

ESTTA Tracking number: **ESTTA874616**

Filing date: **01/31/2018**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Dennis F. Gross
Granted to Date of previous extension	01/31/2018
Address	444 Madison Avenue Suite 500 New York, NY 10022 UNITED STATES

Attorney information	CHRISTINE M. BAKER MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C. One Financial Center Boston, MA 02111 UNITED STATES Email: IPDocketingBos@mintz.com, cbaker@mintz.com, ahan@mintz.com Phone: 617 542 6000
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**Applicant Information**

Application No	87201880	Publication date	10/03/2017
Opposition Filing Date	01/31/2018	Opposition Period Ends	01/31/2018
Applicant	SESDERMA, S.L. Massamagrell, 3 - Rafelbuñol Polígono Industrial Rafelbuñol Valencia, E-46138 SPAIN		

**Goods/Services Affected by Opposition**

Class 003. First Use: 2010/05/12 First Use In Commerce: 2010/05/12 All goods and services in the class are opposed, namely: Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid
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**Grounds for Opposition**

The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45
The mark is not inherently distinctive and has not acquired distinctiveness	Trademark Act Sections 1, 2 and 45; and Section 2(f)

Related Proceed-	91238747
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Attachments	NoticeofOppositionforSESDERMAFERULAC.pdf(152607 bytes ) ExhibitsABCSESDERMAFERULAC.pdf(448497 bytes ) ExhibitsDEF.pdf(787799 bytes ) EXHIBITSGHI.pdf(757100 bytes ) ExhibitsJKL.pdf(1204149 bytes ) EXHIBITSMNO.pdf(3151452 bytes ) EXHIBITSPQRS.pdf(587182 bytes )
Signature	/CMLBAKER/
Name	CHRISTINE M. BAKER
Date	01/31/2018

Attorney Docket: 049966-407-059  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 87/201880  
for SESDERMA FERULAC  
Published in the *Official Gazette* on October 3, 2017

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Dennis F. Gross

Opposer,

v.

APPLICATION NO. 87/201880

OPPOSITION NO.: TBD

Sesderma S.L.

Applicant.

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NOTICE OF OPPOSITION

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

Sir/Madam:

Dennis F. Gross ("Opposer"), a United States citizen, with a business address at 444 Madison Avenue, Suite 500 New York, NY 10022 believes he will be damaged by the registration of U.S. Application Serial No. 87/201880 for the mark SESDERMA FERULAC for the following goods:

Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical

peels for skin, all of the foregoing containing ferulic acid, in International Class 003, which was filed by Sesderma, S.L. ("Applicant") and published for opposition in the *Official Gazette* on October 3, 2017, and hereby opposes the same.

Pursuant to Trademark Act Sections 1, 2 and 45 and Sections 2(e)(1) and 2(f) and predicated upon the following grounds, Opposer alleges the following:

1. Opposer is the creator of the award winning and global skin care brand DR DENNIS GROSS®. For several years, Opposer has been engaged in the manufacture and sale of skin care preparations containing ferulic acid.
2. Opposer has regularly appeared on television shows such as Dr. OZ, The Today Show, The Doctors, CBS: The Early Show and on CNN to discuss skin health and has been lauded for his innovative approach to skin care and skin care products and peels containing ferulic acid by major magazines, including but not limited to, Vogue, Elle, Harper's Bazaar, and The New York Times Magazine.
3. Opposer owns Registration No. 5,283,495 for the mark FERULIC + RETINOL WRINKLE RECOVERY PEEL for non-medicated skin care preparations containing ferulic acid and retinol. As the attached Registration Certificate indicates, the Trademark Office required Opposer to disclaim the term FERULIC apart from Opposer's mark FERULIC + RETINOL WRINKLE RECOVERY PEEL. See Exhibit A.

4. Upon information and belief, the Applicant is a limited liability company organized under the laws of Spain with an address of Massamagrell, 3 — Rafelbunol, Poligono Industrial Rafelbufiol, Valencia, Spain E-46138.
5. On information and belief, Applicant is involved in the manufacture and sale of skin care preparations that include ferulic acid as an ingredient.
6. On information and belief, Applicant is one of Opposer's competitors in the United States in the skin care product market.
7. Applicant filed an application to register the mark SESDERMA FERULAC for “Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, in Class 003 on October 13, 2016 and the application was assigned Serial No. 87/201880. See Exhibit B.
8. In an Office Action dated December 17, 2016, the Examining Attorney stated that the Applicant must disclaim the wording “ferulac” on that ground that it merely describes an ingredient, quality, characteristic, or feature of Applicant’s goods and, thus is an unregistrable component of the mark. See Exhibit C.
9. In the Refusal dated December 17, 2016, the Examining Attorney states that the term “ferulac” is the phonetic equivalent of “ferulic” and, in support of the refusal, attached excerpts from the website of ScienceDirect regarding what ferulic acid is and its use in cosmetics and an excerpt from the Applicant’s

website, located at [www.mediderm.es](http://www.mediderm.es), regarding the properties of ferulic acid. The Examining Attorney concludes that ferulac is an intentional misspelling of the word ferulic, which is a type of acid that the Applicant's goods contain as an ingredient. See Exhibit C.

10. In the Office Action dated December 17, 2016, the Examining Attorney states that the Applicant must provide a written statement explaining whether the Applicant's goods do or will contain ferulic acid. See Exhibit C.
11. In the Office Action dated December 17, 2016, the Examining Attorney states that the wording "ferulac" in the Applicant's proposed mark indicates that the Applicant's goods have and/or exhibit ferulic acid as an ingredient and that this feature or characteristic is desirable for applicant's goods because ferulic acid is an appropriate treatment of a wide variety of skin concerns, from acne to wrinkles. The Examining Attorney also states that, if some or all of the Applicant's goods do not have ferulic acid, registration may be refused on the ground that the mark consists of or includes deceptive matter. To avoid such a refusal, the Examining Attorneys advises the Applicant that it may amend the identification to specify that its goods possess this relevant feature or characteristic. See Exhibit C.
12. In the Applicant's response dated June 16, 2017, the Applicant acknowledges that FERULAC is an intentional misspelling of the term FERULIC and that the Applicant intentionally misspells generic terms which are active ingredients in its products. See Exhibit D.

13. In its response dated June 16, 2017, the Applicant did not provide a written statement explaining whether its goods do or will contain ferulic acid as requested by the Examining Attorney's Request for Information dated December 17, 2016 and only amended its description of goods to indicate that all of its goods contain ferulic acid. See Exhibit D.
14. In its response dated June 16, 2017, the applicant submitted a claim of acquired distinctiveness of its alleged mark SESDERM FERULAC based on five or more years of substantially exclusive and continuous use in commerce under Trademark Act Section 2(f). See Exhibit D.
15. In the Office Action dated July 13, 2017 the Examining Attorney rejects the Applicant's claim of acquired distinctiveness based on five or more years of substantially exclusive and continuous use of the mark SESDERMA FERULAC and instead advises, albeit incorrectly, that the Applicant may submit the following Section 2(f) claim: "The wording MANDELAC in the mark has become distinctive of the goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement." See Exhibit E.
16. On July 17, 2017, the Applicant submitted the following claim of acquired distinctiveness: The wording FERULAC in the mark has become distinctive of the goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully

regulate for at least the five years immediately before the date of this statement. See Exhibit F.

17. On information and belief, a search on Google.com for "what is ferulac?" uncovered records that mention "ferulac acid" in connection with skin care products. These results indicate that FERULAC is often considered by consumers and those in the skin care industry to be the word FERULIC, which identifies a time of acid that is commonly used as an ingredient in skin care products. See Exhibit G.
18. In Applicant's response dated June 16, 2017, the Applicant states that a Google search for FERULAC does not pick up on the misspelling and suggest the correct spelling. On information and belief, a search on Google.com for "what is ferulac acid?" picks up on the misspelling and suggests the correct spelling by asking "Did you mean: what is ferulic acid?" See Exhibit H.
19. On information and belief beauty and medical spas, who are sophisticated consumers, refer to ferulic acid as "ferulac acid" and offer skin care products that include "ferulac acid" as an ingredient. See Exhibit I.
20. The Applicant has attempted to register the mark FERULAC on two previous occasions. On January 26, 2009 and December 22, 2015, Applicant filed applications to register the mark FERULAC for cosmetics in Class 003 and pharmaceuticals for skin care and treatment in Class 005 and cosmetics; beauty serums; facial beauty serum; non-medicated skin care preparation namely, body and facial mist; beauty ampoules; moisturizing creams; facial creams;



skin care preparations, namely, chemical peels for skin in Class 003, which were assigned Serial No. 79/071102 and 86/857290. See Exhibits J and K.

21. In Office Actions dated August 28, 2009 and March 11, 2016 for Applicant's Applications, Serial Nos. Serial No. 79/071102 and 86/857290, the assigned Examining Attorneys denied registration of the proposed mark FERULAC on the ground that it is the equivalent and novel spelling of the word "ferulic" and merely describes a feature, ingredient, characteristic, purpose, and/or function of Applicant's goods, namely, ferulic acid. In support of the refusal, the Examining Attorneys attached to the Office Actions a definition of "ferulic acid" from the Merriam-Webster online dictionary, a Wikipedia entry for ferulic acid discussing its use in cosmetics and skin care, article abstracts from PubMed.com that discuss the cosmetic uses of ferulic acid and the use of ferulic acid in skin care, internet evidence and links establishing that the wording "FERULIC" means "Pertaining to, or derived from, asafetida (Ferula asafoetida); as, ferulic acid," and screenshots from Applicant's website, located at [www.sesdermausa.com](http://www.sesdermausa.com), that Applicant offers cosmetics and skin care products containing ferulic acid. See Exhibits L and M.
22. On October 11, 2016, the Office issued a Notice of Abandonment abandoning Applicant's Application Serial No. 86/857290 due to Applicant's failure to file a response to the refusal dated March 11, 2016. See Exhibit N.
23. In a Final Office Action dated March 23, 2010 for Application Serial No. 79/071102, the Examining Attorney denied registration of the mark FERULAC on the ground that it is a novel spelling of the word FERULAC,

which is a type of acid that is a common ingredient in products for treating the skin and cosmetics used for anti-aging purposes. In support of the refusal, the Examining Attorney attached to the Final Office Action articles from LASplash.com, BulkActives.com and TruthInAging.com indicating that the prevailing opinion is that ferulic acid is an important active ingredient in products for wrinkle and age spot reduction. The Examining Attorney stated that "Consumers who are seeking products for this purpose are likely to know this and will be looking for labels that identify this ingredient. Consumers will see FERULAC and think that the mark identifies the ingredient ferulic acid." See Exhibit O.

24. On April 22, 2011, the Office issued a Notice of Abandonment abandoning Applicant's Application Serial No. 79/071102 due to Applicant's failure to file a response to the Final Office Action dated March 23, 2010. See Exhibit P.

**COUNT ONE: GENERICNESS**

25. Opposer realleges and incorporates herein by reference the allegations in all other paragraphs contained herein.
26. On information and belief, FERULAC is the phonetic equivalent of the word FERULIC and refers to a type of acid that is found in plant cell wall components and is the main ingredient in the Applicant's goods, as evidenced by Applicant's description of goods, which includes the language "all of the foregoing including ferulic acid." Ferulic acid is a favorite ingredient of

dermatologists and skin care companies and is used in many skin care products including the Opposer's skin care products. See Exhibits Q & R.

27. On information and belief, the term "Ferulic" is commonly used in connection with skin care products to indicate that ferulic acid is an ingredient in the products. Because of this, consumers will immediately perceive FERULAC in the mark SESDERMA FERULAC as referring to ferulic acid, an ingredient in the applicant's products.
28. On information and belief, the word FERULIC is a generic term that is widely used in connection with skin care products and the skin care industry. See the attached Google results for a search on FERULIC and skin care products, which uncovered 330,000 results. See Exhibit S.
29. On information and belief, FERULAC is a generic term incapable of functioning as a trademark because it is a slight misspelling of the term FERULIC, which is a standard term in the skin care industry designating a type of acid and ingredient. The term FERULAC cannot be exclusively appropriated by Applicant as a trademark for its goods because it is incapable of identifying Applicant as a source of origin.
30. Registration of the mark SESDERMA FERULAC on the Principal Register, without a disclaimer of the word FERULAC, will inhibit the Opposer and Applicant's competitors from using the word FERULIC to describe skin care and cosmetic products containing ferulic acid and using the word FERULIC in marks for these goods. In essence, a registration for the mark SESDERMA

FERULAC, without a disclaimer of the word FERULAC, will give the Applicant a monopoly over the word FERULIC for skin care preparations and cosmetics and enable the Applicant to bring harassing infringement suits and oppositions, which the Applicant already has done in the European Union.

31. Opposer will be damaged by Applicant's registration of SESDERMA FERULAC without a disclaimer of the word FERULAC as the prima facie effect of such registration will interfere with use by Opposer and others in the skin care industry in the exercise of their right to use the term FERULIC.
32. Registration of SESDERMA FERULAC without a disclaimer of FERULAC will inhibit the Opposer's right to compete with the Applicant.
33. In view of the generic nature of the term FERULAC and the widespread use of its correct spelling, FERULIC, in the skin care industry and for skin care products, the Applicant is not entitled to registration of the mark SESDERMA FERULAC, without a disclaimer of the term FERULAC.

**COUNT TWO: DESCRIPTIVENESS**

34. Opposer realleges and incorporates herein by reference the allegations in all other paragraphs contained herein.
35. The word FERULAC in the Applicant's proposed mark is merely descriptive within the meaning of Trademark Act Section 2(e)(1) because it merely describes an ingredient, quality, characteristic or feature of the Applicant's goods, namely, that they include ferulic acid as an ingredient.

36. SESDERMA FERULAC, for Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid, is not entitled to registration on the Principal Register without a disclaimer of the term FERULAC because it is an intentional misspelling of the word FERULIC, which is a type of acid and common ingredient in skin care and cosmetic products.

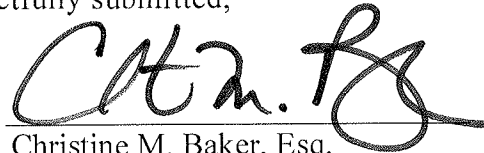
**COUNT THREE: FERULAC HAS NOT ACQUIRED DISTINCTIVENESS**

37. Opposer realleges and incorporates herein by reference the allegations in all other paragraphs contained herein.
38. The Applicant has not established and is unable to establish that FERULAC has become distinctive of the Applicant's goods. Applicant also will not be able to establish that FERULAC has acquired secondary meaning as a source of origin.
39. The Applicant's use of the word FERULAC has not been substantially exclusive and continuous to support registration of the mark SESDERMA FERULAC on the Principal Register under Section 2(f).
40. The term FERULAC has not acquired distinctiveness as a trademark for the Applicant's proposed goods and is therefore not entitled to registration on the Principal Register under Trademark Act Section 2(f).

WHEREFORE, the registration of SESDERMA FERULAC without a disclaimer of FERULAC will damage Opposer in that the registration will with interfere with Opposer's right to use the FERULIC in its ordinary descriptive sense and in marks for skin care products and cosmetics that include ferulic acid as an ingredient. Opposer respectfully requests that the opposition be sustained and the registration of SESDERMA FERULAC be refused absent the entry of a disclaimer of the term FERULAC.

Respectfully submitted,

By:

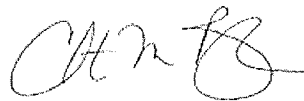


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Boston, MA 02111  
(617) 542-6000  
(617) 542-2241

Attorneys for Opposer, Dennis F. Gross  
Dated: January 31, 2018

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant's counsel of record by mailing said copy on January 31, 2018 via First Class Mail to: Christian Sanchelima, Esq., Sanchelima & Associates, P.A., 235 SW Le Jeune Road, Miami, FL 33134 and via email to: [chris@sanchelima.com](mailto:chris@sanchelima.com); [tm@sanchelima.com](mailto:tm@sanchelima.com) ; [legal@sanchelima.com](mailto:legal@sanchelima.com); [jesus@sanchelima.com](mailto:jesus@sanchelima.com)



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Christine M. Baker

**EXHIBIT A**

**EXHIBIT A**



# United States of America

United States Patent and Trademark Office

FERULIC + RETINOL WRINKLE  
RECOVERY PEEL

Reg. No. 5,283,495

Registered Sep. 12, 2017

Int. Cl.: 3

Trademark

Principal Register

Dennis F. Gross (UNITED STATES INDIVIDUAL)  
444 Madison Avenue, Suite 802  
New York, NY 10022

CLASS 3: Non-medicated skin care preparation containing ferulic acid and retinol; skin care preparations, namely, skin peels containing ferulic acid and retinol

FIRST USE 11-28-2015; IN COMMERCE 11-30-2015

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:  
"FERULIC + RETINOL", "WRINKLE" AND "PEEL"

SER. NO. 86-852,803, FILED 12-17-2015  
MARIA VICTORIA SUAREZ, EXAMINING ATTORNEY



Joseph Matol

Performing the Functions and Duties of the  
Under Secretary of Commerce for  
Intellectual Property and Director of the  
United States Patent and Trademark Office

**EXHIBIT B**

**EXHIBIT B**

## Trademark/Service Mark Application, Principal Register

Serial Number: 87201880

Filing Date: 10/13/2016

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	87201880
<b>MARK INFORMATION</b>	
*MARK	<u>SESDERMA FERULAC</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	SESDERMA FERULAC
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	SESDERMA, S.L.
INTERNAL ADDRESS	Massamagrell, 3 - Rafelbuñol
*STREET	Polígono Industrial Rafelbuñol
*CITY	Valencia
*COUNTRY	Spain
*ZIP/POSTAL CODE (Required for U.S. applicants)	E-46138
PHONE	305-447-1617
FAX	305-445-8484
EMAIL ADDRESS	tm@sanchelima.com
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Spain
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	003
*IDENTIFICATION	Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulac
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 05/12/2010

FIRST USE IN COMMERCE DATE	At least as early as 05/12/2010
SPECIMEN FILE NAME(S)	<u>WTICRS\EXPORT17\IMAGEOUT_17\872\018\87201880\xml1\</u> <u>RFA0003.JPG</u>
SPECIMEN DESCRIPTION	Image of the mark as used in commerce as found affixed to the goods.
<b>ATTORNEY INFORMATION</b>	
NAME	Christian Sanchelima, Esq.
ATTORNEY DOCKET NUMBER	360455.1
FIRM NAME	Sanchelima & Associates, P.A.
STREET	235 SW Le Jeune Road
CITY	Miami
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33134
PHONE	305-447-1617
FAX	305-445-8484
EMAIL ADDRESS	tm@sanchelima.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Jesus Sanchelima, Esq.
<b>CORRESPONDENCE INFORMATION</b>	
NAME	Christian Sanchelima, Esq.
FIRM NAME	Sanchelima & Associates, P.A.
STREET	235 SW Le Jeune Road
CITY	Miami
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33134
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FAX	305-445-8484
*EMAIL ADDRESS	tm@sanchelima.com; legal@sanchelima.com; chris@sanchelima.com; jesus@sanchelima.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275
<b>SIGNATURE INFORMATION</b>	

<b>ORIGINAL PDF FILE</b>	<u>hw_502405030-110517683 . 160823vp.Signed_TM_Appl.360455.1_3.pdf</u>
<b>CONVERTED PDF FILE(S)</b> (1 page)	<u>\\TICRS\EXPORT17\IMAGEOUT17\872\018\87201880\xml1\RFA0004.JPG</u>
<b>SIGNATORY'S NAME</b>	Gabriel Serrano
<b>SIGNATORY'S POSITION</b>	Managing Member
<b>SIGNATORY'S PHONE NUMBER</b>	305-447-1617

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1570-0047 (Rev. 09-14-10)  
OMB No. 1570-0047

## Trademark/Service Mark Application, Principal Register

Serial Number: 87201880

Filing Date: 10/13/2016

### To the Commissioner for Trademarks:

**MARK:** SESDERMA FERULAC (Standard Characters, see below )

The literal element of the mark consists of SESDERMA FERULAC.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, SESDERMA, S.L., a limited liability company legally organized under the laws of Spain, having an address of  
Massamagrell, 3 - Rafelbuñol  
Polígono Industrial Rafelbuñol  
Valencia E-46138  
Spain  
305-447-1617(phone)  
305-445-8484(fax)  
tm@sanchelima.com (not authorized)

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 003: Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulac

In International Class 003, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 05/12/2010, and first used in commerce at least as early as 05/12/2010, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Image of the mark as used in commerce as found affixed to the goods..

Specimen File1

The applicant's current Attorney Information:

Christian Sanchelima, Esq. and Jesus Sanchelima, Esq. of Sanchelima & Associates, P.A. 235 SW Le Jeune Road  
Miami, Florida 33134  
United States  
305-447-1617(phone)  
305-445-8484(fax)  
tm@sanchelima.com (authorized)

The attorney docket/reference number is 360455.1.

