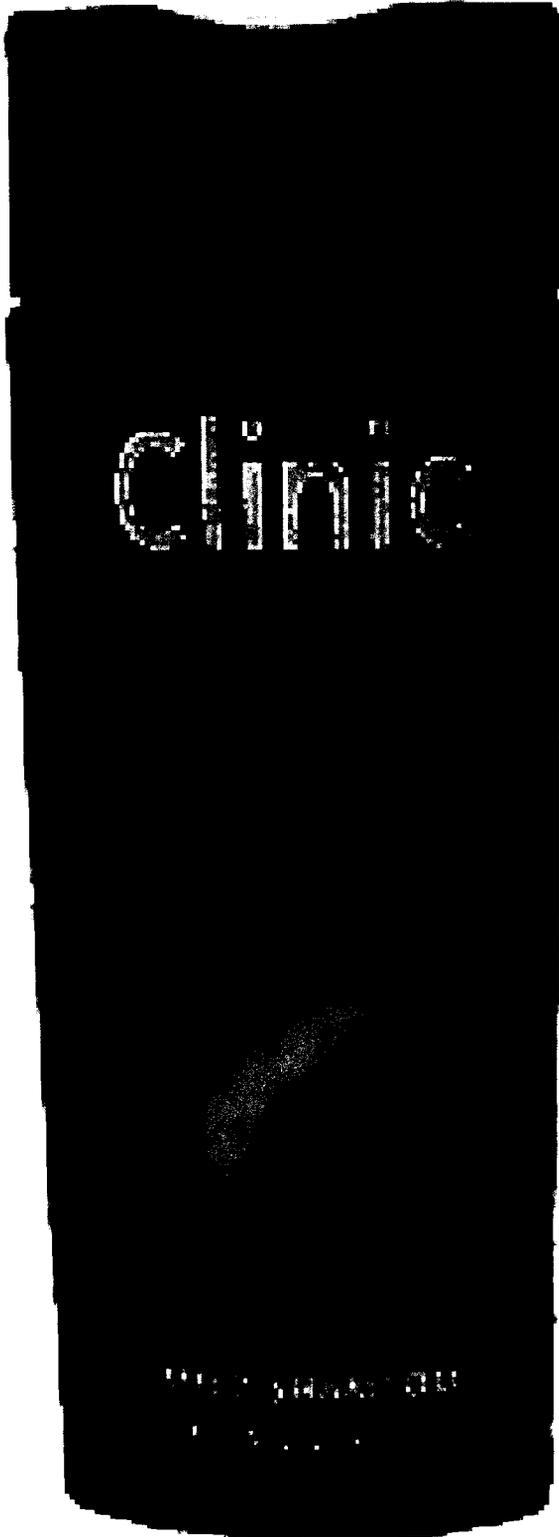
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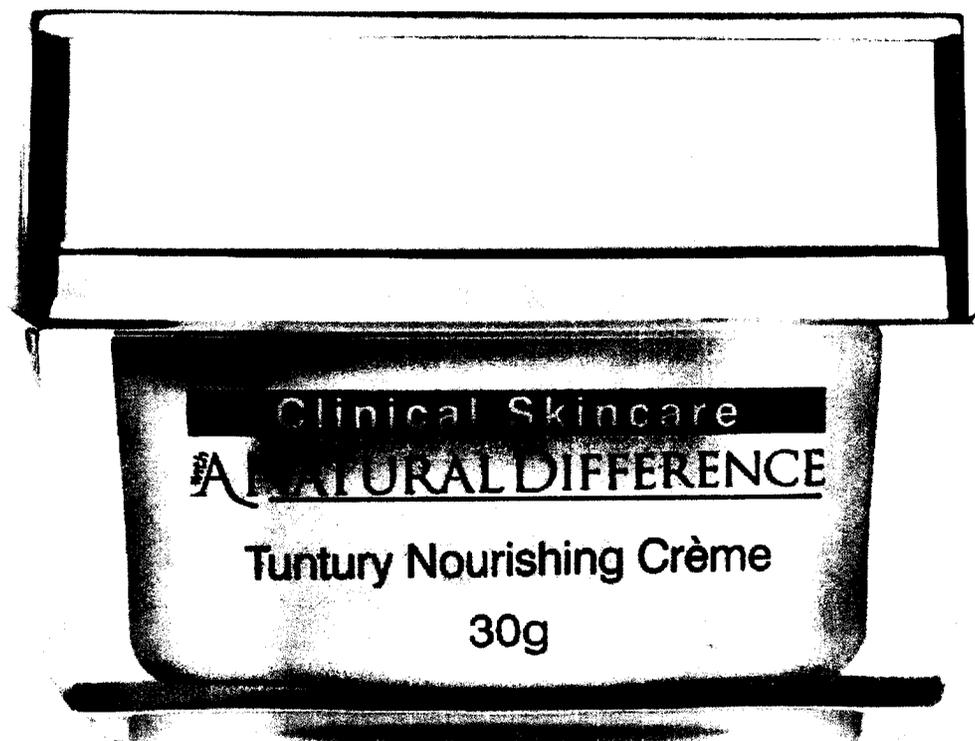
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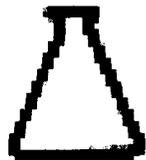


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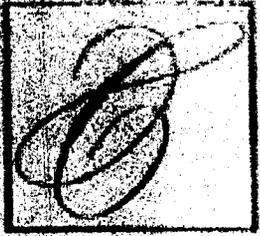
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