The applicant's current Correspondence Information:

Christian Sanchelima, Esq.  
Sanchelima & Associates, P.A.  
235 SW Le Jeune Road  
Miami, Florida 33134  
305-447-1617(phone)  
305-445-8484(fax)

tm@sanchelima.com; legal@sanchelima.com; chris@sanchelima.com; jesus@sanchelima.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to

do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

#### **Declaration**

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

#### **Declaration Signature**

Signature: Not Provided Date: Not Provided

Signatory's Name: Gabriel Serrano

Signatory's Position: Managing Member

RAM Sale Number: 87201880

RAM Accounting Date: 10/13/2016

Serial Number: 87201880

Internet Transmission Date: Thu Oct 13 11:27:40 EDT 2016

TEAS Stamp: USPTO/BAS-XX.XXX.XX.XX-20161013112740782

664-87201880-570459cf261776c5c3ed6debb35

aeac0a92d6d3fe493af5af53f9a5bea449c29f2-

CC-11170-20161013110517683101

# SESDERMA FERULAC





sesderma

FERULAC

Serum

Skin that is dull  
and lacks luminosity

7ml e  
0.24 fl. oz

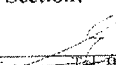


NANOTECH

### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section: **SesDERMA, S.L.**

C.I.F. 6-07443394  
Pol. Ind. de Rafelbuñol  
El Mossamagrell, n.º 5  
Signature:   
Signatory's Name: Rafael Sorribuñol (Valencia)  
Signatory's Position: Managing Member  
Signatory's Phone Number: 305-447-1617

Date Signed: 10/6/2016

**NOTE TO APPLICANT:** When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the boilerplate declaration language. Do not include the entire application, but do ensure that the boilerplate declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

# EXHIBIT C

# EXHIBIT C

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**To:** SESDERMA, S.L. ([tm@sanchelima.com](mailto:tm@sanchelima.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87201880 - SESDERMA FERULAC - 360455.1  
**Sent:** 12/17/2016 8:30:58 PM  
**Sent As:** ECOM119@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
[Attachment - 4](#)  
[Attachment - 5](#)  
[Attachment - 6](#)  
[Attachment - 7](#)  
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[Attachment - 10](#)  
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[Attachment - 30](#)  
[Attachment - 31](#)

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 87201880

MARK: SESDERMA FERULAC

**CORRESPONDENT ADDRESS:**  
CHRISTIAN SANCHELIMA,  
SANCHELIMA & ASSOCIATES, P.A.  
235 SW LE JEUNE ROAD  
MIAMI, FL 33134

**APPLICANT:** SESDERMA, S.L.

**\*87201880\***

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

[VIEW YOUR APPLICATION FILE](#)

CORRESPONDENT'S REFERENCE/DOCKET NO :

360455.1

CORRESPONDENT E-MAIL ADDRESS:

tm@sanchelima.com

## OFFICE ACTION

### STRICT DEADLINE TO RESPOND TO THIS LETTER

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

ISSUE/MAILING DATE: 12/17/2016

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

#### SEARCH OF OFFICE'S DATABASE OF MARKS

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

#### DISCLAIMER

Applicant must disclaim the wording "ferulac" because it merely describes an ingredient, quality, characteristic, or feature of applicant's goods, and thus is an unregistrable component of the mark. See 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); TMEP §§1213, 1213.03(a).

The term "ferulac" is the phonetic equivalent of "ferulic."

The attached excerpts from the website of ScienceDirect provides the following regarding ferulic acid:

*Ferulic acid (FA), a ubiquitous natural phenolic phytochemical present in seeds, leaves, both in its free form and covalently conjugated to the plant cell wall polysaccharides, glycoproteins, polyamines, lignin and hydroxy fatty acids. FA plays a vital role in providing the rigidity to the cell wall and formation of other important organic compounds like coniferyl alcohol, vanillin, sinapic, diferulic acid and curcumin. FA exhibits wide variety of biological activities such as antioxidant, antiinflammatory, antimicrobial, antiallergic, hepatoprotective, anticarcinogenic, antithrombotic, increase sperm viability, antiviral and vasodilatory actions, metal chelation, modulation of enzyme activity, activation of transcriptional factors, gene expression and signal transduction.*

#### *4.5. Uses of ferulic acid in cosmetics*

*ROS (reactive oxygen species) formation is the main cause of UV-induced skin damage. During the exposure to radiation, a photon interact with trans-urocanic acid in skin and generate singlet oxygen that can activate the entire oxygen free radical cascade with oxidation of proteins, nucleic acid and lipids, resulting in the photoaging changes and skin cancer [6] and [7]. FA is a strong UV absorber [17], and skin absorbs it at the same rate at acidic and neutral pH [68]. FA structure is similar to tyrosine, and it is believed that FA inhibits the melanin formation through competitive inhibition with tyrosine. It gives a considerable protection to the skin against UVB-induced erythema in a time dependent manner [68]. FA alone or in alliance with vitamin E and vitamin C provides about 4–8 fold protection against solar-simulated radiation damage on most likely interacting pro-oxidative intermediates. Successful photoprotection with solar-simulated ultraviolet induced photodamage was recorded on a pig (in vivo experiments) by using a mixture of FA (0.5%), vitamin E (1%) and, vitamin C (15%).*

Material obtained from the Internet is generally accepted as competent evidence. See *In re Leonhardt*, 109 USPQ2d 2091, 2098 (TTAB 2008) (accepting Internet evidence to show descriptiveness); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); TMEP §710.01(b).

The Internet has become integral to daily life in the United States, with Census Bureau data showing approximately three-quarters of American households used the Internet in 2013 to engage in personal communications, to obtain news, information, and entertainment, and to do banking and shopping. See *In re Nieves & Nieves LLC*, 113 USPQ2d at 1642 (taking judicial notice of the following two official government publications: (1) Thom File & Camille Ryan, U.S. Census Bureau, Am. Cmty. Survey Reports ACS-28, *Computer & Internet Use in the United States: 2013* (2014), available at <http://www.census.gov/content/dam/Census/library/publications/2014/acs/acs-28.pdf>, and (2) The Nat'l Telecomms. & Info. Admin. & Econ. & Statistics Admin., *Exploring the Digital Nation: America's Emerging Online Experience* (2013), available at [http://www.ntia.doc.gov/files/ntia/publications/exploring\\_the\\_digital\\_nation\\_-\\_americas\\_emerging\\_online\\_experience.pdf](http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_-_americas_emerging_online_experience.pdf)). Thus, the widespread use of the Internet in the United States suggests that Internet evidence may be probative of public perception in trademark

examination.

The excerpt from the applicant's website regarding its Ferulac Peels Booster System provides the following:

*First patented liposomed peel system where the main active ingredient is the ferulic acid. Indicated for all signs of photoaging.*

#### **Properties of ferulic acid**

*The antioxidant action of ferulic acid protects the skin from the aggressions caused by free radicals. Ferulic acid inhibits and neutralizes the action of free radicals and enhances the effects of vitamins C and E. It protects the skin from UVB and UVA radiation, helping minimize the damage caused by the sun and protecting cellular DNA.*

*Controls tyrosinase activity, preventing and lightening unwanted pigmentations. It also has a pro-apoptotic effect on cancer cells.*

Material obtained from applicant's website is acceptable as competent evidence. See *In re N.V. Organon*, 79 USPQ2d 1639, 1642-43 (TTAB 2006); *In re Promo Ink*, 78 USPQ2d 1301, 1302-03 (TTAB 2006); *In re A La Vieille Russie Inc.*, 60 USPQ2d 1895, 1898 (TTAB 2001); TBMP §1208.03; TMEP §710.01(b).

Additional excerpts from the websites Wikipedia.org and IshtarSkinlights.com further indicate the benefits of mandelic acid in connection with skincare products. See attachments. Material obtained from the Internet is generally accepted as competent evidence in trademark examination. See *In re Jonathan Drew Inc.*, 97 USPQ2d 1640, 1641-42 (TTAB 2011); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-03 (TTAB 2009); *In re Leonhardt*, 109 USPQ2d 2091, 2098 (TTAB 2008); TBMP §1208.03; TMEP §710.01(b).

A novel spelling or an intentional misspelling that is the phonetic equivalent of a merely descriptive word or term is also merely descriptive if purchasers would perceive the different spelling as the equivalent of the descriptive word or term. See *In re Quik-Print Copy Shop, Inc.*, 616 F.2d 523, 526 & n.9, 205 USPQ 505, 507 & n.9 (C.C.P.A. 1980) (holding "QUIK-PRINT," phonetic spelling of "quick-print," merely descriptive of printing and photocopying services); *In re Carlson*, 91 USPQ2d 1198, 1203 (TTAB 2009) (holding "URBANHOUSING," phonetic spelling of "urban" and "housing," merely descriptive of real estate services); *In re The State Chem. Mfg. Co.*, 225 USPQ 687, 689-90 (TTAB 1985) (holding "FOM," phonetic spelling of "foam," merely descriptive of foam rug shampoo); TMEP §1209.03(j).

Therefore, the wording merely describes an ingredient, quality, characteristic, or feature of applicant's goods, namely, the applicant's goods contain this particular type of acid as an ingredient.

The wording "ferulac" must appear in its correct spelling, i.e., "ferulic" in the disclaimer. See *In re Omaha Nat'l Corp.*, 819 F.2d 1117, 1119, 2 USPQ2d 1859, 1861 (Fed. Cir. 1987); *In re Carlson*, 91 USPQ2d 1198, 1203 (TTAB 2009); TMEP §1213.08(c).

An applicant may not claim exclusive rights to terms that others may need to use to describe their goods and/or services in the marketplace. See *Dena Corp. v. Belvedere Int'l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. See *Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. See *In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant should submit a disclaimer in the following standardized format:

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

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to <http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

#### **INFORMATION REQUEST**

The nature of the goods with which applicant intends to use or is using the mark is not clear from the present record and additional information is required. To permit proper examination of the application, applicant must provide a written statement explaining whether the goods do or will contain ferulic acid.

See 37 C.F.R. §2.61(b); *In re AOP LLC*, 107 USPQ2d 1644, 1650-51 (TTAB 2013); *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re Planalytics, Inc.*, 70 USPQ2d 1453, 1457-58 (TTAB 2004); TMEP §§814, 1402.01(e).

Failure to comply with a request for information can be grounds for refusing registration. *In re AOP LLC*, 107 USPQ2d at 1651; *In re DTI*

*P'ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814. Merely stating that information about the goods or services is available on applicant's website is an inappropriate response to a request for additional information and is insufficient to make the relevant website information of record. See *In re Planalytics, Inc.*, 70 USPQ2d at 1457-58.

Applicant is advised that, if applicant's response to the request for information indicates that the goods identified in the application do not or will not contain mandelic acid, registration may be refused on the ground that the applied-for mark is deceptive. Trademark Act Section 2(a), 15 U.S.C. §1052(a); see *In re Budge Mfg. Co.*, 857 F.2d 773, 775-77, 8 USPQ2d 1259, 1260-62 (Fed. Cir. 1988); *In re ALP of S. Beach Inc.*, 79 USPQ2d 1009, 1010 (TTAB 2006); TMEP §1203.02-02(e).

#### **AMEND IDENTIFICATION OF GOODS TO AVOID DECEPTIVENESS REFUSAL**

Applicant's mark includes the wording "ferulac", which as noted above in the disclaimer section, indicates that applicant's goods have and/or exhibit, (or will have and/or will exhibit) the following feature or characteristic: ferulic acid as an ingredient.

This feature or characteristic is considered desirable for applicant's goods because ferulic acid

is an appropriate treatment for a wide variety of skin concerns, from acne to wrinkles; it is especially good in the treatment of adult acne as it addresses both of these concerns. One of the advantages of Mandelic Acid is that it is safer to use on darkly pigmented skin than glycolic acid or tretinoin. See *attachment from the website of IshtarSkinlights.com*. However, if some or all of the goods do not (or will not) in fact have or exhibit this feature or characteristic, then registration may be refused because the mark consists of or includes deceptive matter in relation to the identified goods and/or services. See 15 U.S.C. §1052(a); *In re Budge Mfg. Co.*, 857 F.2d 773, 8 USPQ2d 1259 (Fed. Cir. 1988); TMEP §1203.02-.02(b).

To avoid such refusal, applicant may amend the identification to specify that the goods and/or services possess this relevant feature or characteristic. See TMEP §§1203.02(c)(ii), (f)(i), 1402.05 *et seq.* However, merely amending the identification to exclude goods or services with the named feature or characteristic will not avoid a deceptiveness refusal. TMEP §1203.02(f)(i).

Therefore, applicant may amend the identification to the following, if accurate: Cosmetics; Facial creams; Moisturizing creams; Beauty creams; Beauty gel; Skin moisturizing gel; Beauty serum; Facial beauty serum; Facial scrubs; Body scrub; Beauty ampoules; Skin care preparations, namely, chemical peels for skin, **all of the foregoing containing ferulic acid.**

TMEP §1402.01.

**PLEASE NOTE:** An applicant may amend an identification of goods and services only to clarify or limit the goods and services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); see TMEP §§1402.06 *et seq.*, 1402.07 *et seq.*

For assistance with identifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/metahtml/tidm.html>.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. See TMEP §§705.02, 709.06.

**TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:** Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

/Ronald L. Fairbanks/  
Ronald L. Fairbanks  
Trademark Examining Attorney  
Law Office 119

(571) 272-9405  
ron.fairbanks@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/mailling date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

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

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

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

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.



# **EXHIBIT D**

# **EXHIBIT D**

## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	87201880
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 119
<b>MARK SECTION</b>	
<b>MARK</b>	<a href="https://tmng-al.uspto.gov/resting2/api/img/87201880/large">https://tmng-al.uspto.gov/resting2/api/img/87201880/large</a>
<b>LITERAL ELEMENT</b>	SESDERMA FERULAC
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font style, size or color.
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>JPG FILE(S)</b>	<a href="#">\\TICRS\EXPORT17\IMAGEOUT17\872\018\87201880\xml6\ROA0003.JPG</a>
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<b>ORIGINAL PDF FILE</b>	<a href="#">evi_502405030-20170616174131135374_170616vp.evidence_4.pdf</a>
<b>CONVERTED PDF FILE(S) (1 page)</b>	<a href="#">\\TICRS\EXPORT17\IMAGEOUT17\872\018\87201880\xml6\ROA0008.JPG</a>
	Sir/Madam: The Office found the term FERULAC to be a generic word.. Applicant respectfully disagrees. A. Applicant's Mark is not generic. The Office has not met its burden that relevant consumers in the chemical peel industry will understand the term FERULAC to be a generic term. The Office has presented dictionary evidence showing that "ferulic" is a generic term but has not presented any evidence showing a connection between FERULAC and ferulic. Attached to this Response, Applicant attaches evidence showing that the term FERULAC is not understood to be a generic term. The search results of the keyword FERULAC from the Google search engine do not display results from several companies selling ferulic related products as the

**DESCRIPTION OF EVIDENCE FILE**

Office would expect with its initial genericness position. In fact, the only company that appears on the search results is the Applicant's showing its mark FERULAC. This shows the distinctiveness of the mark FERULAC. In fact, the search results do not even pick up a misspelling and suggest the correct spelling. In addition, Applicant has used the mark FERULAC for over seven years in interstate commerce which further establishes the likelihood that FERULAC is considered a distinctive mark due to the many impressions made upon users during that time. Also, Applicant has acquired fame through its use of these intentional misspellings in this industry. Consumers have come to know that this is a branding strategy emanating from Applicant. Other marks used by Applicant in this manner are MANDELAC which is a play on mandelic, AZELAC which is a play on azelaic, and AGLICOLIC which is a play on glycolic. These few examples are illustrated in evidence showing same attached herein. Applicant also attaches evidence of its registration of AZELAC further showing the notoriety Applicant has obtained from its play on words of generic terms, which are active ingredients in Applicant's products. Applicant argues that its mark is suggestive and relevant consumers must undertake a mental step of identifying, first the active ingredient in the product, and then realizing that it is a play on words of that active ingredient. Additionally, Applicant would like to point out the sophistication of the relevant consumers as shown from the market that Applicant targets. Applicant sells high-end cosmetic products as demonstrated from the prices seen in the attached evidence. This weighs in favor of the Applicant tending to prove that consumers will likely be more scrupulous when deciding to purchase Applicant's products and more likely to identify the difference between Applicant's distinctive marks and the generic terms for the active ingredients therein. In the alternative, Applicant also attaches a Section 2(f) affidavit in the event the Office finds the mark to be descriptive rather than suggestive. B. Any Doubt Regarding the Registrability Should be Resolved in Applicant's Favor. Applicant was refused registration of its SESDERMA FERULAC mark under Section 2(e)(1). The TTAB has recognized that the intent of Section 2(e)(1) is to protect the competitive needs of others, that is "descriptive words must be left free for public use." In re Waverly Inc., 27 U.S.P.Q.2d 1620, 1623 (TTAB 1993). Moreover, when the question of registrability is a "close case, any doubt on the matter should be resolved in applicant's favor, and the mark should be published for purposes of opposition." Id. at 1624. Those in the industry can decide for themselves whether or not they believe that registration of the mark SESDERMA FERULAC will inhibit their right to compete with Applicant. See Id. III. CONCLUSION Applying the factors set forth above and the requirements of Trademark Act Section 2(e) to the present case, the Applicant's mark is not merely descriptive. Accordingly, and based on the facts in the present case, Applicant respectfully requests that the Office withdraw the descriptiveness objection, and approve the Applicant's Mark for publication. In the alternative, Applicant requests that the Office accept its Section 2(f) affidavit to find that Applicant's mark has acquired distinctiveness in view of its continuous use of over five years.

**GOODS AND/OR SERVICES SECTION (current)**

INTERNATIONAL CLASS

003

**DESCRIPTION**

Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulac

FILING BASIS

Section 1(a)

FIRST USE ANYWHERE DATE

At least as early as 05/12/2010

FIRST USE IN COMMERCE DATE

At least as early as 05/12/2010

**GOODS AND/OR SERVICES SECTION (proposed)**

INTERNATIONAL CLASS

003

**TRACKED TEXT DESCRIPTION**

Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules,

namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; ~~Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid~~; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid

**FINAL DESCRIPTION**

Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid

<b>FILING BASIS</b>	Section 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 05/12/2010
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 05/12/2010

**ADDITIONAL STATEMENTS SECTION**

<b>SECTION 2(f) Claim of Acquired Distinctiveness, based on Five or More Years' Use</b>	The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.
-----------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**SIGNATURE SECTION**

<b>DECLARATION SIGNATURE</b>	/Gabriel Serrano/
<b>SIGNATORY'S NAME</b>	Gabriel Serrano
<b>SIGNATORY'S POSITION</b>	Managing Member
<b>SIGNATORY'S PHONE NUMBER</b>	305-447-1617
<b>DATE SIGNED</b>	06/16/2017
<b>RESPONSE SIGNATURE</b>	/CS/
<b>SIGNATORY'S NAME</b>	Christian Sanchelima, Esq.
<b>SIGNATORY'S POSITION</b>	Attorney of Record
<b>SIGNATORY'S PHONE NUMBER</b>	305-447-1617
<b>DATE SIGNED</b>	06/16/2017
<b>AUTHORIZED SIGNATORY</b>	YES

**FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Fri Jun 16 17:51:46 EDT 2017
<b>TEAS STAMP</b>	USPTO/ROA-XX.XXX.XX.XX-20 170616175146104968-872018 80-5905fd3396386ab6919ab8 aeb92b67bedcccc11bdbfc167 b75b966967d7e79cc350-N/A- N/A-20170616174131135374

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.  
OMB Control Number: 0700-0047  
 Agency Use Only (Do Not Write)

**Response to Office Action**

**To the Commissioner for Trademarks:**

Application serial no. **87201880** SESDERMA FERULAC(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87201880/large>)

has been amended as follows:

#### **EVIDENCE**

Evidence in the nature of Sir/Madam: The Office found the term FERULAC to be a generic word.. Applicant respectfully disagrees. A. Applicant's Mark is not generic. The Office has not met its burden that relevant consumers in the chemical peel industry will understand the term FERULAC to be a generic term. The Office has presented dictionary evidence showing that "ferulic" is a generic term but has not presented any evidence showing a connection between FERULAC and ferulic. Attached to this Response, Applicant attaches evidence showing that the term FERULAC is not understood to be a generic term. The search results of the keyword FERULAC from the Google search engine do not display results from several companies selling ferulic related products as the Office would expect with its initial genericness position. In fact, the only company that appears on the search results is the Applicant's showing its mark FERULAC. This shows the distinctiveness of the mark FERULAC. In fact, the search results do not even pick up a misspelling and suggest the correct spelling. In addition, Applicant has used the mark FERULAC for over seven years in interstate commerce which further establishes the likelihood that FERULAC is considered a distinctive mark due to the many impressions made upon users during that time. Also, Applicant has acquired fame through its use of these intentional misspellings in this industry. Consumers have come to know that this is a branding strategy emanating from Applicant. Other marks used by Applicant in this manner are MANDELAC which is a play on mandelic, AZELAC which is a play on azelaic, and AGLICOLIC which is a play on glycolic. These few examples are illustrated in evidence showing same attached herein. Applicant also attaches evidence of its registration of AZELAC further showing the notoriety Applicant has obtained from its play on words of generic terms, which are active ingredients in Applicant's products. Applicant argues that its mark is suggestive and relevant consumers must undertake a mental step of identifying, first the active ingredient in the product, and then realizing that it is a play on words of that active ingredient. Additionally, Applicant would like to point out the sophistication of the relevant consumers as shown from the market that Applicant targets. Applicant sells high-end cosmetic products as demonstrated from the prices seen in the attached evidence. This weighs in favor of the Applicant tending to prove that consumers will likely be more scrupulous when deciding to purchase Applicant's products and more likely to identify the difference between Applicant's distinctive marks and the generic terms for the active ingredients therein. In the alternative, Applicant also attaches a Section 2(f) affidavit in the event the Office finds the mark to be descriptive rather than suggestive. B. Any Doubt Regarding the Registrability Should be Resolved in Applicant's Favor. Applicant was refused registration of its SESDERMA FERULAC mark under Section 2(e)(1). The TTAB has recognized that the intent of Section 2(e)(1) is to protect the competitive needs of others, that is "descriptive words must be left free for public use." In re Waverly Inc., 27 U.S.P.Q.2d 1620, 1623 (TTAB 1993). Moreover, when the question of registrability is a "close case, any doubt on the matter should be resolved in applicant's favor, and the mark should be published for purposes of opposition." Id. at 1624. Those in the industry can decide for themselves whether or not they believe that registration of the mark SESDERMA FERULAC will inhibit their right to compete with Applicant. See Id. III. CONCLUSION Applying the factors set forth above and the requirements of Trademark Act Section 2(e) to the present case, the Applicant's mark is not merely descriptive. Accordingly, and based on the facts in the present case, Applicant respectfully requests that the Office withdraw the descriptiveness objection, and approve the Applicant's Mark for publication. In the alternative, Applicant requests that the Office accept its Section 2(f) affidavit to find that Applicant's mark has acquired distinctiveness in view of its continuous use of over five years. has been attached.

#### **JPG file(s):**

Evidence-1

Evidence-2

#### **Original PDF file:**

evi\_502405030-20170616174131135374\_170616vp.Certificate\_of\_Registration.pdf

**Converted PDF file(s) ( 1 page)**

Evidence-1

#### **Original PDF file:**

evi\_502405030-20170616174131135374\_170616vp.evidence\_1.pdf

**Converted PDF file(s) ( 1 page)**

Evidence-1

#### **Original PDF file:**

evi\_502405030-20170616174131135374\_170616vp.evidence\_2.pdf

**Converted PDF file(s) ( 1 page)**

Evidence-1

#### **Original PDF file:**

evi\_502405030-20170616174131135374\_170616vp.evidence\_3.pdf

**Converted PDF file(s) ( 1 page)**

Evidence-1

#### **Original PDF file:**

evi\_502405030-20170616174131135374\_170616vp.evidence\_4.pdf

**Converted PDF file(s) ( 1 page)**

Evidence-1

#### **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

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

**Current:** Class 003 for Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist;

Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid  
Original Filing Basis:

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 05/12/2010 and first used in commerce at least as early as 05/12/2010, and is now in use in such commerce.

**Proposed:**

**Tracked Text Description:** Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid

Class 003 for Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty Ampoules, namely, skin moisturizers, skin softeners, facial moisturizers, and skin firming serums; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin, all of the foregoing containing ferulic acid

**Filing Basis: Section 1(a), Use in Commerce:** The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 05/12/2010 and first used in commerce at least as early as 05/12/2010, and is now in use in such commerce.

**ADDITIONAL STATEMENTS**

**SECTION 2(f) Claim of Acquired Distinctiveness, based on Five or More Years' Use**

The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.

**SIGNATURE(S)**

**Declaration Signature**

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

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

**STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION AND FOR SECTION 66(a)**

**COLLECTIVE/CERTIFICATION MARK APPLICATION:** If the applicant filed an unsigned application under 15 U.S.C. §§ 1051(b), 1126(d), and/or 1126(e), or filed a collective/certification mark application under 15 U.S.C. § 1141f(a), the signatory additionally believes that: *for a trademark or service mark application*, the applicant is entitled to use the mark in commerce on or in connection with the goods/services specified in the application; the applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date; *for a collective trademark, collective service mark, collective membership mark, or certification mark application*, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; *for a certification mark application*, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in**

commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.

Signature: /Gabriel Serrano/ Date: 06/16/2017  
Signatory's Name: Gabriel Serrano  
Signatory's Position: Managing Member  
Signatory's Phone Number: 305-447-1617

**Response Signature**

Signature: /CS/ Date: 06/16/2017  
Signatory's Name: Christian Sanchelima, Esq.  
Signatory's Position: Attorney of Record

Signatory's Phone Number: 305-447-1617

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

Serial Number: 87201880  
Internet Transmission Date: Fri Jun 16 17:51:46 EDT 2017  
TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20170616175146104  
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# United States of America

United States Patent and Trademark Office

## AZELAC

**Reg. No. 5,048,371**

**Registered Sep. 27, 2016**

**Int. Cl.: 3**

**Trademark**

**Principal Register**

SESDERMA, S.L. (SPAIN LIMITED LIABILITY COMPANY)  
Massamagrell No.3, Pol. Ind. Rafelbuñol  
Vlencia SPAIN 46138

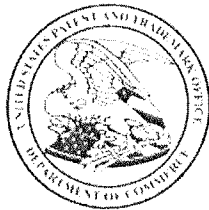
CLASS 3: Cosmetics; Facial creams; Beauty creams; Moisturizing creams; Beauty gel; Skir moisturizing gel; Facial lotion; Body lotions; Face and body lotions; Hair lotions; Lotions for face, body and hair; Skin care preparations, namely, chemical peels for skin; all of the foregoing containing Azelaic acid

FIRST USE 9-24-2001; IN COMMERCE 9-24-2001

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SEC.2(F)

SER. NO. 86-857,238, FILED 12-22-2015  
MICHAEL THOMAS EBAUGH, EXAMINING ATTORNEY



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office



About 71,500 results (0.62 seconds)

Shop for ferulac on Google

Sponsored



Sesderma FERULAC Liposomal Serum ...  
\$54.60  
Care to Beauty



Sesderma Ferulac Ampoules 5 Units 10 ...  
\$29.16  
Carethy.us



Sesderma Ferulac Liposomal Serum ...  
\$70.00  
eBay



Sesderma Ferulac Serum + Sesgen 32 ...  
\$53.19  
Carethy.us

New Ferric Acid Chemical Peel: Ferulac Peel® | PRIME Journal

<https://www.prime-journal.com/new-ferric-acid-chemical-peel-ferulac-peel/>  
Apr 13, 2015 - Ferulac peel is a superficial chemical peel system based on ferulic acid and phloretin plus fruit acids and retinoids. it goes a step further by ...

Ferulac Nano-Peels Weston | Ferulac Acid Skin Treatment Fort ...

[www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/](http://www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/)  
Ferulac peel system is a very potent and safe peel system. Due to its composition, the main indication of this system is the photoageing with benefits in melasma, ...

Nuevo tratamiento de belleza, el Ferulac Peel, usa la nano-tecnología ...



<https://www.youtube.com/watch?v=-6KrAQUXko>  
Mar 28, 2013 - Uploaded by Univision Noticias  
Cecilia Ramirez Harris nos habla del prometedor tratamiento que promete rejuvenecer la piel, eliminando las ...

FERULAC SERUM 30 ML - Skinshops Sesderma

[www.sesdermaskinshopusa.com/productos/detalle/40000644/3771](http://www.sesdermaskinshopusa.com/productos/detalle/40000644/3771)  
FERULAC SERUM 30 ML. Description. Help to reduce the appearance of damaged skin by the sun.

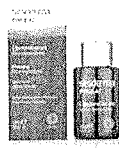
Page 2 of about 71,500 results (0.34 seconds)

Shop for ferulac on Google

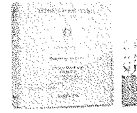
Sponsored



Sesderma FERULAC ...  
\$54.60  
Care to Beauty



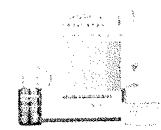
Sesderma Serum Ferulac 30 ml  
\$48.62  
Carethy.us



Sesderma Ferulac ...  
\$29.16  
Carethy.us



Sesderma Ferulac ...  
\$70.00  
eBay



Sesderma Ferulac Serum ...  
\$53.19  
Carethy.us

FERULAC PEEL - Mediderma UK

mediderma.co.uk > Home > PROFESSIONAL USE > LIPOSOMED PEELS  
FERULAC PEEL. Items 1 to 3 of 3 total ... FERULAC CLASSIC 60 ml - pH 4.5 · NOT AVAILABLE ...  
FERULAC NANO ADDITIVE MIST 20 ml - pH 6.5 · FERULAC ...

FERULAC SERUM 30 ML - Sesderma

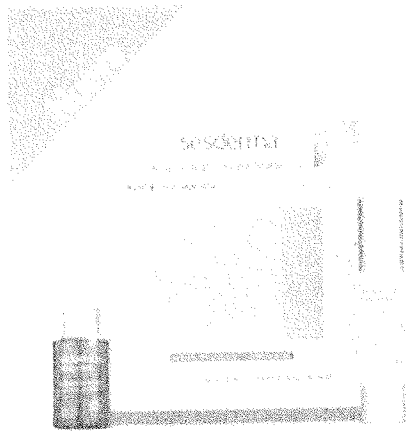
https://www.sesderma.com/eu\_en/ferulac-serum-30-ml.html  
Intensive base serum. Complementary product in antioxidant treatments.

FERULAC ANTIAGING SYSTEM 60ML - Sesderma

https://www.sesderma.com/eu\_en/ferulac-antiaging-system-60ml.html  
€47.96

- NOVEDADES
- OFERTAS DESTACADAS
- LO MAS VENDIDO

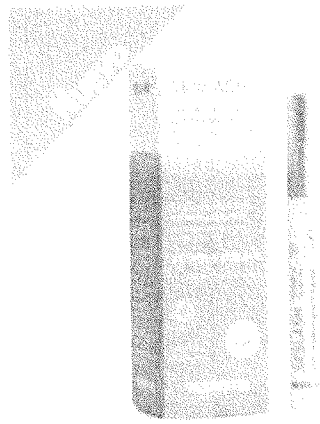
Ver todos los productos



**SOS DENTIN**  
 Crema dental para aliviar el dolor de  
 dientes sensibles

39.95 €

Comprar



**SOS DENTIN**  
 Crema dental para aliviar el dolor de  
 dientes sensibles

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Comprar

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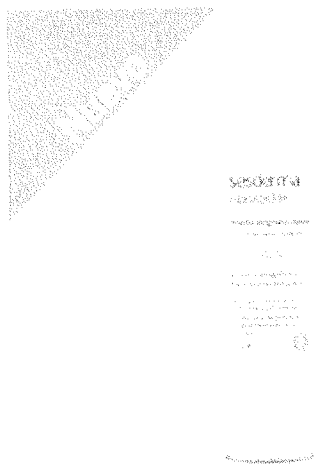
Chat

**NOVEDADES**

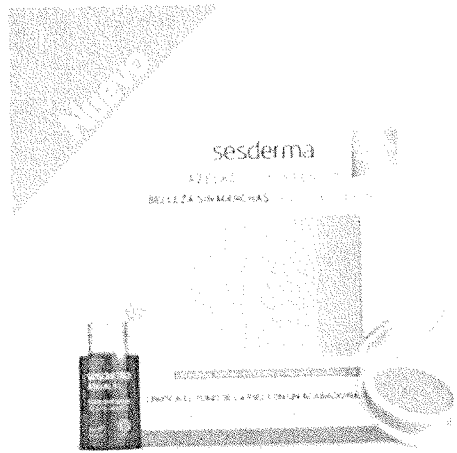
**OFERTAS DESTACADAS**

**LO MÁS VENDIDO**

Ver todos los productos



HIDRADEMA CREMA  
MANOS S.O.M.E.



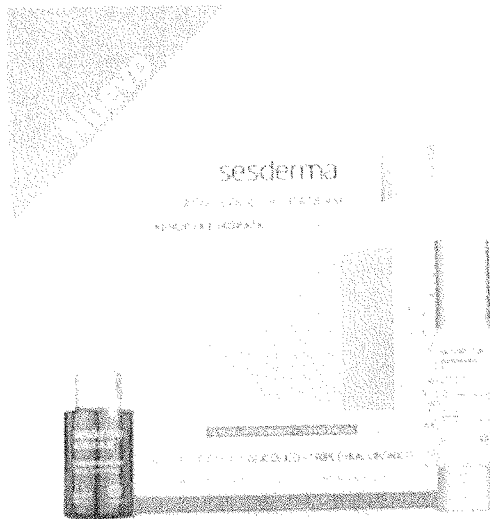
PROMOFAZELA CREMA  
SOLAR SENSES COMPLETA  
LIGHT

NOVEDADES

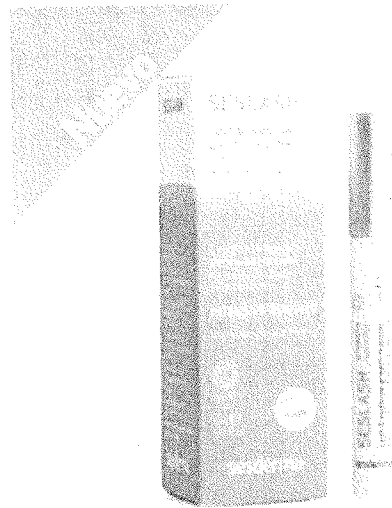
OFERTAS DESTACADAS

LO MAS VENDIDO

Ver todas las novedades



PROMO ACRILICOM



RESLASH SERUM

NOVEDADES

OFERTAS DESTACADAS

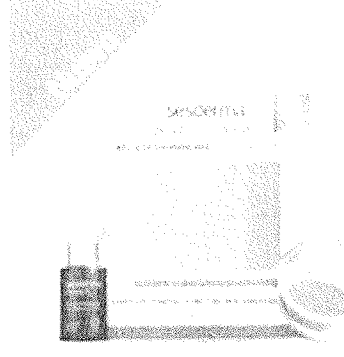
LO MAS VENDIDO



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SENSITIVA

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SENSITIVA

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# **EXHIBIT E**

# **EXHIBIT E**

---

**To:** SESDERMA, S.L. ([tm@sanchelima.com](mailto:tm@sanchelima.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87201880 - SESDERMA FERULAC - 360455.1  
**Sent:** 7/13/2017 12:14:57 PM  
**Sent As:** ECOMI19@USPTO.GOV  
**Attachments:**

---

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION  
SERIAL NO. 87201880

MARK: SESDERMA  
FERULAC

**\*87201880\***

CORRESPONDENT  
ADDRESS:  
CHRISTIAN  
SANCHELIMA,  
SANCHELIMA &  
ASSOCIATES, P.A.  
235 SW LE JEUNE  
ROAD  
MIAMI, FL 33134

**CLICK HERE TO RESPOND TO THIS  
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APPLICANT:  
SESDERMA, S.L.

CORRESPONDENT'S  
REFERENCE/DOCKET  
NO:  
360455.1  
CORRESPONDENT  
E-MAIL ADDRESS:  
[tm@sanchelima.com](mailto:tm@sanchelima.com)

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW. A RESPONSE TRANSMITTED THROUGH THE TRADEMARK ELECTRONIC APPLICATION SYSTEM (TEAS) MUST BE RECEIVED BEFORE MIDNIGHT EASTERN TIME OF THE LAST DAY OF THE RESPONSE PERIOD.

**ISSUE/MAILING DATE:** 7/13/2017

This Office action is in response to applicant's communication filed on June 16, 2017.

In the previous Office action, applicant was required to disclaim the wording "ferulac" because it is the phonetic equivalent "ferulic" and merely describes an ingredient, quality, characteristic, or feature of applicant's goods, and thus is an unregistrable component of the mark. Additionally, the applicant was required to amend the identification of goods to avoid deceptiveness. The identification has been acceptably amended. In response to the disclaimer requirement, the applicant has submitted a Section 2(f) claim of acquired distinctiveness of the entire mark based on five or more years of substantially exclusive and continuous use in commerce.

A review of the record indicates that applicant's previously registered mark SESDERMA is inherently distinctive and should not be included in the Section 2(f) claim. Accordingly, the claim of acquired distinctiveness should be amended as follows:

**SECTION 2(f) IN PART – DISTINCTIVENESS OF A PORTION OF THE MARK**



Applicant may submit a verified statement that *that portion of the mark* has become distinctive of applicant's goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for the five years before the date when the claim of distinctiveness is made. TMEP §1212.02(f)(i); see 37 C.F.R. §2.41(a)(2). Applicant may do so by submitting the following statement, if accurate: "**The wording MANDELAC in the mark has become distinctive of the goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.**" TMEP §1212.05(d).

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. See TMEP §§705.02, 709.06.

**TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:** Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

/Ronald L. Fairbanks/  
Ronald L. Fairbanks  
Trademark Examining Attorney  
Law Office 119  
(571) 272-9405  
ron.fairbanks@uspto.com

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

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

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

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

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

# EXHIBIT F

# EXHIBIT F

## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	87201880
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 119
<b>MARK SECTION</b>	
<b>MARK</b>	<a href="https://tmng-al.uspto.gov/resting2/api/img/87201880/large">https://tmng-al.uspto.gov/resting2/api/img/87201880/large</a>
<b>LITERAL ELEMENT</b>	SESDERMA FERULAC
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font style, size or color.
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>MISCELLANEOUS STATEMENT</b>	The wording FERULAC in the mark has become distinctive of the goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.
<b>SECTION 2(f) Claim of Acquired Distinctiveness, IN PART, based on Five or More Years' Use</b>	The wording "FERULAC" has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.
<b>SIGNATURE SECTION</b>	
<b>DECLARATION SIGNATURE</b>	/Gabriel Serrano/
<b>SIGNATORY'S NAME</b>	Gabriel Serrano
<b>SIGNATORY'S POSITION</b>	Managing Member
<b>SIGNATORY'S PHONE NUMBER</b>	305-447-1617
<b>DATE SIGNED</b>	07/17/2017
<b>RESPONSE SIGNATURE</b>	/CS/
<b>SIGNATORY'S NAME</b>	Christian Sanchelima, Esq.
<b>SIGNATORY'S POSITION</b>	Attorney of Record
<b>SIGNATORY'S PHONE NUMBER</b>	305-447-1617
<b>DATE SIGNED</b>	07/17/2017
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Jul 17 15:23:43 EDT 2017
	USPTO/ROA-XX.XXX.XX.XX-20 170717152343455988-872018

TEAS STAMP

80-5103ebe64f40fd753048c9  
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cdad01dc56bda10f318-N/A-N  
/A-20170717150734400293

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## Response to Office Action

### To the Commissioner for Trademarks:

Application serial no. **87201880** SESDERMA FERULAC(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/87201880/large>) has been amended as follows:

#### ADDITIONAL STATEMENTS

##### Miscellaneous Statement

The wording FERULAC in the mark has become distinctive of the goods and/or services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.

##### SECTION 2(f) Claim of Acquired Distinctiveness, IN PART, based on Five or More Years' Use

The wording "FERULAC" has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.

#### SIGNATURE(S)

Declaration Signature

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

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

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

**mark application**, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; **for a certification mark application**, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

Signature: /Gabriel Serrano/ Date: 07/17/2017  
Signatory's Name: Gabriel Serrano  
Signatory's Position: Managing Member  
Signatory's Phone Number: 305-447-1617

**Response Signature**

Signature: /CS/ Date: 07/17/2017  
Signatory's Name: Christian Sanchelima, Esq.  
Signatory's Position: Attorney of Record

Signatory's Phone Number: 305-447-1617

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

Serial Number: 87201880  
Internet Transmission Date: Mon Jul 17 15:23:43 EDT 2017  
TEAS Stamp: USPTO/ROA-XX.XXX.XX.XX-20170717152343455  
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a90898ebd2a38bd553f1cdad01dc56bda10f318-  
N/A-N/A-20170717150734400293

**EXHIBIT G**

**EXHIBIT G**



what is ferulac?



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A 2004 Italian study concluded that **ferulic acid** is a more powerful antioxidant than alpha-tocopherol (vitamin E), beta-carotene, and ascorbic acid (vitamin C). ... Naturally this super antioxidant does more than prevent wrinkles. It fights cancer, is helpful for diabetics and even reduces hot flashes.



**Ferulac Nano-Peels Weston | Ferulac Acid Skin Treatment Fort ...**  
[www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/](http://www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/)

About this result Feedback

**Ferulac Nano-Peels Weston | Ferulac Acid Skin Treatment Fort ...**  
[www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/](http://www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/) ▼  
 A 2004 Italian study concluded that ferulic acid is a more powerful antioxidant than alpha-tocopherol (vitamin E), beta-carotene, and ascorbic acid (vitamin C). ... Naturally this super antioxidant does more than prevent wrinkles. It fights cancer, is helpful for diabetics and even reduces hot flashes.

**New Ferric Acid Chemical Peel: Ferulac Peel® | PRIME Journal**  
<https://www.prime-journal.com/new-ferric-acid-chemical-peel-ferulac-peel/> ▼  
 Apr 13, 2015 - This line includes the Ferulac peel, a patented antioxidant system designed to deliver multiple benefits with no irritation or risk of hyperpigmentation for any Fitzpatrick skin type. Ferulac peel is a superficial chemical peel system based on ferulic acid and phloretin plus fruit acids and retinoids.

**Gala's Skin Care | Liposomal Ferulac**  
[galasskincare.com/liposomal-ferulac/](http://galasskincare.com/liposomal-ferulac/) ▼  
 What is Ferulic acid and why is it so important, especially during high UV month? Ferulic acid is found in the cells walls of plants such as wheat, rice, peanuts, oranges, and apples. It seems to be particularly abundant in coffee and amaranth (the name comes from Greek for "the one that does not wither," presumably as a ...

**[PDF] Ferulac Peel System.**  
[mediderma.co.in/pdf/Sesderma%20August%20Article%20in%20Article%20Format.pdf](http://mediderma.co.in/pdf/Sesderma%20August%20Article%20in%20Article%20Format.pdf) ▼  
 Rejuvenation of Photo-damaged Skin with New Ferulic Acid Chemical Peel: Ferulac Peel System. 6 Aug 2015. Rejuvenation of Photo-damaged Skin with New Ferulic Acid Chemical. Peel: Ferulac Peel System. Dr. Gabriel Serrano Sanmiquel. M.D & Ph D. Dermatology and Venerology. General Director of Dr. Serrano ...

**Ferulac Peel | Kaya Oman**  
<https://www.kayaskindclinic.com/oman/en/solutions/ferulac-peel/> ▼  
 While exfoliation methods range from simple mechanical techniques to chemical agents of varying degrees of intensity, the latest advancement has come from a smart application of nanotechnology: the revolutionary Ferulac Peel. All chemical peels when applied to the skin, cause controlled destruction of the superficial ...

**Amazon.com: Sesderma Ferulac Liposomal Serum, 1.0 Fl Oz: Luxury ...**  
<https://www.amazon.com/Sesderma-Ferulac-Liposomal-Serum-1-0z.../B00B10F29M> ▼  
 Product Description. Moisturizing serum with an antioxidant cocktail of Ferulic acid, Phloretin, Vitamin C+E+A. Prevents and treat photo aging, minimizing the damage caused by sunlight: Dehydration, wrinkles and stains. European laboratory that specializes in encapsulation of active ingredients using Nanotechnology ...

**Chemical Peeling | Sinine Salong**  
[www.sinine.ee/en/kosmeetik-2/keemiline-koorimine/](http://www.sinine.ee/en/kosmeetik-2/keemiline-koorimine/) ▼  
 By inducing production of new collagen and stimulating new healthy skin cell growth, peels help reveal a more youthful, radiant complexion. Ferulac Peeling procedure is the first patented liposomal peel system where the main active ingredient is the ferulic acid. Indicated for all signs of photoaging. Properties of ferulic acid

**Before and After ONE Ferulac Peel - Yelp**  
[https://www.yelp.com/biz\\_photos/sesderma-urban-spa-and-skin-shop-coral-gables?..](https://www.yelp.com/biz_photos/sesderma-urban-spa-and-skin-shop-coral-gables?..) ▼  
 Sep 16, 2014 - Photo of Sesderma Urban Spa & Skin Shop - "Before and After ONE Ferulac Peel" - Coral Gables, FL.

**EXHIBIT H**

**EXHIBIT H**





what is ferulac acid?



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Did you mean: what is **ferulic** acid?

Ferulac Peeling procedure is the first patented **liposomed** peel system where the main active ingredient is the ferulic acid. Indicated for all signs of photoaging. The antioxidant action of ferulic acid protects the skin from the aggressions caused by free radicals.

Chemical Peeling | Sinine Salong  
[www.sinine.ee/en/kosmeetik-2/keemiline-koorimine/](http://www.sinine.ee/en/kosmeetik-2/keemiline-koorimine/)

About this result Feedback

**New Ferric Acid Chemical Peel: Ferulac Peel® | PRIME Journal**  
<https://www.prime-journal.com/new-ferric-acid-chemical-peel-ferulac-peel/>  
 Apr 13, 2015 - This line includes the Ferulac peel, a patented antioxidant system designed to deliver multiple benefits with no irritation or risk of hyperpigmentation for any Fitzpatrick skin type. Ferulac peel is a superficial chemical peel system based on ferulic acid and phloretin plus fruit acids and retinoids.

**Ferulac Nano-Peels Weston | Ferulac Acid Skin Treatment Fort ...**  
[www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/](http://www.westonhcgcenter.com/medical-spa-services-weston/ferulac-nano-peels/)  
 Due to its composition, the main indication of this system is the photoageing with benefits in melasma, acne, and rosacea. Ferulac Peel is able to reduce signs of photoaging such as fine wrinkles, promote even skin tone by reducing hyperpigmentation, and return skin to its natural ...

**[PDF] Ferulac Peel System.**  
[mediderma.co.in/pdf/Sesderma%20August%20Article%20in%20Article%20Format.pdf](http://mediderma.co.in/pdf/Sesderma%20August%20Article%20in%20Article%20Format.pdf)  
 Aug 6, 2015 - Ferulac peel is a USFDA PATENTED, superficial potent chemical peel system based on ferulic acid and phloretin, fruit acids and retinoids.

**Ferulac Peel | Kaya Oman**  
<https://www.kayaskinclinic.com/oman/en/solutions/ferulac-peel/>  
 The Ferulac Peel system is based on a blend of ferulic acid, phloretin, retinoids and fruit acids. Ferulic acid is an antioxidant which reduces the negative effects of free radicals, repairs DNA damage and enhances the positive of Vitamin C and E. It combats pigmentation and protects the skin from UVA and UVB radiation.

**Chemical Peeling | Sinine Salong**  
[www.sinine.ee/en/kosmeetik-2/keemiline-koorimine/](http://www.sinine.ee/en/kosmeetik-2/keemiline-koorimine/)  
 By inducing production of new collagen and stimulating new healthy skin cell growth, peels help reveal a more youthful, radiant complexion. Ferulac Peeling procedure is the first patented liposomed peel system where the main active ingredient is the ferulic acid. Indicated for all signs of photoaging.  
 Properties of ferulic acid

**FERULAC PEEL®, NOMELEN CAFFEICO® | Krak-Medica Kraków**  
[www.krak-medica.pl/ferulac-peel-nomelan-caffeico/](http://www.krak-medica.pl/ferulac-peel-nomelan-caffeico/)  
 anti-aging concept, portrait of beautiful woman with problem and Ferulac Peel® and Nomelan Caffeco® are new generation line of products dedicated to skin with signs of photoageing, melasma and discolouration of various origin (hormonal, postinflammatory, after sun). Ferulic acid is nowadays one of the most effective ...

**Gala's Skin Care | Liposomal Ferulac**  
[galasskincare.com/liposomal-ferulac/](http://galasskincare.com/liposomal-ferulac/)  
 What is Ferulic acid and why is it so important, especially during high UV month? Ferulic acid is found in the cells walls of plants such as wheat, rice, peanuts, oranges, and apples. It seems to be particularly abundant in coffee and amaranth (the name comes from Greek for "the one that does not wither," presumably as a ...

**7 days Ferulac Acid Therapy | Clarena - The Official Online Store**  
[https://www.e-clarena.eu/---acid-line\\_7-days-ferulac-acid-therapy\\_...](https://www.e-clarena.eu/---acid-line_7-days-ferulac-acid-therapy_...)  
 Translate this page  
 A seven-day serum preparing the skin for acid exfoliation treatments. For mature skin 40+. The serum contains a low-concentration Ferulac Acid, prepares the skin for the absorption of high-concentration acids which form the basis of stronger exfoliating cosmetics used in beauty salons. It gently peels the epidermis, ...

# **EXHIBIT I**

# **EXHIBIT I**

## CONSULTATION SERVICES

### PHONE CONSULTATION

Are you unable to experience facial services in our studio but have skin care goals? Great news! Our skin therapist will guide you on your skin care journey advising you on a skin care regimen, diet, and lifestyle to achieve beautiful skin. \$50

## FACIAL SERVICES

### GLOW FACIAL

Our handmade organic products along with microdermabrasion crystals are used in this treatment to correct uneven skin complexions and textures. Concentrated amounts of vitamin C guarantee skin will be extra silky and radiant. \$95

### MANSCAPING FACIAL mild/intense

The ultimate deep pore grooming treatment with special care to the beard area, including extraction of ingrown hairs and infection. Skin discoloration and scarring will be greatly improved. \$115/\$150

### THE FLESH SKIN PEEL

Ferulic acid stimulates cell replacement causing the superficial layers of the skin to peel away severe discoloration, scar tissue, and rough texture. The Flesh Skin Peel will reveal a flawless canvas! \$200

### AGE DEFYING FACIAL

This intense anti-wrinkle procedure protects cellular DNA and prolongs skin's youth. Powerful anti-aging results! This facial includes firming techniques, and erasing of discoloration creating a smooth clear surface. \$125

### PURIFYING FACIAL

Organic ingredients are used in this treatment focusing on correcting, balancing, and preventing moderate to severe acne symptoms. \$100

### INGROWN HAIR BE GONE

A specific treatment focused solely on the extraction of ingrown hair and infection of the beard area. \$60

## Coming Soon!

Detox body wrapping  
Nutrition consulting & coaching  
Detox juice bar

*Click here to check out our Fall into Beautiful Skin Packages!*

## DETOX SERVICES

### IONIC FOOT DETOX (temporarily unavailable)

Detox through your feet with this relaxing detox bath. This treatment has been reported to help cleanse the body from heavy metals, yeast, cellular debris, yeast and mites. \$40

### EAR CANDLING

This relaxing process is a gentle vacuum of the ear that deep cleans wax build up from deep within the ear canal. Sinus pressure and allergies are relieved in this treatment as well. \$35

### V-STEAM

The ancient Korean treatment also known as the yoni steam or Korean hip bath provides a steam treatment for the vagina and anus to release toxins. A combination of up to 30 herbs are steamed to cleanse, nourish, and tone the cervix, uterus, vaginal and anus tissues. Other possible benefits include the relief of menstrual cramps, minor bacterial infections, and fibroids. This treatment is also known to improve fertility. \$75



All About Skin Laser Center  
5568 S Fort Apache Rd  
Las Vegas, NV 89148  
(702) 637-3227



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- Services
- Appointment Request
- Hours & Location

search...

Sub

Home / Services / Chemical Peels

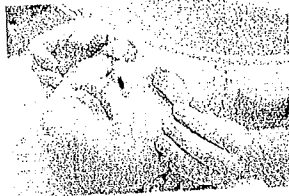
## Chemical Peels

We offer a wide array of *chemical peels* at All About Skin Laser Center. Glycolic Acid Peels which vary in strength, and TCA peels or Trichloroacetic Acid peels, Amino Acid, Lactic Acid, Salicylic Acid, Ferulic Acid also in different strengths.



### Who can benefit from Chemical Peels?

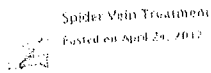
Chemical Peels benefit those who have acne, sun damaged and/or aging skin. The peels are applied by a trained professional at the All About Skin Laser Center. Once applied to the face and after a specific amount of time the area is neutralized. The process causes old skin cells to slough off (exfoliate). This causes the encouragement of the regrowth of new cells, and at a more rapid rate. The new cell growth in turn encourages production of collagen to the skin, reduces pore size and helps to reduce fine lines and wrinkles as well as pigmentation and clogged pores. Depending on the strength of the chemical peel used, the patient will experience some superficial peeling which usually involves redness followed by scabbing that usually lasts 3-5 days. Peels are usually done on a monthly basis. We often use chemical peels in combination with other treatment to achieve more supple healthy looking and feeling skin.



Volanda

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Laser Center

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[allaboutskenlasvegas@gmail.com](mailto:allaboutskenlasvegas@gmail.com)



702-524-1530

## Facials

🕒 February 19, 2017

### Facials

#### Chemical Peels

(<http://hairremovallasvegas.net/wp-content/uploads/2012/04/Chemical-Peel-Las-Vegas.png>)

We offer a wide array of *chemical peels* at All About Skin Laser Center: Glycolic Acid Peels which vary in strength, and TCA peels or Trichloroacetic Acid peels, Amino Acid, Lactic Acid, Salicylic Acid, Ferulac Acid also in different strengths.



#### Who can benefit from Chemical Peels?

Chemical Peels benefit those who have acne, sun damaged and or aging skin. The peels are applied by a trained professional at the All About Skin Laser Center. Once applied to the face and after a specific amount of time the area is neutralized. The process causes old skin cells to slough off (exfoliate). This causes the encouragement of the regrowth of new cells, and at a more rapid rate. The new cell growth in turn encourages production of collagen to the skin, reduces pore size and


helps to reduce fine lines and wrinkles as well as pigmentation and clogged pores. Depending on the strength of the chemical peel used, the patient will experience some superficial peeling which usually involves redness followed by scaling that usually lasts 3-5 days. Peels are usually done on a monthly basis. We often use chemical peels in combination with other treatment (<http://hairremovallasvegas.net/laser-center-services/>) to achieve more supple healthy looking and feeling skin.

Additional services offered:

Micro dermabrasion

Oxygen Facials

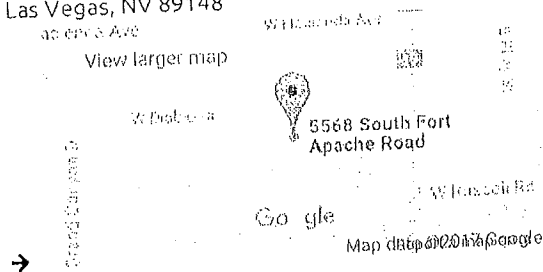
LED Light

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→ Phone  
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## Ferulac Nano-Peels





- Indicated for all skin types, ethnicities and for use in any season.

"\*\*\*\*\*"

- Paraben FREE

NANOTECH

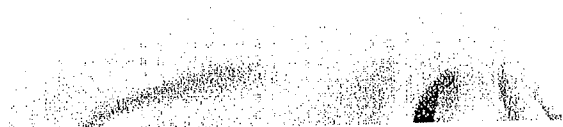
### SPOTLESS TARGET PEEL

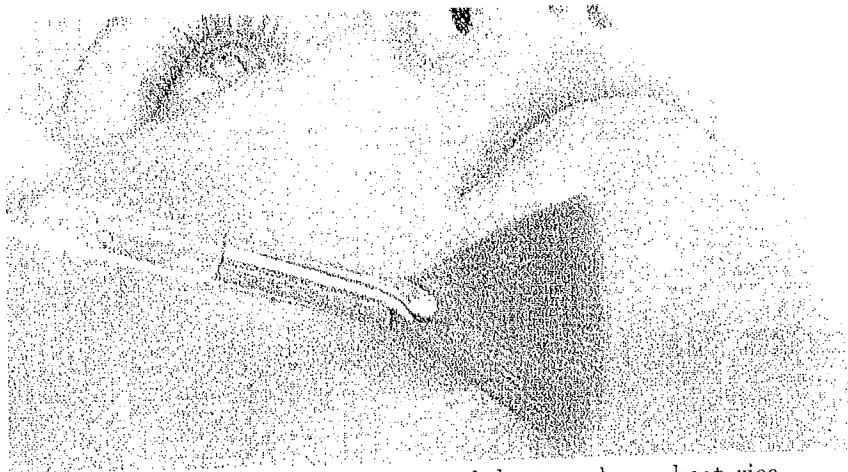
Specifically designed to eliminate Dark Spots, Lentigines, Sun-spots, Acne-scars (Post Inflammatory Hyperpigmentation), Vascular Melasma and ALL types of Hyperpigmentation. The Target Nano-Peel combines powerful lightening agents with growth factors that work from the deepest layer of your skin. As its name describes, this treatment only targets the current lesions and prevents forthcoming darkening of the skin by inhibiting future Melanin production. The active ingredients are encapsulated in liposomes and peptides which guarantee "the safety and precision" of the treatment, with no risk of irritating the Dermis or causing any side-effects! You will experience an instant brightening of the skin, improved complexion, and a smooth texture!

### AGELESS FERULAC SYSTEM

Our patented anti-aging formula features a cocktail of mega antioxidants that include Stem-cells, Growth-factors, DMAE, DNA-repairing enzymes, Vitamins A & C, Ferulic Acid, Zinc and the purest form of Amino-acids. After just **ONE** treatment, the appearance of fine wrinkles, dark-spots, and large pores are reduced. Elastin and Collagen levels in your skin automatically increase; giving your face & neck an immediate lift! The production of ceramides is instantly recharged improving your skin's ability to retain its natural moisture. **This treatment repairs previous photo-damage while increasing cell-turn over for months!**

WHAT IS FERULAC ACID AND WHY IS IT SO IMPORTANT, ESPECIALLY DURING HIGH UV MONTH?





Ferulic acid is found in the cells walls of plants such as wheat, rice, peanuts, oranges, and apples. It seems to be particularly abundant in coffee and amaranth (the name comes from Greek for "the one that does not wither," presumably as a result of all the ferulic acid). It is an antioxidant that can seek and destroy several different types of free radical -- "superoxide," "hydroxyl radical," and "nitric oxide"- according to a 2002 Japanese study.

A 2004 Italian study concluded that ferulic acid is a more powerful antioxidant than alpha-tocopherol (vitamin E), beta-carotene, and ascorbic acid (vitamin C). Meanwhile, Duke University researchers blended it with vitamin C and E and proclaimed it a "potent ubiquitous plant anti-oxidant." In fact, it was discovered to act synergistically with other antioxidants and, in this case, rendered the vitamin C and E more powerful. The Duke study found it particularly good for preventing sun damage, and studies elsewhere have demonstrated that exposure to ultraviolet light actually increases the antioxidant power of ferulic acid.

Naturally this super antioxidant does more than prevent wrinkles. It fights cancer, is helpful for diabetics and even reduces hot flashes.

#### FERULAC PEEL: THE RESULTS

With Professional Peel treatments the skin undergoes a complete transformation. With visible benefits after the first application, which become more pronounced with time:

- The skin will soft and smooth
- The texture will become fine and translucent

- The color will be healthy and radiant
- Wrinkles, spots and other aging signs are minimized
- The facial features become more relaxed and the contour becomes firmer and more toned

#### FERULAC PEEL: FEATURE

- Immediately after peeling, clients can observe very soft skin (better skin texture and smoothness), very bright and shiny.
- Improves pigmented lesions (melasma, lentigo, moles) from the first application.
- It can be used in all seasons, and on any types of skin and races. For best results six treatments needed every 7-14 days.

#### FERULAC PEEL: ADVANTAGE

- Simple process: Short skin contact time
- Easy to integrate with daily practice recommended by Esthetician
- No irritation (itching or burning), and no risk of hyperpigmentation
- Effective anti-aging: reduces wrinkles
- Depigmentation action: reduces hyperpigmentations, lentigos, melasma and postinflammatory of hyperpigmentation, and promotes an even skin tone
- Improves the skin texture
- Useful for **acne vulgaris** and **acne scars**. Reduces the pore size
- Hydration: Increases the level of ceramides and improve the defending function of the skin preventing the water loss through the skin
- Stimulate cell replacement
- Improves the skins natural brightness



Home » Liposomal Ferulac

## Liposomal Ferulac

What is Ferulac acid and why is it so important, especially during high UV month?

Ferulac acid is found in the cells walls of plants such as wheat, rice, peanuts, oranges, and apple. It is a powerful antioxidant that seeks and destroys several different types of free radical – "superoxide," "hydroxyl radical," and "nitric oxide."

A 2004 Italian study concluded that ferulac acid is a more powerful antioxidant than alpha-tocopherol (vitamin E). Meanwhile, Duke University researches blended it with vitamin C and E and discovered it acted synergistically with other antioxidants and, in this case, rendered the combination particularly good for preventing sun damage, and studies elsewhere have demonstrated that the antioxidant power of ferulac acid.

Naturally this super antioxidant does more than prevent wrinkles. It fights cancer, is helpful for cholesterol, and is a powerful anti-inflammatory.

### Ferulac Peel: The results

With Professional Peel treatments the skin undergoes a complete transformation. With visible results that become more pronounced with time:

- The skin will be soft and smooth
- The texture will become fine and translucent
- The color will be healthy and radiant
- Wrinkles, spots and other aging signs are minimized
- The facial features become more relaxed and the contour becomes firmer and more toned



### Ferulac Peel: Feature

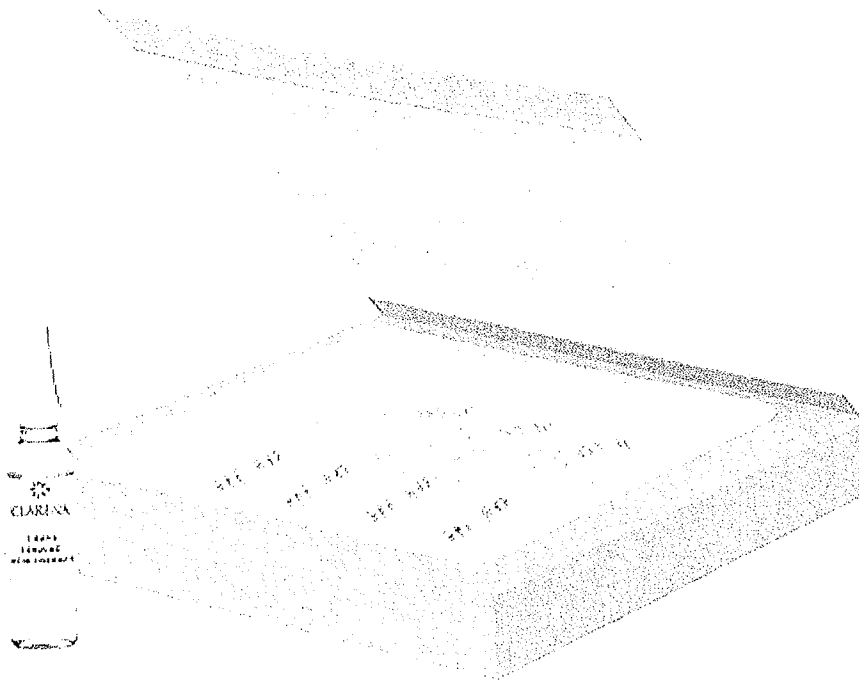
- Immediately after peeling, clients can observe very soft skin (better skin texture and smooth)
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### Ferulac Peel: Advantage

- Simple process: Short skin contact time
- Easy to integrate with daily practice recommended by Esthetician
- No irritation (itching or burning), and no risk of hyperpigmentation
- Effective anti-aging: reduces wrinkles
- Depigmentation action: reduces hyperpigmentations, lentigos, melasma and postinflammato
- tone
- Improves the skin texture
- Useful for acne vulgaris and acne scars. Reduces the pore size
- Hydration: Increases the level of ceramides and improve the defending function of the skin p
- Stimulate cell replacement
- Improves the skins natural brightness



## Product list



# 7 days Ferulac Acid Therapy

Anti-wrinkles therapy preparing the skin for acid exfoliation

A seven-day serum preparing the skin for acid exfoliation treatments. For mature skin 40+. The serum contains a low-concentration Ferulac Acid, prepares the skin for the absorption of high-concentration acids which form the basis of stronger exfoliating cosmetics used in beauty salons. It gently peels the epidermis, stimulates keratinization as well as the synthesis and maturing of ingredients of the intercellular matrix. And it is the first step towards anti-wrinkles therapy.

Package: 7 x 3 ml

Code: 1293

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CHEMICAL PEEL with ferulic acid (Ferulac) - face / face, neck and décolletage



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(<https://www.fillerworld.com/uploads/product-variations/558/538-large.png>)



Ferulac Peel Classic 40000623

Fights photoaging and sun spots

£49.50

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## DESCRIPTION

Ferulac Peel Classic contains Ferulac acid which has natural antioxidant properties, protecting the skin from free radicals. It also protects skin from UVA and UVB radiation. Pigmentation is lightened.

Phloretin stops the activity of elastase responsible for degradation of elastin fibers, by attaching to lipid surfaces.

What does Ferulac Peel Classic contain?

- 12% Ferulac acid
- 5% Phloretin
- pH 4.0-5.0

What are the benefits of using Ferulac Peel Classic?

Use for:

- Photoaging
- Sun Spots

Directions for use

Cleanse the skin thoroughly before applying 2-3 coats. Massage to help penetration of the peel. Once the active ingredients have completely absorbed, a white mask will appear.



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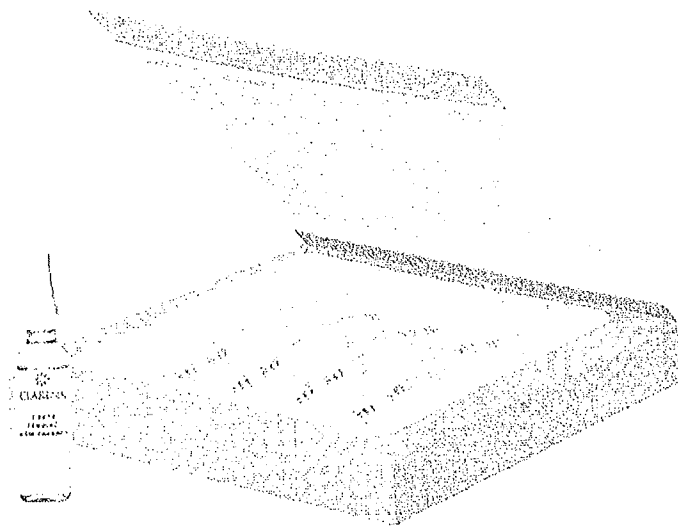


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Product list



# 7 days Ferulac Acid Therapy

Anti-wrinkles therapy preparing the skin for acid exfoliation

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40+. The serum contains a low-concentration Ferulac Acid, prepares the skin for the

absorption of high-concentration acids which form the basis of stronger exfoliating cosmetics used in beauty salons. It gently peels the epidermis, stimulates keratinization as well as the synthesis and maturing of ingredients of the intercellular matrix. And it is the first step towards anti-wrinkles therapy.

Package: 7 x 3 ml

Code: 1293

Order in our online store

Product list

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Sa oled siin: [Dr. Niine Nahakliinik](#) : [Beauty services](#) : Services by a cosmetician

## Services by a cosmetician

### Services by a cosmetician -- chemical peeling of the skin and the microneedling procedure

Chemical peeling of the skin is a procedure involving the removal of the lifeless layer of cells which causes superficial dryness and unevenness of the skin. At the same time, the lower layers of the skin and synthesis of collagen are stimulated which ensure the elasticity of the skin. The selection of methods and products used for chemical peeling enable finding the most suitable individual solution, taking into account the actual skin problem, age-related changes in the skin and the sensitivity of the skin to ensure that the procedure is effective but not too traumatic. Depending on the problem and the characteristics of the skin as well as previous care, it is possible to choose between more delicate and stronger procedures. Hence, chemical peeling of the skin is suitable both for a delicate procedure to

refresh and rejuvenate the skin and for affecting the skin more thoroughly. Some treatments reduce also inflammation, redness and sebum discharge of the skin.

**Chemical peeling is an effective procedure to achieve the following results:**

- improvement of the elasticity of aging skin and tightening of the skin;
- smoothing scars, wrinkle lines and skin with large pores;
- moisturising dry and scaling skin;
- lightening pigment spots and evening out skin colour;
- cleaning and balancing skin with acne signs or oily skin.

If you have not had a chemical peel before, a previous consultation is necessary. During the consultation, the skin is analysed, questions are asked about your health and an optimal skin care plan and the necessity and length of the pre-procedure preparatory period are determined. It is recommended to have a course of 4-6 chemical peel procedures with 7-14 days between the procedures depending on the strength of the procedure.

**Preparation of the skin before a chemical peel:** A stronger procedure should be preceded by a preparatory period of at least 2 weeks during which the skin is prepared with creams containing acids or retinol. The person who performs the procedure advises you on the best product choice.

**Recovery of the skin after a chemical peel:** The skin can be swollen and red on the day after the procedure, thereafter the skin might become dry and start scaling (this might last for 3-4 days). This is why the skin must be effectively moisturised and calmed down with special care products. The person who performs the procedure advises you on the best product choice.

**For about 5 days after the procedure,** you should not go to a sauna or a pool or do intensive physical training (to avoid blisters which develop due to sweating), perform depilation or undergo other strong cosmetic procedures, use active cosmetic products or remove the scaling of the skin mechanically. Sunbathing and using tanning devices must be avoided for 2 weeks.

**Selection of Mediderma/Sesderma procedures:**

- **Mediderma refreshing treatment for all skin types** (during this procedure, the skin is not peeled). This moisturising, refreshing and rejuvenating treatment is based on the coaction of vitamins and antioxidants. The procedure suits all skin types, including sensitive skin. An ideal procedure to refresh the skin before important events and when seasons change.
- **Retinol treatment.** Retinol or vitamin A regulates keratinization of the skin and reduces its dryness. Retinol treatment is especially suitable for moisturising and evening out the skin; it is also suitable as a preparatory procedure for subsequent chemical peels.
- **Ferulac Peels Booster System – anti-aging care.** This chemical peel is based on ferulic acid. Ferulic acid is an antioxidant with a strong effect which strengthens and tightens the skin, reducing wrinkle lines as well as pigment spots.
- **Melaspeel R + SPA lightening – care against hyperpigmentation.** A combined chemical peel which contains various effective acids and retinol and effectively harmonizes the complexion of the skin. The procedure reduces existing pigment spots and prevents development of new ones.
- **Azelac System Peel – designed for oily and unclear skin.** An azelac acid based chemical peel which cleans the skin and regulates sebum production, alleviates inflammation and redness of the skin and also reduces development of pimples and comedones and acne signs. The procedure helps to reduce rosacea signs and seborrhoeic skin inflammation.

- **Strong combined treatment for prepared skin.** A strong combined chemical peel with various acids, retinoids and additives. The treatment reduces the signs of aging and rejuvenates the skin significantly by tightening it, smoothing out wrinkle lines and harmonizing the complexion. A strong chemical peel may cause scaling of the skin and always requires special care of the skin before and after the procedure.
- **Microneedling procedure.** The Nanopore Microneedling device is an electrical device of the newest generation which ensures a safer and painless procedure. The procedure involves a gentle chemical peel, microneedling therapy and application of mesotherapy serums containing growth factors. A gentle chemical peel prepares the skin for the procedure. Microneedling means that micro-channels are made into the skin with fine needles which activate the synthesis of collagen in the skin leading to tighter skin. Serums containing natural growth factors facilitate the renewal process of the skin with their strengthening and tightening effect.

The procedures are performed by cosmetician Külli Krooni.

## SATISFACTION SURVEY

Your opinion is important to us if you've visited Dr. Niin's Skin Clinic!

### SATISFACTION SURVEY

**Ask advise!**

Don't hesitate to e-mail us if you have any questions:  
[info@nahakliinik.ee](mailto:info@nahakliinik.ee)

## Contact

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## Begin your Chemical Peel Series



### Peel Away Top Layers Of Skin

Getting a chemical skin peel means that we apply a chemical solution to skin that is unevenly pigmented, sun damaged or wrinkled.

Chemical Peeling treatment is developed to help reduce imperfections by causing the top layers of the skin to peel away and

#### Vi Peel

VI Peel reverses the effects of sun damage, environmental factors. VI Peel is also highly effective clearing acne and impurities. VI Peel is virtually painless and there is no downtime.

reveal fresh new skin. Peels that you use at home provide very superficial peeling, simply exfoliation, and can help you maintain even toned, healthy skin.

Chemical peels performed by estheticians can penetrate much deeper into the skin, will normally cause you to turn red, a lot of time your skin will peel following a peel, and these peels, when performed in a series, can treatment skin conditions such as hyper-pigmentation and acne.

- Improve your skin's ability to hold moisture.
- Reduce fine lines.
- Decrease hyper pigmentation.
- Unclog pores and help clear up acne.
- Leave your skin smooth.
- Make your skin softer.
- Make your skin look more even-toned.

The VI Peel will improve the tone, texture and clarity of the skin; reduce or eliminate age spots, freckles, and hyper-pigmentation, including melasma; soften lines and wrinkles; clear acne skin conditions; reduce or eliminate acne scars; and stimulate the production of collagen, for firmer, more youthful skin.

### Ferulac Peel

Ferulac peel system is a very potent and safe peel system. Due to its composition, the main indication of this system is the photoageing with benefits in melasma, acne, and rosacea. Ferulac Peel is able to reduce signs of photoageing such as fine wrinkles, promote even skin tone by reducing hyperpigmentation, and return skin to its natural brightness by stimulating cell replacement. Overall skin texture is said to improve, and the treatment boosts hydration by increasing the level of ceramides in the skin to help prevent water loss.

For patients with rosacea and acne, the treatment can reduce



- Give you a "glow".

sebum production, improve the appearance of scars, and diminish pore size.

Beginning with the first treatment, you will feel your skin smoother and tighter and it looks lighter with a youthful glow. Immediately visible results in the skin color improvement, making this peel one of the most valuable and beneficial products to our clients.

Ferulac peel system could be used in all seasons (including summer) and with all skin types and races. It offers a simple, practical, and safe new way to perform peeling treatments.

Ferulac Peel will not produce burning or itching during application. It can be applied every 15 days, and series of 6-12 treatments typically produce the best results.

---

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# **EXHIBIT J**

# **EXHIBIT J**

# REQUEST FOR EXTENSION OF PROTECTION

SERIAL NUMBER: 79071102

FILING DATE: 01/26/2009

The table below presents the data as entered.

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<b>MARK SECTION</b>	
IMAGE	<u>\\TICRS\EXPORT7\IMAGEOUT7\790\711\79071102\xml1\APP0002.JPG</u>
COLLECTIVE, CERTIFICATE OR GUARANTEE MARK	NO
MARK IN STANDARD CHARACTERS	YES
MARK IN COLOR	NO
THREE DIMENSIONAL MARK	NO
SOUND MARK	NO
TM IMAGE: COLOR	NO
IMAGE FILE NAME	\\TICRS\EXPORT7\IMAGEOUT7\790\711\79071102\xml1\APP0002.JPG
TYPE (IMAGE TYPE)	JPG
TEXTUAL ELEMENTS OF MARK	FERULAC
<b>HOLDER DETAILS</b>	
CLIENT IDENTIFIER	547340
NOTIFICATION LANGUAGE	SPANISH
NAME	SESDERMA, S.L.
ADDRESS	Calle Masamagrell, 3 Pol. Industrial Rafelbunyol E-46138 Valencia
COUNTRY	Spain
ENTITLEMENT ADDRESS	/
ENTITLEMENT COUNTRY	- UNKNOWN
ENTITLEMENT DOMICILED	EM
LEGAL NATURE	SOCIEDAD LIMITADA
LEGAL NATURE: PLACE INCORPORATED	ESPAÑA
CORRESPONDENCE INDICATOR	YES
<b>BASIC GOODS AND SERVICES</b>	
VERSION OF NICE CLASSIFICATION USED	9
NICE CLASSIFICATION	03
GOODS AND SERVICES	Cosmetics.
NICE CLASSIFICATION	05
GOODS AND SERVICES	Pharmaceutical preparations for skin care and treatment.
<b>PARIS PRIORITY DETAILS</b>	

PARIS PRIORITY CODE:	Office for Harmonization in the Internal Market ( Trade Marks and Designs) (OHIM)
PARIS PRIORITY APPLICATION NUMBER	007524606
PARIS PRIORITY APPLICATION DATE	01/15/2009

#### **BASE REGISTRATION DETAILS**

BASE APPLICATION NUMBER	007524606
BASE APPLICATION DATE	01/15/2009

#### **REPRESENTATIVE DETAILS**

CLIENT IDENTIFIER	547341
NAME	Dieguez Garbayo,Pedro
ADDRESS	Calle Orense n° 10, 1° Of. 12 E-28020 Madrid
COUNTRY	Spain

#### **INTENT TO USE GROUP**

CONTRACTING PARTY CODE	United States of America
------------------------	--------------------------

#### **DESIGNATIONS**

DESIGNATIONS UNDER THE PROTOCOL	United States of America
---------------------------------	--------------------------

#### **INTERNATIONAL REGISTRATION DETAILS**

INTERNATIONAL REGISTRATION NUMBER	1008200
INTERNATIONAL REGISTRATION DATE OF MARK	01/26/2009
INTERNATIONAL REGISTRATION EXPIRY DATE	01/26/2019
EFFECTIVE DATE OF MODIFICATION	01/26/2009
NOTIFICATION DATE	08/20/2009
DATE OF RECORDAL IN INTERNATIONAL REGISTER	08/04/2009
IB DOCUMENT ID	482428301
OFFICE OF ORIGIN CODE	Office for Harmonization in the Internal Market ( Trade Marks and Designs) (OHIM)
OFFICE REFERENCE	79071102
TRANSACTION TYPE VALUES	Initial Designation
ORIGINAL LANGUAGE	SPANISH
INSTRUMENT UNDER WHICH CONTRACTING PARTY IS DESIGNATED	Protocol
DURATION OF MARK (YEARS)	10

**FERULAC**

**EXHIBIT K**

**EXHIBIT K**

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## Trademark/Service Mark Application, Principal Register

Serial Number: 86857290

Filing Date: 12/22/2015

The table below presents the data as entered.

SERIAL NUMBER	86857290
<b>MARK INFORMATION</b>	
*MARK	<u>FERULAC</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	FERULAC
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	SESDERMA, S.L.
*STREET	Massamagrell No.3. Pol. Ind. Rafelbuñol
*CITY	Vlencia
*COUNTRY	Spain
*ZIP/POSTAL CODE (Required for U.S. applicants)	46138
PHONE	305-447-1617
FAX	305-445-8484
EMAIL ADDRESS	tm@sanchelima.com
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Spain
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	003
*IDENTIFICATION	Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty ampoules; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/27/2010
FIRST USE IN COMMERCE DATE	At least as early as 08/27/2010

SPECIMEN FILE NAME(S)	<u>\\TICRS\EXPORT16\IMAGEOUT 16\868\572\86857290\xml\1\</u> <u>RFA0003.JPG</u>  <u>\\TICRS\EXPORT16\IMAGEOUT 16\868\572\86857290\xml\1\</u> <u>RFA0004.JPG</u>  <u>\\TICRS\EXPORT16\IMAGEOUT 16\868\572\86857290\xml\1\</u> <u>RFA0005.JPG</u>  <u>\\TICRS\EXPORT16\IMAGEOUT 16\868\572\86857290\xml\1\</u> <u>RFA0006.JPG</u>
SPECIMEN DESCRIPTION	Image of the mark as used in commerce as found affixed to the goods.
<b>ATTORNEY INFORMATION</b>	
NAME	Christian Sanchelima, Esq.
ATTORNEY DOCKET NUMBER	350786.1
FIRM NAME	Sanchelima & Associates, P.A.
STREET	235 SW Le Jeune Road
CITY	Miami
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33134
PHONE	305-447-1617
FAX	305-445-8484
EMAIL ADDRESS	tm@sanchelima.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Jesus Sanchelima, Esq.
<b>CORRESPONDENCE INFORMATION</b>	
NAME	Christian Sanchelima, Esq.
FIRM NAME	Sanchelima & Associates, P.A.
STREET	235 SW Le Jeune Road
CITY	Miami
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33134
PHONE	305-447-1617
FAX	305-445-8484
*EMAIL ADDRESS	tm@sanchelima.com; legal@sanchelima.com; chris@sanchelima.com; jesus@sanchelima.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1



FEE PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275

**SIGNATURE INFORMATION**

ORIGINAL PDF FILE	<u>hw_502405030-150524801_151222vp.Signed TM Appl. 13.pdf</u>
CONVERTED PDF FILE(S) (1 page)	<u>\\TICRS\EXPORT\16\IMAGEOUT\16\868\572\86857290\xml\1\RF\A0007.JPG</u>
SIGNATORY'S NAME	Gabriel Serrano
SIGNATORY'S POSITION	Managing Member
SIGNATORY'S PHONE NUMBER	305-447-1617

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## Trademark/Service Mark Application, Principal Register

Serial Number: 86857290

Filing Date: 12/22/2015

### To the Commissioner for Trademarks:

MARK: FERULAC (Standard Characters, see below )

The literal element of the mark consists of FERULAC.  
The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, SESDERMA, S.L., a limited liability company legally organized under the laws of Spain, having an address of  
Massamagrell No.3. Pol. Ind. Rafelbuñol  
Valencia 46138  
Spain  
305-447-1617(phone)  
305-445-8484(fax)  
tm@sanchelima.com (not authorized)

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 003: Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty ampoules; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin

In International Class 003, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 08/27/2010, and first used in commerce at least as early as 08/27/2010, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Image of the mark as used in commerce as found affixed to the goods..

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

The applicant's current Attorney Information:

Christian Sanchelima, Esq. and Jesus Sanchelima, Esq. of Sanchelima & Associates, P.A. 235 SW Le Jeune Road  
Miami, Florida 33134  
United States  
305-447-1617(phone)  
305-445-8484(fax)  
tm@sanchelima.com (authorized)

The attorney docket/reference number is 350786.1.

The applicant's current Correspondence Information:

Christian Sanchelima, Esq.  
Sanchelima & Associates, P.A.  
235 SW Le Jeune Road  
Miami, Florida 33134  
305-447-1617(phone)  
305-445-8484(fax)

tm@sanchelima.com; legal@sanchelima.com; chris@sanchelima.com; jesus@sanchelima.com (authorized)

**E-mail Authorization:** I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's

attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

#### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

#### Declaration Signature

Signature: Not Provided Date: Not Provided  
Signatory's Name: Gabriel Serrano  
Signatory's Position: Managing Member  
RAM Sale Number: 86857290  
RAM Accounting Date: 12/23/2015

Serial Number: 86857290  
Internet Transmission Date: Tue Dec 22 15:21:51 EST 2015  
TEAS Stamp: USPTO/BAS-XX.XXX.XX.XX-20151222152151602  
618-86857290-5501134127829db2a3fabe5bab2  
cfa9ca5def2aab66db4b4646412799caca3e7-CC  
-16134-20151222150524801991

FERULAC

**FERULAC**  
Liposomal serum  
Serum liposomado



NANOTECH

**FACIAL / FACIAL**

Photoaging /  
Fotoenvejecimiento

Ferulic acid liposomal /  
Phloretin

Ácido ferúlico liposomado /  
Flóretina

30 ml e

1.0 fl. oz.

**sesderma**

**FERULAC**  
MOISTURIZING MIST



**FACIAL**

Daily defense spray  
Refreshing

0.68 fl oz (20 mL)

**sesderma**

Guarantee  
seal

## FERULAC

Liposomal serum  
Serum liposomado  
Siero liposomiale  
Liposomal serum  
Sérum en liposomes  
Liposomal serum  
Липосомальная  
сыворотка

sesderma

## FERULAC MOISTURIZING MIST

Moisturizing spray that helps smooth out wrinkles and evens the skin tone. Helps to protect from external aggressions. Suitable for all skin types.

**DIRECTIONS:**  
Spray at a distance of 5-10 cm (2-4 in) directly all over the face. Massage the product until its complete absorption. Apply before your usual cosmetic cream.

**FERULAC PEELS  
BOOSTER SYSTEM**



MEDI-TECH

Step 1

**FERULAC PEEL CLASSIC**

Ferulic Acid / Phloretin

Ascorbic Acid / Phospholipids

Step 2

**FERULAC PEEL PLUS**

Ferulic acid / Phloretin / Fruit acids / Retinol

Ascorbic Acid / Phospholipids / Phospholipids / Phospholipids

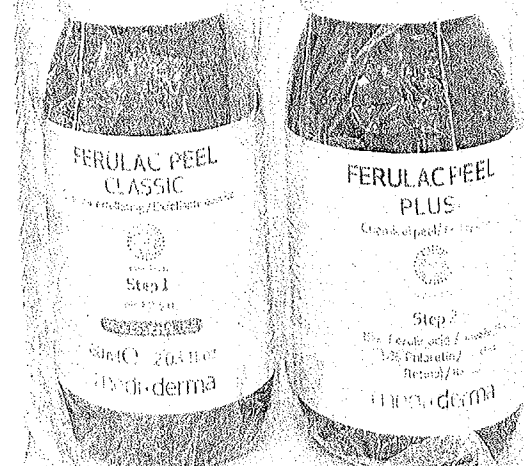
Step 1 10ml

2.03 Fl.oz.

Step 2 15ml

2.03 Fl.oz.

**medi+derma**  
Guarantee  
seal



# FERULAC SYSTEM

FACIAL



Step 1 / FERULAC Resfreshing cream  
Step 2 / FERULAC Moisturizing cream

Step 1 / 1.0 fl. oz (30 ml)

Step 2 / 1.0 fl. oz (30 ml)

sesderma





Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

Signature: \_\_\_\_\_

Signatory's Name: Gabriel Serrano

Signatory's Position: Managing Member

Signatory's Phone Number: 305-447-1617

Date Signed: 11/01/2013

**NOTE TO APPLICANT:** When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page must include both the signature information and the boilerplate declaration language. Do not include the entire application, but do ensure that the boilerplate declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

**EXHIBIT L**

**EXHIBIT L**

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 79/071102

MARK: FERULAC

**\*79071102\***

**CORRESPONDENT ADDRESS:**

Dieguez Garbayo, Pedro  
Calle Orense n° 10, 1° Of. 12  
E-28020 Madrid  
SPAIN

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: SESDERMA, S.L.

CORRESPONDENT'S REFERENCE/DOCKET NO.:

N/A

CORRESPONDENT E-MAIL ADDRESS:

**OFFICE ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE:

INTERNATIONAL REGISTRATION NO. 1008200

This is a **PROVISIONAL FULL REFUSAL** of the trademark and/or service mark in the above-referenced U.S. application. See 15 U.S.C. §1141h(c).

**WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:**

Applicant may respond directly to this provisional refusal Office action, or applicant's attorney may respond on applicant's behalf. However, **the only attorneys who can practice before the USPTO** in trademark matters are as follows:

(1) **Attorneys in good standing with a bar of the highest court of any U.S. state**, the District of Columbia, Puerto Rico, and other federal territories and possessions of the United States; and

(2) **Canadian agents/attorneys** who represent applicants residing in Canada and who have received reciprocal recognition by the USPTO under 37 C.F.R. §11.14(c).

37 C.F.R. §§11.1, 11.14; TMEP §602.

Foreign attorneys are not permitted to practice before the USPTO, other than properly authorized Canadian attorneys. TMEP §602.06(b). Filing written communications, authorizing an amendment to an application, or submitting legal arguments in response to a requirement or refusal constitutes representation of a party in a trademark matter. A response signed by an unauthorized foreign attorney is considered an incomplete response. See TMEP §§602.03, 712.03.

**THE APPLICATION HAS BEEN PROVISIONALLY REFUSED AS FOLLOWS:**

The assigned examining attorney has reviewed the trademark application identified above. Applicant must respond to all of the issues discussed below, before the response deadline. 15 U.S.C. §1062(B); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

**SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

As to goods in class 3 only

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 3185073 and

3497589 as to applicant's goods in class 3 only. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations.

Based on the *du Pont* factors, the likelihood of confusion determination in this case is structured as a two-part analysis. The marks are compared for similarities in their appearance, sound, connotation and commercial impression. TMEP §§1207.01, 1207.01(b). Then the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002); *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336, 57 USPQ2d 1557, 1559 (Fed. Cir. 2001); TMEP §§1207.01, 1207.01(a)(vi).

In this case, applicant's mark is FERULAC, for use on

Cosmetics

The registered marks are both CE FERULIC, used on

Facial serum

Both registrations are owned by a single owner.

#### SIMILARITY OF THE MARKS

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

In this case, applicant's mark is similar to the registered mark in meaning, connotation and commercial impression. Applicant's mark comprises the word FERULAC. The registered mark features the word FERULIC. These sound alike and are likely to be considered similar by consumers because of this shared similar word.

Accordingly, applicant's mark is similar to the registered mark. When an applicant's mark is similar to a registered mark, confusion is likely if applicant's goods are similar to the goods on which the registered mark is used.

#### SIMILARITY OF THE GOODS

The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. *See Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); *see, e.g., On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

In this case, applicant's "cosmetics" would encompass and include the "facial serums" identified in the identification of goods of the registered marks. Likelihood of confusion is determined on the basis of the goods as they are identified in the application and registration. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267-68, 62 USPQ2d 1001, 1004-05 (Fed. Cir. 2002); *In re Shell Oil Co.*, 992 F.2d 1204, 1207 n.4, 26 USPQ2d 1687, 1690 n.4 (Fed. Cir. 1993); TMEP §1207.01(a)(iii).

When the application describes the goods broadly and there are no limitations as to their nature, type, channels of trade or classes of purchasers, then it is presumed that the application encompasses all goods of the type described, that they move in all normal channels of trade, and that they are available to all potential customers. *See In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991) ("With reference to the channels of trade, applicant's argument that its goods are sold only in its own retail stores is not persuasive . . . . There is no restriction [in its identification of goods] as to the channels of trade in which the goods are sold."); TMEP §1207.01(a)(iii).

Based on the foregoing, applicant's goods are similar to the goods on which the registered mark is used. Because applicant's mark is similar to the registered mark and applicant's goods are also similar to the goods on which the registered mark is used, applicant's mark is likely to be confused with the registered mark and may not register.

Applicant should also note the following additional refusal.

SECTION 2(c)(1) REFUSAL – MERELY DESCRIPTIVE

Registration is refused because the applied-for mark merely describes an ingredient of applicant's goods, specifically ferulic acid. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); see TMEP §§1209.01(b), 1209.03 *et seq.*

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods. TMEP §1209.01(b); see *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987).

The determination of whether a mark is merely descriptive is considered in relation to the identified goods, not in the abstract. *In re Abcor Dev. Corp.*, 588 F.2d 811, 814, 200 USPQ 215, 218 (C.C.P.A. 1978); TMEP §1209.01(b); see, e.g., *In re Polo Int'l Inc.*, 51 USPQ2d 1061 (TTAB 1999) (finding DOC in DOC-CONTROL would be understood to refer to the "documents" managed by applicant's software, not "doctor" as shown in dictionary definition); *In re Digital Research Inc.*, 4 USPQ2d 1242 (TTAB 1987) (finding CONCURRENT PC-DOS merely descriptive of "computer programs recorded on disk" where relevant trade used the denomination "concurrent" as a descriptor of a particular type of operating system). "Whether consumers could guess what the product is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

In this case, FERULAC sounds like "ferulic" which is a type of acid. Attached is the definition of "ferulic acid" from the Merriam-Webster online dictionary, which reads in part:

fe·ru·lic acid

Function: noun

: a white crystalline acid that is structurally related to vanillin and is obtained especially from plant sources (as aspen bark)

Also attached are:

- (1) The Wikipedia entry for ferulic acid discussing its use in cosmetics and skin care.
- (2) An article abstract from PubMed.com, titled "Ferulic acid stabilizes a solution of vitamins C and E and doubles its photoprotection of skin." By Lin FH, Lin JY, Gupta RD, Tournas JA, Burch JA, Selim MA, Monteiro-Riviere NA, Griehnik JM, Zielinski J, Pinnell SR., which discusses the cosmetic uses of ferulic acid.
- (3) An article abstract from PubMed.com, titled "Ferulic acid: an antioxidant found naturally in plant cell walls and feruloyl esterases involved in its release and their applications," By Mathew S, Abraham, which discusses the use of ferulic acid in skin care.

This evidence shows that ferulic acid could be an ingredient in applicant's goods in both classes 3 and 5. While applicant's mark is spelled FERULAC and the acid is spelled "ferulic," a novel spelling of a merely descriptive word or term is also merely descriptive if purchasers would perceive the different spelling as the equivalent of the descriptive word or term. See *In re Hercules Fasteners, Inc.*, 203 F.2d 753, 97 USPQ 355 (C.C.P.A. 1953) (holding "FASTIE," phonetic spelling of "fast tie," merely descriptive of tube sealing machines); *Andrew J. McPartland, Inc. v. Montgomery Ward & Co.*, 164 F.2d 603, 76 USPQ 97 (C.C.P.A. 1947) (holding "KWIXTART," phonetic spelling of "quick start," merely descriptive of electric storage batteries); *In re State Chem. Mfg. Co.*, 225 USPQ 687 (TTAB 1985) (holding "FOM," phonetic equivalent spelling of "foam," merely descriptive of foam rug shampoo); TMEP §1209.03(j).

Accordingly, the mark FERULAC is merely descriptive of an ingredient in the goods and cannot register based on the current record.

Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration. If applicant chooses to respond to the refusals to register, then applicant must also respond to the following.

#### EXPLANATION OF MARK'S SIGNIFICANCE REQUIRED

Applicant must explain whether "FERULAC" has any meaning or significance in the industry in which the goods are manufacture or provided, or if such wording is a "term of art" within applicant's industry. See 37 C.F.R. §2.61(b); TMEP §814.

Failure to respond to this request for information can be grounds for refusing registration. See *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701 (TTAB 2003); TMEP §814.

#### ENGLISH TRANSLATION REQUIRED

Applicant must submit an English translation of all foreign wording in the mark. 37 C.F.R. §2.32(a)(9); see TMEP §809. In the present case, the wording "FERULAC" may require translation.

Applicant should use the following format:

The English translation of FERULAC in the mark is (provide translation here).

If the wording cannot be translated, applicant should indicate so for the record. TMEP §809.02.

#### IDENTIFICATION OF GOODS – Class 5 only

The identification of goods in class 5 is indefinite and must be clarified. *See* TMEP §1402.01. Applicant must specify the common commercial or generic name for the goods. If there is no common commercial or generic name, applicant must describe the product and intended consumer as well as its main purpose and intended uses.

Applicant may adopt the following identification, if accurate:

#### Class 5

Pharmaceutical preparations for skin care; pharmaceutical preparations for treating skin disorders

Identifications of goods can be amended only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netathtml/tidm.html>. *See* TMEP §1402.04.

The international classification of goods and/or services in applications filed under Trademark Act Section 66(a) cannot be changed from the classification given to the goods and/or services by the International Bureau in the corresponding international registration. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b).

#### FILING BASIS ADVISORY

For applications originally filed under Trademark Act Section 66(a), the filing basis cannot be changed nor can more than one filing basis be asserted. 37 C.F.R. §§2.34(b)(3), 2.35(a); TMEP §§806.01(c), 1904.01(a).

#### RESPONSE GUIDELINES

There is no required format or form for responding to an Office action. The Office recommends applicants use the Trademark Electronic Application System (TEAS) to respond to Office actions online at <http://www.uspto.gov/teas/index.html>. If applicant responds on paper via regular mail, the response should include the title “Response to Office Action” and the following information: (1) the name and law office number of the examining attorney, (2) the serial number and filing date of the application, (3) the date of issuance of this Office action, (4) applicant’s name, address, telephone number and e-mail address (if applicable), and (5) the mark. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

In the response, applicant should explicitly address each refusal and/or requirement raised in the Office action. If a refusal has issued, applicant may wish to argue against the refusal, i.e., submit arguments and/or evidence as to why the refusal should be withdrawn and why the mark should register. To respond to requirements, applicant should set forth in writing the required changes or statements.

The response must be signed by applicant or someone with legal authority to bind applicant (i.e., a corporate officer of a corporate applicant, the equivalent of an officer for unincorporated organizations or limited liability company applicants, a general partner of a partnership applicant, each applicant for applications with multiple individual applicants). TMEP §§605.02, 712. The signer must personally sign and date the response or manually enter their electronic signature in the signature block. TMEP §605.02

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

If applicant has an amendment that does not require the payment of a fee, submission of a specimen, response to a statutory refusal or a declaration signature, applicant is encouraged to telephone the examining attorney to expedite the processing of the application.

/Fred Carl III/  
Law Office 108  
571 272 8867 voice  
571 273 9108 fax for official communication only

**RESPOND TO THIS ACTION:** Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

Print: Aug 28, 2009

76688456

**DESIGN MARK**

**Serial Number**  
76688456

**Status**  
REGISTERED

**Word Mark**  
C E FERULIC

**Standard Character Mark**  
Yes

**Registration Number**  
3497589

**Date Registered**  
2008/09/09

**Type of Mark**  
TRADEMARK

**Register**  
PRINCIPAL

**Mark Drawing Code**  
(4) STANDARD CHARACTER MARK

**Owner**  
L'Oreal USA Creative, Inc. CORPORATION DELAWARE 575 Fifth Avenue New  
York NEW YORK 10017

**Goods/Services**  
Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Facial serum. First Use: 2005/02/15. First Use In Commerce:  
2005/02/15.

**Prior Registration(s)**  
3185073

**Section 2f Statement**  
2(F) ENTIRE MARK

**Filing Date**  
2008/04/07

**Examining Attorney**  
ZAK, HENRY S.

**Attorney of Record**



Print: Aug 28, 2009

76688456

Lisa M. Gigliotti

**C E FERULIC**

Print: Aug 28, 2009

78678305

**DESIGN MARK**

**Serial Number**  
78678305

**Status**  
REGISTERED

**Word Mark**  
C E FERULIC

**Standard Character Mark**  
Yes

**Registration Number**  
3185073

**Date Registered**  
2006/12/12

**Type of Mark**  
TRADEMARK

**Register**  
SUPPLEMENTAL

**Mark Drawing Code**  
(4) STANDARD CHARACTER MARK

**Owner**  
L'Oreal USA Creative, Inc. CORPORATION DELAWARE 575 Fifth Avenue New  
York NEW YORK 10017

**Goods/Services**  
Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Facial serum. First Use: 2005/02/15. First Use In Commerce:  
2005/02/15.

**Filing Date**  
2005/07/26

**Amended Register Date**  
2006/09/22

**Examining Attorney**  
AMOS, TANYA

**Attorney of Record**  
Lisa M. Gigliotti

C E FERULIC

Merriam-Webster

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### ferulic acid

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Main Entry: **fe-ru-lic acid**

Pronunciation: \fə-'rū-lik-ə\

Function: *noun*

Etymology: *ferula*

Date: 1879

: a white crystalline acid that is structurally related to vanillin and is obtained especially from plant sources (as aspen bark)

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**Pronunciation Symbols**

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"ferulic." *Merriam-Webster Online Dictionary*. 2009.  
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**APA Style**

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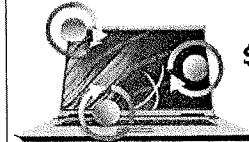
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## Ferulic acid

From Wikipedia, the free encyclopedia

**Ferulic acid** is an organic compound that is an abundant phenolic phytochemical found in plant cell walls. It is a derivative of trans-cinnamic acid. As a component of lignin, ferulic acid is a precursor in the manufacture of other aromatic compounds.

**Etymology** : from Ferula, giant fennel.

**Contents** (hide)

- Occurrence in nature
- Bio-medical considerations
- Applications
  - As a precursor to vanillin
  - Mass spectrometry
- See also
- References

### Occurrence in nature

Ferulic acid, together with dihydroferulic acid, is a component of lignocellulose, serving to crosslink the lignin and polysaccharides, thereby conferring rigidity to the cell walls.<sup>[1]</sup> It is found in seeds of plants such as in rice, wheat, and oats, as well as in coffee, apple, artichoke, peanut, orange and pineapple. It can be extracted from wheat bran and maize bran using concentrated alkali. Biosynthesis of ferulic acid is by the action of the enzyme O-methyl transferase on caffeic acid<sup>[1]</sup>.

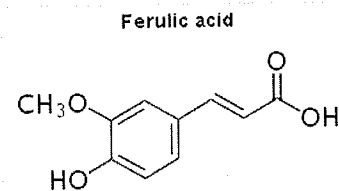
It is an intermediate in the synthesis of monolignols, i.e., the monomers of lignin, and is also used for the synthesis of lignans.

### Bio-medical considerations

Ferulic acid, like many phenols, is an antioxidant in the sense that it is reactive toward free radicals such as reactive oxygen species (ROS). ROS and free radicals are implicated in DNA damage, cancer, accelerated cell aging. Animal studies and in vitro studies suggest that ferulic acid may have direct antitumor activity against breast cancer<sup>[2]</sup> and liver cancer<sup>[3]</sup>. Ferulic acid may have pro-apoptotic effects in cancer cells, thereby leading to their destruction<sup>[3]</sup>. Ferulic acid may be effective at preventing cancer induced by exposure to the carcinogenic compounds benzopyrene<sup>[4]</sup> and 4-nitroquinoline 1-oxide<sup>[5]</sup>. Note that these are not randomized controlled trials done with human participants, and therefore, the results of these studies may not be directly applicable to human use.

If added to a topical preparation of ascorbic acid and vitamin E, ferulic acid may reduce oxidative stress and formation of thymine dimers in skin<sup>[6]</sup>.

### Applications



IUPAC name [show]

Other names [show]

2-propenoic acid, 3-(4-hydroxy-3-methoxyphenyl)-; ferulic acid; 3-(4-hydroxy-3-methoxyphenyl)-2-propenoic acid; 3-(4-hydroxy-3-methoxyphenyl) acrylic acid; 3-methoxy-4-hydroxycinnamic acid; 4-hydroxy-3-methoxycinnamic acid; (2E)-3-(4-hydroxy-3-methoxyphenyl)-2-propenoic acid

**Identifiers**

CAS number [537-99-4]

PubChem 445858 [?]

SMILES [show]

**Properties**

Molecular formula C<sub>10</sub>H<sub>10</sub>O<sub>4</sub>

molar mass 194.184

Melting point 168-172 °C

Except where noted otherwise, data are given for materials in their standard state (at 25 °C, 100 kPa)

Infobox references

[edit]

## Applications

[edit]

### As a precursor to vanillin

[edit]

Ferulic acid, being highly abundant, may be useful as a precursor in the manufacturing of vanillin, a synthetic flavoring agent often used in place of natural vanilla extract <sup>[1]</sup>. However, biotechnological processes may be the most efficient method to use ferulic acid as a precursor <sup>[8]</sup>, and as such, research is still ongoing.

[edit]

### Mass spectrometry

It is used as a matrix for proteins in MALDI mass spectroscopy analyses. <sup>[9]</sup>

[edit]

### See also

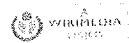
- Caffeic acid
- Coumaric acid
- Diferulic acids
- Sodium ferulate, a ferulic acid salt

[edit]

## References

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- <sup>a</sup> Shahadi, Fereidoon; Naczki, Marian (2004). *Phenolics in food and nutraceuticals*. Florida, USA: CRC Press LLC. p. 4. ISBN 1-58716-138-9.
- <sup>a</sup>  Antiproliferative and apoptotic effects of selective phenolic acids on T47D human breast cancer cells: potential mechanisms of action. *Breast Cancer Res.* 2004; 6(2): R63-74. *Epub* 2003 Dec 15; *PubMed*  Full text at PMC: 14979919
- <sup>a</sup>  <sup>b</sup> Role of NADPH oxidase-mediated generation of reactive oxygen species in the mechanism of apoptosis induced by phenolic acids in HepG2 human hepatoma cells. *Arch Pharm Res.* 2005 Oct; 28(10): 1183-9; *PubMed*
- <sup>a</sup> Protective effects of ellagic acid and other plant phenols on benzo[a]pyrene-induced neoplasia in mice. *Carcinogenesis.* 1983 Dec; 4(12): 1661-3; *PubMed*
- <sup>a</sup> Chemopreventive effects of ferulic acid on oral and rice germ on large bowel carcinogenesis. *Anticancer Res.* 1999 Sep-Oct; 19(5A): 3775-8; *PubMed*
- <sup>a</sup> Ferulic acid stabilizes a solution of vitamins C and E and doubles its photoprotection of skin. *J Invest Dermatol.* 2005 Oct; 125(4): 826-32; *PubMed*
- <sup>a</sup> Ferulic acid: an antioxidant found naturally in plant cell walls and feruloyl esterases involved in its release and their applications. *Crit Rev Biotechnol.* 2004; 24(2-3): 59-83; *PubMed*
- <sup>a</sup> Biotechnological production of vanillin. *Appl Microbiol Biotechnol.* 2001 Aug; 56(3-4): 296-314; *PubMed*
- <sup>a</sup> Beavis, R. C.; Chait, B. T., Cinnamic Acid Derivatives as Matrices for Ultraviolet Laser Desorption Mass Spectrometry of Proteins. *Rapid Commun. Mass Spectrom.* 1989, 3, 432-435; doi:10.1002/rcm.1290031207

Categories: Antioxidants | Phenols | Carboxylic acids | Phenylpropanoids



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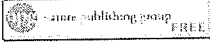
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**Ferulic acid stabilizes a solution of vitamins C and E and doubles its photoprotection of skin.**

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Duke University Medical Center, Durham, North Carolina 27710, USA.

Ferulic acid is a potent ubiquitous plant antioxidant. Its incorporation into a topical solution of 15%l-ascorbic acid and 1%alpha-tocopherol improved chemical stability of the vitamins (C+E) and doubled photoprotection to solar-simulated irradiation of skin from 4-fold to approximately 8-fold as measured by both erythema and sunburn cell formation. Inhibition of apoptosis was associated with reduced induction of caspase-3 and caspase-7. This antioxidant formulation efficiently reduced thymine dimer formation. This combination of pure natural low molecular weight antioxidants provides meaningful synergistic protection against oxidative stress in skin and should be useful for protection against photoaging and skin cancer.

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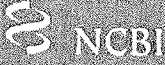
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**Ferulic acid; an antioxidant found naturally in plant cell walls and feruloyl esterases involved in its release and their applications.**

**Mathew S, Abraham TE.**

Biochemical Processing Section, Regional Research Laboratory (CSIR), Trivandrum, Kerala, India.

Ferulic acid is the most abundant hydroxycinnamic acid in the plant world and maize bran with 3.1% (w/w) ferulic acid is one of the most promising sources of this antioxidant. The dehydrodimers of ferulic acid are important structural components in the plant cell

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...providing evidence of the importance of these enzymes in the plant cell wall and serve to enhance its rigidity and strength. Feruloyl esterases are a subclass of the carboxylic acid esterases that hydrolyze the ester bond between hydroxycinnamic acids and sugars present in plant cell walls and they have been isolated from a wide range of microorganisms, when grown on complex substrates such as cereal brans, sugar beet pulp, pectin and xylan. These enzymes perform a function similar to alkali in the deesterification of plant cell wall and differ in their specificities towards the methyl esters of cinnamic acids and feruloylated oligosaccharides. They act synergistically with xylanases and pectinases and facilitate the access of hydrolases to the backbone of cell wall polymers. The applications of ferulic acid and feruloyl esterase enzymes are many and varied. Ferulic acid obtained from agricultural byproducts is a potential precursor for the production of natural vanillin, due to the lower production cost.

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# **EXHIBIT M**

# **EXHIBIT M**

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86857290

MARK: FERULAC

**\*86857290\***

**CORRESPONDENT ADDRESS:**  
CHRISTIAN SANCHELIMA,  
SANCHELIMA & ASSOCIATES, P.A.  
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**CORRESPONDENT'S REFERENCE/DOCKET NO :**

350786.1

**CORRESPONDENT E-MAIL ADDRESS:**

tm@sanchelima.com

## OFFICE ACTION

### STRICT DEADLINE TO RESPOND TO THIS LETTER

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

**ISSUE/MAILING DATE:** 3/11/2016

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

#### SUMMARY OF ISSUES:

- Refusal under Trademark Act Section 2(d) – Likelihood of Confusion
- Refusal under Trademark Act Section 2(e)(1) – Merely Descriptive
- Requirement to Amend the Identification of Goods

#### SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 3185073 (C E FERULIC) and 3497589 (C E FERULIC). Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods. See *In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

### **Comparing the Marks.**

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re 1st USA Realty Prof’ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); TMEP §1207.01(b).

When comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impression that confusion as to the source of the goods and/or services offered under the respective marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *In re Davia*, 110 USPQ2d 1810, 1813 (TTAB 2014); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *United Global Media Grp., Inc. v. Tseng*, 112 USPQ2d 1039, 1049, (TTAB 2014); *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); TMEP §1207.01(b).

There is no correct pronunciation of a mark because it is impossible to predict how the public will pronounce a particular mark. See *Embarcadero Techs., Inc. v. RStudio, Inc.*, 105 USPQ2d 1825, 1835 (TTAB 2013) (quoting *In re Viterra Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012); *In re The Belgrade Shoe Co.*, 411 F.2d 1352, 1353, 162 USPQ 227, 227 (C.C.P.A. 1969)); TMEP §1207.01(b)(iv). The marks in question could clearly be pronounced the same; such similarity in sound alone may be sufficient to support a finding that the marks are confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); see *In re 1st USA Realty Prof’ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b)(iv).

Even if it is determined that there are slight differences in the sound of the marks, slight differences in the sound of similar marks will not avoid a likelihood of confusion. *In re Energy Telecomm. & Elec. Ass’n*, 222 USPQ 350, 351 (TTAB 1983); see *In re Viterra Inc.*, 671 F.3d 1358, 1367, 101 USPQ2d 1905, 1912 (Fed. Cir. 2012).

Additionally, incorporating the entirety of one mark within another does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). See *Wella Corp. v. Cal. Concept Corp.*, 558 F.2d 1019, 1022, 194 USPQ 419, 422 (C.C.P.A. 1977) (finding CALIFORNIA CONCEPT and surfer design and CONCEPT confusingly similar); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); *Hunter Indus., Inc. v. Toro Co.*, 110 USPQ2d 1651, 1660-61 (TTAB 2014) (finding PRECISION and PRECISION DISTRIBUTION CONTROL confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are phonetically identical in part. Additionally the applicant’s mark is highly similar in appearance and overall commercial connotation to the mark in U.S. Registration Nos. 3185073 (C E FERULIC) and 3497589 (C E FERULIC). In each case, the additional terms in registrant’s mark (“C E”) is insufficient to obviate the similarities between applicant’s mark and that in the cited registration. Accordingly, the applicant’s mark, “FERULAC” is likely to be confused with each of the registered marks, “C E FERULIC”.

### **Comparing the Goods.**

The goods of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

With respect to applicant’s and registrant’s goods, the question of likelihood of confusion is determined based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. See *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).



Absent restrictions in an application and/or registration, the identified goods are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods of the type described. *See In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application and registrations has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods travel in all normal channels of trade, and are available to the same class of purchasers. Further, the application uses broad wording to describe the goods and this wording is presumed to encompass all goods of the type described, including those in registrant’s more narrow identification.

Additionally, the attached Internet evidence consists of excerpts from [aveda.com](http://www.aveda.com), [clinique.com](http://www.clinique.com), and [lancome-usa.com](http://www.lancome-usa.com). <http://www.aveda.com/products/search/eseach.tnpl?search=cosmetics> and [http://www.aveda.com/supercat/index.tnpl?CATEGORY\\_ID=CAT5352](http://www.aveda.com/supercat/index.tnpl?CATEGORY_ID=CAT5352); <http://www.clinique.com/>; and <http://www.lancome-usa.com/skincare/skincare.default.sc.html> and <http://www.lancome-usa.com/makeup/makeup.default.sc.html> (each, showing use of the same mark on or in connection with cosmetics and skin care products). This evidence establishes that the same entity commonly manufactures, produces, and provides the relevant goods and markets the goods under the same mark, the relevant goods are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use, and the goods are similar or complementary in terms of purpose or function. Therefore, applicant’s and registrant’s goods are considered related for likelihood of confusion purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Evidence obtained from the Internet may be used to support a determination under Section 2(d) that goods and/or services are related. *See, e.g., In re G.B.I. Tile & Stone, Inc.*, 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc.*, 84 USPQ2d 1660, 1668 (TTAB 2007). The Internet has become integral to daily life in the United States, with Census Bureau data showing approximately three-quarters of American households used the Internet in 2013 to engage in personal communications, to obtain news, information, and entertainment, and to do banking and shopping. *See In re Nieves & Nieves LLC*, 113 USPQ2d 1639, 1642 (TTAB 2015) (taking judicial notice of the following two official government publications: (1) Thom File & Camille Ryan, U.S. Census Bureau, Am. Cmty. Survey Reports ACS-28, *Computer & Internet Use in the United States: 2013* (2014), available at <http://www.census.gov/content/dam/Census/library/publications/2014/acs/acs-28.pdf>, and (2) The Nat’l Telecomms. & Info. Admin. & Econ. & Statistics Admin., *Exploring the Digital Nation: America’s Emerging Online Experience* (2013), available at [http://www.ntia.doc.gov/files/ntia/publications/exploring\\_the\\_digital\\_nation\\_-\\_americas\\_emerging\\_online\\_experience.pdf](http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_-_americas_emerging_online_experience.pdf)). Thus, the widespread use of the Internet in the United States suggests that Internet evidence may be probative of public perception in trademark examination.

Accordingly, the applicant’s proposed mark, “FERULAC”, is refused for likelihood of confusion under Trademark Act Section 2(d).

## NOTICE OF PRIOR PENDING APPLICATION

The filing date of pending U.S. Application Serial No. 86852803 precedes applicant’s filing date. *See* attached referenced application. If the mark in the referenced application registers, applicant’s mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant’s response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant’s mark and the mark in the referenced application. Applicant’s election not to submit arguments at this time in no way limits applicant’s right to address this issue later if a refusal under Section 2(d) issues.

Upon receipt of applicant’s response resolving the following requirements, action on this application will be suspended pending the disposition of Application Serial No. 86852803. 37 C.F.R. §2.83(c); TMEP §§716.02(c), 1208.02(c).

Applicant should note the following additional ground for refusal.

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

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

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's goods. TMEP §1209.01(b); *see, e.g., In re TriVita, Inc.*, 783 F.3d 872, 874, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing *Estate of P.D. Beckwith, Inc. v. Comm'r of Patents*, 252 U.S. 538, 543 (1920)).

The determination of whether a mark is merely descriptive is made in relation to an applicant's goods, not in the abstract. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012); *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b); *see, e.g., In re Polo Int'l Inc.*, 51 USPQ2d 1061, 1062-63 (TTAB 1999) (finding DOC in DOC-CONTROL would refer to the "documents" managed by applicant's software rather than the term "doctor" shown in a dictionary definition); *In re Digital Research Inc.*, 4 USPQ2d 1242, 1243-44 (TTAB 1987) (finding CONCURRENT PC-DOS and CONCURRENT DOS merely descriptive of "computer programs recorded on disk" where the relevant trade used the denomination "concurrent" as a descriptor of a particular type of operating system).

"Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

"A mark may be merely descriptive even if it does not describe the 'full scope and extent' of the applicant's goods or services." *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004) (citing *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 1346, 57 USPQ2d 1807, 1812 (Fed. Cir. 2001)); TMEP §1209.01(b). It is enough if a mark describes only one significant function, attribute, or property. *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b); *see In re Oppedahl & Larson LLP*, 373 F.3d at 1173, 71 USPQ2d at 1371.

Further, a novel spelling or an intentional misspelling that is the phonetic equivalent of a merely descriptive word or term is also merely descriptive if purchasers would perceive the different spelling as the equivalent of the descriptive word or term. *See In re Hercules Fasteners, Inc.*, 203 F.2d 753, 97 USPQ 355 (C.C.P.A. 1953) (holding "FASTIE," phonetic spelling of "fast tie," merely descriptive of tube sealing machines); *Andrew J. McPartland, Inc. v. Montgomery Ward & Co.*, 164 F.2d 603, 76 USPQ 97 (C.C.P.A. 1947) (holding "KWIXTART," phonetic spelling of "quick start," merely descriptive of electric storage batteries); *In re Carlson*, 91 USPQ2d 1198 (TTAB 2009) (holding "URBANHOUSING" phonetic spelling of "urban" and "housing," merely descriptive of real estate services); *In re State Chem. Mfg. Co.*, 225 USPQ 687 (TTAB 1985) (holding "FOM," phonetic spelling of "foam," merely descriptive of foam rug shampoo); TMEP §1209.03(j).

Terms that describe the function or purpose of a product may be merely descriptive. TMEP §1209.03(p); *see, e.g., In re Hunter Fan Co.*, 78 USPQ2d 1474, 1477 (TTAB 2006) (holding ERGONOMIC merely descriptive of ceiling fans); *In re Wallyball, Inc.*, 222 USPQ 87, 89 (TTAB 1984) (holding WALLYBALL merely descriptive of sports clothing and game equipment); *In re Orleans Wines, Ltd.*, 196 USPQ 516, 517 (TTAB 1977) (holding BREADSPRED merely descriptive of jams and jellies). In this case, the applicant has applied to register the mark FERULAC for "Cosmetics; Beauty serums; Facial beauty serum; Non-medicated skin care preparation namely, body and facial mist; Beauty ampoules; Moisturizing creams; Facial creams; Skin care preparations, namely, chemical peels for skin" in International Class 3.

The attached Internet evidence and links show that the wording "FERULIC" means "Pertaining to, or derived from, asafetida (Ferula asafoetida); as, ferulic acid." *See*, Mondofacto Medical Dictionary, search of "mandelic," <http://www.mondofacto.com/facts/dictionary?ferulic>. Additionally, when added to a topical preparation of ascorbic acid and vitamin E, ferulic acid may be therapeutic in skincare applications. *See*, Wikipedia.com, search of "ferulic acid", [https://en.wikipedia.org/wiki/Ferulic\\_acid](https://en.wikipedia.org/wiki/Ferulic_acid).

Indeed, the attached screenshots from applicant's own website shows that applicant offers cosmetics and skin care products containing ferulic acid. Thus, the wording "FERULAC", which is phonetically equivalent to "ferulic" merely describes a feature, function or purpose of applicant's goods. *See*, [http://www.sesdermausa.com/us\\_en/ferulac-serum-30-ml.html](http://www.sesdermausa.com/us_en/ferulac-serum-30-ml.html).

Material obtained from the Internet is generally accepted as competent evidence. *See In re Nieves & Nieves LLC*, 113 USPQ2d 1639, 1644-47 (TTAB 2015) (accepting Internet evidence to show false suggestion of a connection and that a name identified a particular living individual whose written consent to register was required); *In re Jonathan Drew Inc.*, 97 USPQ2d 1640, 1641-42 (TTAB 2011) (accepting Internet evidence to show geographic location was well-known for particular goods); *In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-03 (TTAB 2009) (accepting Internet evidence to show relatedness of goods in a likelihood of confusion determination); *In re Leonhardt*, 109 USPQ2d 2091, 2098 (TTAB 2008) (accepting Internet evidence to show descriptiveness); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); *In re Joint-Stock Co. "Baik"*, 80 USPQ2d 1305, 1308-09 (TTAB 2006) (accepting Internet evidence to show geographic significance); *In re Gregory*, 70 USPQ2d 1792, 1793, 1795 (TTAB 2004) (accepting Internet evidence to show surname significance); TBMP §1208.03; TMEP §710.01(b).

The Internet has become integral to daily life in the United States, with Census Bureau data showing approximately three-quarters of American households used the Internet in 2013 to engage in personal communications, to obtain news, information, and entertainment, and to do banking and shopping. See *In re Nieves & Nieves LLC*, 113 USPQ2d at 1642 (taking judicial notice of the following two official government publications: (1) Thom File & Camille Ryan, U.S. Census Bureau, Am. Cmty. Survey Reports ACS-28, *Computer & Internet Use in the United States: 2013* (2014), available at <http://www.census.gov/content/dam/Census/library/publications/2014/acs/acs-28.pdf>, and (2) The Nat'l Telecomms. & Info. Admin. & Statistics Admin., *Exploring the Digital Nation: America's Emerging Online Experience* (2013), available at [http://www.ntia.doc.gov/files/ntia/publications/exploring\\_the\\_digital\\_nation\\_-\\_americas\\_emerging\\_online\\_experience.pdf](http://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_-_americas_emerging_online_experience.pdf)). Thus, the widespread use of the Internet in the United States suggests that Internet evidence may be probative of public perception in trademark examination.

Two major reasons for not protecting descriptive marks are (1) to prevent the owner of a descriptive mark from inhibiting competition in the marketplace and (2) to avoid the possibility of costly infringement suits brought by the trademark or service mark owner. *In re Abcor Dev. Corp.*, 588 F.2d 811, 813, 200 USPQ 215, 217 (C.C.P.A. 1978); TMEP §1209. Businesses and competitors should be free to use descriptive language when describing their own goods and/or services to the public in advertising and marketing materials. See *In re Styleclick.com Inc.*, 58 USPQ2d 1523, 1527 (TTAB 2001).

For the foregoing reasons, the proposed mark, "FERULAC", is refused because it is merely descriptive of the applicant's goods under Trademark Act Section 2(c)(1).

## SECTION 2(f) ACQUIRED DISTINCTIVENESS

If applicant believes that its mark has acquired distinctiveness, that is, that it has become a distinctive source-indicator for the goods, applicant may seek registration on the Principal Register under Trademark Act Section 2(f). See 15 U.S.C. §1052(f). The USPTO will decide each case on its own merits.

The following factors are generally considered when determining whether a proposed mark has acquired distinctiveness based on extrinsic evidence: (1) length and exclusivity of use of the mark in the United States by applicant; (2) the type, expense, and amount of advertising of the mark in the United States; and (3) applicant's efforts in the United States to associate the mark with the source of the goods, such as unsolicited media coverage and consumer studies. See *In re Steelbuilding.com*, 415 F.3d 1293, 1300, 75 USPQ2d 1420, 1424 (Fed. Cir. 2005); *Bd. of Trs. of Univ. of Ala. v. Pitts, Jr.*, 107 USPQ2d 2001, 2016 (TTAB 2013). A showing of acquired distinctiveness need not consider all of these factors, and no single factor is determinative. *In re Steelbuilding.com*, 415 F.3d at 1300, 75 USPQ2d at 1424; see TMEP §§1212.06 *et seq.*

Evidence of acquired distinctiveness may include specific dollar sales under the mark, advertising figures, samples of advertising, consumer or dealer statements of recognition of the mark as a source identifier, affidavits, and any other evidence that establishes the distinctiveness of the mark as an indicator of source. See 37 C.F.R. §2.41(a)(3); *In re Ideal Indus., Inc.*, 508 F.2d 1336, 1339-40, 184 USPQ 487, 489-90 (C.C.P.A. 1975); *In re Instant Transactions Corp. of Am.*, 201 USPQ 957, 958-59 (TTAB 1979); TMEP §§1212.06 *et seq.*

The burden of proving that a mark has acquired distinctiveness is on the applicant. *Yamaha Int'l Corp. v. Yoshino Gakki Co.*, 840 F.2d 1572, 6 USPQ2d 1001, 1004 (Fed. Cir. 1988); *In re Meyer & Wenhe, Inc.*, 267 F.2d 945, 122 USPQ 372 (C.C.P.A. 1959); TMEP §1212.01. An applicant must establish that the purchasing public has come to view the proposed mark as an indicator of origin.

Allegations of sales and advertising expenditures do not per se establish that a term has acquired significance as a mark. An applicant must also provide the actual advertising material so that the examining attorney can determine how the term is used, the commercial impression created by such use, and the significance the term would have to prospective purchasers. TMEP §1212.06(b); see *In re Boston Beer Co.*, 198 F.3d 1370, 53 USPQ2d 1056 (Fed. Cir. 1999); *In re Packaging Specialists, Inc.*, 221 USPQ 917, 920 (TTAB 1984).

The ultimate test in determining acquisition of distinctiveness under Trademark Act Section 2(f) is not applicant's efforts, but applicant's success in educating the public to associate the claimed mark with a single source. TMEP §1212.06(b); see *In re Packaging Specialists*, 221 USPQ at 920; *In re Redken Labs., Inc.*, 170 USPQ 526 (TTAB 1971).

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

If applicant responds to the refusals, applicant must also respond to the requirement set forth below.

## IDENTIFICATION OF GOODS

The wording "Beauty ampoules" in the identification of goods is indefinite and must be clarified because applicant must specify the Class 3 contents. *See* TMEP §1402.01.

Additionally, the use of the applied-for mark on goods that do not in fact contain ferulic acid is or will be deceptive. *See* TMEP §1203.02-.02(b). To avoid a deceptiveness refusal, applicant must amend the identification to indicate that the goods possess this relevant feature or characteristic. *See* TMEP §§1203.02(c)(ii), (f)(i), 1402.05 *et seq.* Merely amending the identification to exclude goods with the named feature or characteristic will not avoid a deceptiveness refusal. TMEP §1203.02(f)(i).

Applicant may adopt the following identification (suggested wording appears in **bold text**), if accurate:

### International Class 3

Cosmetics; Facial creams; Moisturizing creams; Beauty creams; Beauty gel; Skin moisturizing gel; Beauty serum; Facial beauty serum; Facial scrubs; Body scrub; Beauty ampoules **sold filled with {specify Class 3 goods, e.g., facial cream}**; Skin care preparations, namely, chemical peels for skin; **all of the foregoing containing ferulic acid.**

An applicant may only amend an identification to clarify or limit the goods, but not to add to or broaden the scope of the goods. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07.

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual* at <http://tess2.uspto.gov/metahtml/tidm.html>. *See* TMEP §1402.04.

## RESPONSE GUIDELINES

To expedite prosecution of the application, applicant is encouraged to file its response to this Office action online via the Trademark Electronic Application System (TEAS), which is available at <http://www.uspto.gov/trademarks/teas/index.jsp>. If applicant has technical questions about the TEAS response to Office action form, applicant can review the electronic filing tips available online at [http://www.uspto.gov/trademarks/teas/e\\_filing\\_tips.jsp](http://www.uspto.gov/trademarks/teas/e_filing_tips.jsp) and e-mail technical questions to [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

**TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:** Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. *See* 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$50 per international class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone without incurring this additional fee.

/Michael Ebaugh/

Examining Attorney  
Law Office 108  
(571) 270-3341  
michael.ebaugh@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/mailling date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

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

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

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

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Mar 11, 2016

76688456

**DESIGN MARK**

**Serial Number**

76688456

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

C E FERULIC

**Standard Character Mark**

Yes

**Registration Number**

3497589

**Date Registered**

2008/09/09

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

L'Oreal USA Creative, Inc. CORPORATION DELAWARE 575 Fifth Avenue New York NEW YORK 10017

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Facial serum. First Use: 2005/02/15. First Use In Commerce:  
2005/02/15.

**Prior Registration(s)**

3185073

**Section 2f Statement**

2(F) ENTIRE MARK

**Filing Date**

2008/04/07

**Examining Attorney**

ZAK, HENRY S.

**Attorney of Record**

**Print: Mar 11, 2016**

**76688456**

Lisa M. Gigliotti

**C E FERULIC**



Print: Mar 11, 2016

78678305

**DESIGN MARK**

**Serial Number**

78678305

**Status**

SECTION 8--ACCEPTED

**Word Mark**

C E FERULIC

**Standard Character Mark**

Yes

**Registration Number**

3185073

**Date Registered**

2006/12/12

**Type of Mark**

TRADEMARK

**Register**

SUPPLEMENTAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

L'Oreal USA Creative, Inc. CORPORATION DELAWARE 575 Fifth Avenue New York NEW YORK 10017

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Facial serum. First Use: 2005/02/15. First Use In Commerce:  
2005/02/15.

**Filing Date**

2005/07/26

**Amended Register Date**

2006/09/22

**Examining Attorney**

AMOS, TANYA

**Attorney of Record**

Lisa M. Gigliotti

C E FERULIC

Print: Mar 11, 2016

86852803

**DESIGN MARK**

**Serial Number**

86852803

**Status**

NEW APPLICATION - RECORD INITIALIZED NOT ASSIGNED TO EXAMINER

**Word Mark**

FERULIC + RETINOL WRINKLE RECOVERY PEEL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Dennis F. Gross INDIVIDUAL UNITED STATES 444 Madison Avenue, Suite 802  
New York NEW YORK 10022

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Non-medicated skin care preparation; skin care preparations, namely,  
skin peels. First Use: 2015/11/28. First Use In Commerce:  
2015/11/30.

**Filing Date**

2015/12/17

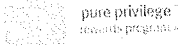
**Examining Attorney**

UNKNOWN

**Attorney of Record**

Christine M. Baker

FERULIC + RETINOL WRINKLE  
RECOVERY PEEL



Search

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12/26/15 12:49:18 PM 8/16/2017 12:49:18 PM

# search results

Your search for "cosmetics" returned 11 results

narrow results by:

- Brand
- Price
- Product Type
- Availability
- Color

Products: 1-11 of 11 results



Product Name & Price



Product Name & Price



Product Name & Price



Product Name & Price

Product Name & Price



Search  
152 items \$17.00

- Dark Emission™ Skin Mediator**  
1.7 oz / 49 g \$17.00
- Dark Emission™ Skin Mediator**  
1.7 oz / 49 g \$17.00
- Dark Emission™ Skin Mediator**  
1.7 oz / 49 g \$17.00
- Dark Emission™ Skin Mediator**  
1.7 oz / 49 g \$17.00
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- Dark Emission™ Skin Mediator**  
1.7 oz / 49 g \$17.00

Products: 11 of 11 results



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- exfoliators
- hydrators
- moisturizers
- sunscreen
- toners
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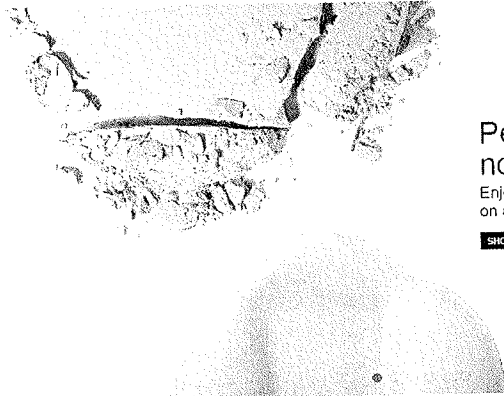
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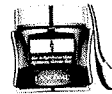
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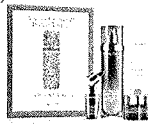
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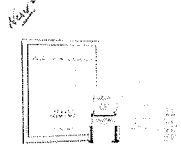
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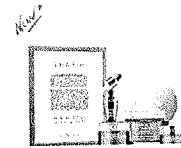
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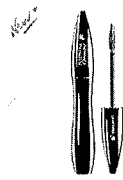
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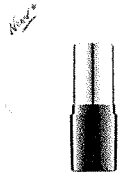
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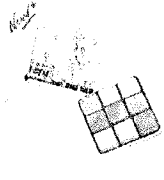
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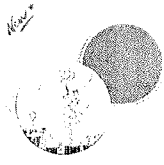
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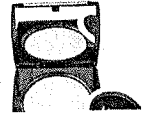
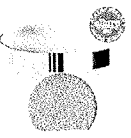
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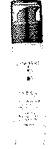
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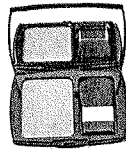
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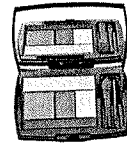


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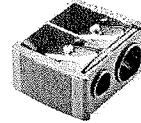
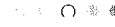


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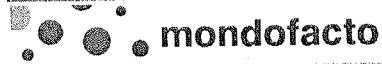
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(01 Mar 1998)






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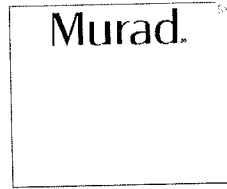


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Article Talk

## Ferulic acid

From Wikipedia, the free encyclopedia

**Ferulic acid** is a hydroxycinnamic acid, a type of organic compound. It is an abundant phenolic phytochemical found in plant cell wall components such as arabinoxylans as covalent side chains. It is related to trans-cinnamic acid. As a component of lignin, ferulic acid is a precursor in the manufacture of other aromatic compounds. The etymology is from the genus *Ferula*, referring to the giant fennel (*Ferula communis*).

### Contents

- 1 Occurrence in nature
  - 1.1 In food
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  - 2.1 Biosynthesis
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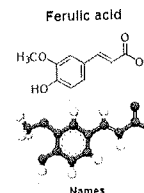
### Occurrence in nature [edit]

As a building block of lignocelluloses, such as pectin<sup>[a]</sup> and xylan, ferulic acid is ubiquitous in the plant kingdom.

### In food [edit]

Ferulic acid is found in the seeds of coffee, apple, artichoke, peanut, and orange, as well as in both seeds and cell walls of cerealoid plants (such as rice, wheat, oats, the Chinese water chestnut (*Eleocharis dulcis*) and pineapple). Often in the form of chlorogenic acid.

In cereals, ferulic acid is localized in the bran the hard outer layer of grain. In wheat, phenolic compounds are mainly found in the form of insoluble bound ferulic acid and be relevant to resistance to wheat fungal diseases.<sup>[8]</sup> The highest known concentration of ferulic acid glucoside has been found in flax seed (4.1 ± 0.2



**Systematic name**  
(E)-3-(4-hydroxy-3-methoxyphenyl)prop-2-enoic acid

**Other names**  
2-propenoic acid, 3-(4-hydroxy-3-methoxyphenyl)-  
ferulic acid  
3-(4-hydroxy-3-methoxyphenyl)-2-propenoic acid  
3-(4-hydroxy-3-methoxyphenyl)acrylic acid  
3-methoxy-4-hydroxycinnamic acid  
4-hydroxy-3-methoxycinnamic acid  
(2E)-3-(4-hydroxy-3-methoxyphenyl)-2-propenoic acid  
Ferulate  
Cinnelic acid  
trans-ferulic acid  
(E)-ferulic acid

	Identifiers
CAS Number	118-24-8 <span>[a]</span>
ChEBI	ChEBI:17207 <span>[a]</span>
ChEMBL	ChEMBL192748 <span>[a]</span>
ChemSpider	85309 <span>[a]</span>
DrugBank	DB03737 <span>[a]</span>
Interactive 3D image	
PubChem	44131 <span>[a]</span>

Portugals  
Pycza  
Cymraeg  
Slovakčina  
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Suomi  
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g/kg).<sup>[2]</sup> It is also found in barley grain.<sup>[3]</sup>

Andean Eudicot plants can also produce ferulic acid. The tea brewed from the leaves of yacon (*Smallanthus sonchifolius*), a plant traditionally grown in the Northern and Central Andes, contains quantities of ferulic acid. In legumes, the white bean variety navy bean is the richest source of ferulic acid among the common bean (*Phaseolus vulgaris*) varieties.<sup>[4]</sup> It is also found in horse grams (*Hippocytisus unguiculata*).<sup>[5]</sup>

Although there are many sources of ferulic acid in nature, its bioavailability is limited based on the form in which it is present, with free ferulic acid having a poor water solubility hence poor bioavailability. In wheat grain, ferulic acid is found bound to cell wall polysaccharides, which has an effect on its release and absorption in the small intestine.<sup>[6]</sup>

### In herbal medicines [edit]

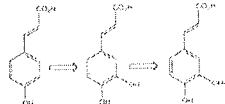
Ferulic acid has been identified in Chinese medicine herbs such as *Angelica sinensis* (female ginseng), *Comolida barbatifolia*<sup>[7]</sup> and *Ligusticum sinense*. It is also found in the tea brewed from the European centaury (*Centaurium erythraea*), a plant used as a medical herb in many parts of Europe.<sup>[8]</sup>

### In processed foods [edit]

Cooked sweet corn releases increased levels of ferulic acid.<sup>[9]</sup> As plant sterol esters, this compound is naturally found in rice bran oil, a popular cooking oil in several Asian countries.<sup>[10]</sup>

Ferulic acid glucoside can be found in commercial breads containing flaxseed.<sup>[11]</sup> Rye bread contains ferulic acid dehydrotomers.<sup>[12]</sup>

## Metabolism [edit]



In plants, ferulic acid (right) is derived from phenylalanine, which is converted to 4-hydroxycinnamic acid (left) and then caffeoyl acid.

### Biosynthesis [edit]

Biosynthesis of ferulic acid is by the action of the enzyme caffeate O-methyltransferase.<sup>[13]</sup> It is biosynthesized from caffeoyl acid.

Ferulic acid, together with dihydroferulic acid, is a component of lignocellulose, serving to crosslink the lignin and polysaccharides, thereby conferring rigidity to the cell walls.<sup>[14]</sup>

It is an intermediate in the synthesis of monolignols, i.e., the monomers of lignin, and is also used for the synthesis of lignans.

### Biodegradation [edit]

Ferulic acid is converted by certain strains of yeast, notably strains used in brewing of wheat beers, such as *Saccharomyces delbrueckii* (*Torulaspora delbrueckii*), to 4-vinyl guaiacol (2-methoxy-4-vinylphenol) which gives beers such as Weissbier and Wit their distinctive "clove" flavour. *Saccharomyces cerevisiae* (dry baker's yeast) and *Pseudomonas fluorescens* are also able to convert trans-ferulic acid into 2-methoxy-4-vinylphenol.<sup>[15]</sup> In *P. fluorescens*, a ferulic acid decarboxylase has been isolated.<sup>[16]</sup>

## Ecology [edit]

Ferulic acid is one of the possible plant compounds that inhibit *Agrobacterium tumefaciens* to infect plant cells.<sup>[17][18][19]</sup>

## Extraction [edit]

It can be extracted from wheat bran and maize bran using concentrated alkali.<sup>[20]</sup>

InChI  
InChI=1S/C10H10O4/c11-14-6-7-2-4-8-9-13-10-5-3-12/c12-13-14-11-6-7-2-4-8-9-13-10-5-3-12/c12-13-14-11-6-7-2-4-8-9-13-10-5-3-12/c12-13-14-11-6-7-2-4-8-9-13-10-5-3-12  
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Key: KSEBWHQVZTQHS-660442809-01  
Key: KSEBWHQVZTQHS-660442809-01

SMILES  
O=C(O)C1=CC=C(C=C1)OC(=O)C

Properties	
Chemical formula	C <sub>10</sub> H <sub>10</sub> O <sub>4</sub>
Molar mass	194.18 g/mol
Appearance	Crystalline Powder
Melting point	168 to 172 °C (354 to 342 °F; 441 to 445 K)
Solubility in water	0.78 g/L
Acidity (pKa)	3.48 <sup>[21]</sup>

IFPA 201



Except where otherwise noted, data are given for materials in their standard state (at 25 °C [77 °F], 100 kPa)

✓ verify (what is <sup>?</sup>?)  
Metabax references

## Bio-medical considerations [edit]

Ferulic acid, like many natural phenols, is an antioxidant *in vitro* in the sense that it is reactive toward free radicals such as reactive oxygen species (ROS). ROS and free radicals are implicated in DNA damage, cancer, and accelerated cell aging. Animal studies and *in vitro* studies suggest that ferulic acid may have direct antitumor activity against breast cancer<sup>[2]</sup> and liver cancer.<sup>[3]</sup> Ferulic acid may have pro-apoptotic effects in cancer cells, thereby leading to their destruction.<sup>[2]</sup> Ferulic acid may be effective at preventing cancer induced by exposure to the carcinogenic compounds benzopyrene<sup>[4]</sup> and 4-nitroquinoline 1-oxide.<sup>[5]</sup> Note that these are not randomized controlled trials done with human participants, and therefore, the results of these studies may not be directly applicable to human use.

If added to a topical preparation of ascorbic acid and vitamin E, ferulic acid may reduce oxidative stress and formation of thymine dimers in skin.<sup>[6]</sup> There is also a small amount of research showing oral supplements of ferulic acid can inhibit melanin production in the process of skin whitening.<sup>[7-9]</sup>

UV visible spectrum of ferulic acid, with lambda max at 321 and a shoulder at 278 nm

## Other applications [edit]

### As a precursor to vanillin [edit]

Ferulic acid, being highly abundant, may be useful as a precursor in the manufacturing of vanillin, a synthetic flavouring agent often used in place of natural vanilla extract.<sup>[12]</sup> However, biotechnological processes may be the most efficient method to use ferulic acid as a precursor,<sup>[13]</sup> and as such, research is still ongoing.

### Mass spectrometry [edit]

It is used as a matrix for proteins in MALDI mass spectrometry analyses.<sup>[8]</sup>

### Bitterness masker [edit]

Kraft Foods has patented the use of sodium ferulate to mask the bitter aftertaste of the artificial sweetener acesulfame potassium.<sup>[14]</sup>

## See also [edit]

- Caffeic acid
- Coumaric acid
- Diferulic acids
- Eugenol

## References [edit]

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## Notes

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V·T·E

### Types of hydroxycinnamic acids

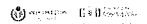
	<b>Precursor</b>	Cinnamic acid
	<b>Monohydroxycinnamic acids (Coumaric acids)</b>	p-Coumaric acid · o-Coumaric acid · m-Coumaric acid
<b>Aglycones</b>	<b>Dihydroxycinnamic acids</b>	Caffeic acid (3,4-dihydroxycinnamic acid) · Umbelliferic acid (2,4-dihydroxycinnamic acid) · 2,3-Dihydroxycinnamic acid · 2,5-Dihydroxycinnamic acid · 3,5-Dihydroxycinnamic acid
	<b>Trihydroxycinnamic acids</b>	3,4,5-Trihydroxycinnamic acid · 3,4,6-Trihydroxycinnamic acid
	<b>O-methylated forms</b>	<b>Ferulic acid</b> · 5-Hydroxyferulic acid · Sinapic acid
	<b>others</b>	Picouic acid · Picouic B
	<b>esters of caffeic acid with cyclitols</b>	<b>esters of quinic acid</b> · Chlorogenic acid (3-caffeoylquinic acid) · Cryptochlorogenic acid (4-O-caffeoylquinic acid) · Neochlorogenic acid (5-O-caffeoylquinic acid) · Cynarine (1,5-dicaffeoylquinic acid) · 3,4,9-tricaffeoylquinic acid · 3,5-dicaffeoylquinic acid
	<b>glycoside-like</b>	<b>esters of shikimic acid</b> · Daidyloleic acid (3-O-caffeoylshikimic acid)
	<b>Glycosides</b>	Ferulic acid glucoside · p-Coumaric acid glucoside · 1-Sinapoyl-β-D-glucoside
<b>Esters</b>	<b>Tartaric acid esters</b>	Gaiteric acid · Cinnelic acid (dicaffeoyltartaric acid) · Coumaric acid · Ferulic acid · Grape reaction product (caffaic acid conjugated with glutathione)
	<b>Other esters with caffeic acid</b>	Gallfeylmalic acid · Ethyl caffeate · Methyl caffeate · Caffeic acid phenethyl ester (CAPE) · Rosmarinic acid (ester with 3,4-dihydroxyphenylacetic acid)
	<b>Caffeoyl phenylethanoid glycoside (CPG)</b>	Echinacoside · Caffeoylacetoside A, B, C and F · Chloroside A, B and C · Cistanoside A, B, C, D, E, F, G and H · Cinaroside · Myricoside · Purodicoside · Phantoside A · Phantoside B · Puposide B · Verbascoside (p-coumaroside, 2'-Acetylverbascoside)
	<b>Dimers</b>	Diferulic acids (DFA) · 5,5'-Diferulic acid · 6,6'-Diferulic acid · 8,8'-Diferulic acid · 3,5'-DFA (DFC) · 3,5'-DFA (BF) · 8,3'-diferulic acid
<b>Oligomeric forms</b>	<b>Trimers</b>	Triterulic acids · 7,8,8'-Triterulic acid
	<b>Tetramers</b>	Tetraerulic acids
	<b>Conjugates with coenzyme A (CoA)</b>	Caffeoyl-CoA · Coumaroyl-CoA · Cinnamoyl-CoA

Categories: Phenol antioxidants · O-Methylated hydroxycinnamic acids · Bitter-tasting compounds

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### FERULAC SERUM 30 ML

Product description: Ferulac Serum is a powerful antioxidant serum that helps to protect the skin from free radical damage and premature aging. It contains a high concentration of ferulic acid, which is known for its ability to neutralize free radicals and reduce the appearance of wrinkles and fine lines. The serum is formulated with a lightweight, non-greasy texture that absorbs quickly into the skin, leaving it hydrated and refreshed.

\$60.00



Product description: Ferulac Serum is a powerful antioxidant serum that helps to protect the skin from free radical damage and premature aging. It contains a high concentration of ferulic acid, which is known for its ability to neutralize free radicals and reduce the appearance of wrinkles and fine lines. The serum is formulated with a lightweight, non-greasy texture that absorbs quickly into the skin, leaving it hydrated and refreshed.

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Product description

Product description



Product description

\$56.00 

\$64.00 



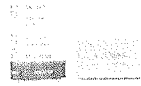
Product description

\$34.00 out of stock



\$46.00 

\$46.00



Product description text

\$18.00

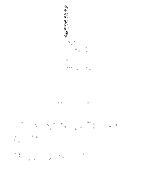



\$28.00




Product description text

\$34.90 



\$28.90 



\$28.00 



\$38.00 



\$44.00



Product description

Read Reviews



**EXHIBIT N**

**EXHIBIT N**

Side - 1



**NOTICE OF ABANDONMENT**  
**MAILING DATE: Oct 11, 2016**

The trademark application identified below was abandoned in full because a response to the Office Action mailed on Mar 11, 2016 was not received within the 6-month response period.

If the delay in filing a response was unintentional, you may file a petition to revive the application with a fee. If the abandonment of this application was due to USPTO error, you may file a request for reinstatement. Please note that a petition to revive or request for reinstatement **must be received within two months from the mailing date of this notice.**

For additional information, go to <http://www.uspto.gov/teas/petinfo.htm>. If you are unable to get the information you need from the website, call the Trademark Assistance Center at 1-800-786-9199.

**SERIAL NUMBER:** 86857290  
**MARK:** FERULAC  
**OWNER:** SESDERMA, S.L.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

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U.S. POSTAGE  
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CHRISTIAN SANCHELIMA,  
SANCHELIMA & ASSOCIATES, P.A.  
235 SW LE JEUNE ROAD  
MIAMI, FL 33134

**EXHIBIT O**

**EXHIBIT O**

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 79/071102

MARK: FERULAC

**\*79071102\***

**CORRESPONDENT ADDRESS:**

Dieguez Garbayo, Pedro  
Calle Orense n° 10, 1° Of. 12  
E-28020 Madrid  
SPAIN

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: SESDERMA, S.L.

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

**FINAL ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE:

**THIS IS A FINAL ACTION.**

**INTERNATIONAL REGISTRATION NO. 1008200**

This is in response to applicant's correspondence of February 10, 2010 regarding the trademark application identified above. In office action number 1, the examining attorney:

- (1) Refused registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d) as to the goods in class 3 only,
- (2) Refused registration under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1),
- (3) Required applicant to explain any significance of the trademark in the industry,
- (4) Required applicant to provide a translation of the mark, if appropriate, and
- (5) Required applicant to amend the identification of the goods in class 5.

In its response:

- (1) Applicant provided arguments against the refusal under Trademark Act Section 2(d), 15 U.S.C. §1052(d). The examining attorney has carefully considered applicant's arguments but is not convinced that confusion is not likely between applicant's mark and the registered mark as to applicant's goods in class 3. Accordingly, this refusal is continued and made FINAL as to applicant's goods in class 3.
- (2) Applicant provided arguments against the refusal under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1). The examining attorney has carefully considered applicant's arguments but is not convinced that applicant's mark is not merely descriptive of the goods. Accordingly, this refusal is continued and made FINAL.
- (3) Applicant indicated that the mark has no significance in the industry. Accordingly, this requirement is no longer outstanding.
- (4) Applicant indicated that the mark cannot be translated. Accordingly, this requirement is no longer outstanding.
- (5) Applicant amended the identification of goods in class 5. Accordingly, this requirement is no longer outstanding.

The following refusals are continued and made FINAL.

FINAL SECTION 2(d) REFUSAL  
LIKELIHOOD OF CONFUSION – Class 3 only

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 3185073 and 3497589 as to the goods identified in class 3. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the registration



information provided in office action number 1.

Based on the *du Pont* factors, the likelihood of confusion determination in this case is structured as a two-part analysis. The marks are compared for similarities in their appearance, sound, connotation and commercial impression. TMEP §§1207.01, 1207.01(b). Then the goods are compared to determine whether they are similar or commercially related or travel in the same trade channels. See *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002); *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336, 57 USPQ2d 1557, 1559 (Fed. Cir. 2001); TMEP §§1207.01, 1207.01(a)(vi).

In this case, applicant's mark is FERULAC, for use on

Cosmetics, namely, anti-wrinkle cream; age spot reducing cream

The registered marks are both C E FERULIC, used on

facial serum

#### SIMILARITY OF THE MARKS

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); see TMEP §1207.01(b).

In this case, applicant's mark is similar to the registered mark in sound, meaning, connotation and commercial impression. Applicant's mark comprised the word FERULAC. The registered mark is C E FERULIC. Both marks prominently feature a word comprised of the letters FERUL(vowel)C. Consumers will see these shared elements and recall these shared elements. If they notice the elements C E found in the registered mark they will not believe that these indicate a different product, but merely that they identify another product from the same brand line.

In fact, the attached evidence includes pages from Amazon.com showing the brand STRIVECTIN used on face creams and serum with the suffixes -SD and -HS as STRIVECTIN-SD and STRIVECTIN-HS and STRIVECTIN alone, all indicating products coming from a single source. The additional -HS and -SD initials merely identify different product types from the STRIVECTIN line of skin products. Consumers know that brands do this and would believe that the C E in the registered mark indicates one product in a line of FERULIC (or possibly FERULAC) products.

Applicant has indicated that the marks are not similar primarily because of the -AC ending of its mark as opposed to the -IC ending in the registered mark. Applicant has discussed at length that these differences make the marks different in their entirety. The examining attorney has considered the marks in their entireties and while the marks are not completely identical (not entirely similar or completely similar), they are similar overall and when comparing them while considering the whole of each mark, they convey the same commercial impression because of the overall similarities in their look, spelling, appearance, meaning and sound. Applicant's arguments that consumers will see and understand the differences between the mark require greater attention to detail than can be expected of consumers.

For these reasons, applicant's mark is similar to the registered mark. When an applicant's mark is similar to a registered mark, confusion is likely if applicant's goods are similar to the goods on which the registered mark is used.

#### SIMILARITY OF THE GOODS

The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. See *Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); see, e.g., *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

In this case, applicant has amended its identification of goods to read "anti-wrinkle cream; age spot reducing cream." Applicant has argued that because there is not specific purpose for the "facial serum" sold under the registered mark, the goods are not similar. However, this is not supported by either the law or the facts in this case.

First, likelihood of confusion is determined on the basis of the goods as they are identified in the application and registration. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 1267-68, 62 USPQ2d 1001, 1004-05 (Fed. Cir. 2002); *In re Shell Oil Co.*, 992 F.2d 1204, 1207 n.4, 26 USPQ2d 1687, 1690 n.4 (Fed. Cir. 1993); TMEP §1207.01(a)(iii). Here, the registered mark is used on "facial serum" of all types. If the

registered mark were limited to use on “facial serum for babies” or “facial serum for the elimination of infant dermatitis” these goods might not be similar to a cream for reducing wrinkles or age spots, because the use of each might be vastly different. However, in this case, the registered mark may be used on facial serum for wrinkle reduction or age spot reduction. The registration has no limitations on the goods. For this reason, the registered mark may be used on goods addressing the same need as applicant’s goods address.

Additionally, facial sera are typically used for the treatment of wrinkles or age spots. The attached evidence discloses:

- (1) A page from the internet website of Drugstore.com showing the a product called “Cellex-C Advanced-C Serum” described as a “serum” that is used for reducing age spots and wrinkles,
- (2) A page from the internet website of Amazon.com showing the brand “Palmer’s Age Spot Serum” on a product described as a “serum” that is used on age spots,
- (3) Pages from the internet website of Amazon.com showing the brand STRIVECTIN used on:
  - a. A wrinkle serum sold under the brand “Strivectin-HS Hydro-Thermal Deep Wrinkle Serum” and
  - b. A cream product sold under the brand “StriVectin-SD Eye Cream,” for use on wrinkles.

The evidence shows that “serum” is used for reducing wrinkles and age spots, just as applicant’s “cream” is used for reducing wrinkles and age spots. It also shows that one brand will be used on both a serum product and a cream product. This shows that applicant’s goods, as identified, are similar to the goods on which the registered mark is used.

For these reasons, applicant’s goods are similar to and are likely to be competitive with the goods on which the registered mark is used. Because applicant’s mark is similar to the registered mark and applicant’s goods are also similar to the goods on which the registered mark is used, applicant’s mark is likely to be confused with the registered mark and may not register.

Applicant must also note the following.

#### FINAL SECTION 2(e)(1) REFUSAL MERELY DESCRIPTIVE

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

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods. TMEP §1209.01(b); *see In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987).

The determination of whether a mark is merely descriptive is considered in relation to the identified goods, not in the abstract. *In re Abcor Dev. Corp.*, 588 F.2d 811, 814, 200 USPQ 215, 218 (C.C.P.A. 1978); TMEP §1209.01(b); *see, e.g., In re Polo Int’l Inc.*, 51 USPQ2d 1061 (TTAB 1999) (finding DOC in DOC-CONTROL would be understood to refer to the “documents” managed by applicant’s software, not “doctor” as shown in dictionary definition); *In re Digital Research Inc.*, 4 USPQ2d 1242 (TTAB 1987) (finding CONCURRENT PC-DOS merely descriptive of “computer programs recorded on disk” where relevant trade used the denomination “concurrent” as a descriptor of a particular type of operating system). “Whether consumers could guess what the product is from consideration of the mark alone is not the test.” *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985).

Applicant has identified its goods as:

Cosmetics, namely, anti-wrinkle cream; age spot reducing cream

Pharmaceutical preparations for skin care; pharmaceutical preparations for treating skin disorder

In this case, ferulic acid is a common ingredient in products for treating the skin and cosmetics used for anti-aging purposes. The attached evidence discloses:

- (1) An article found online at LASplash.com, which reads in part:

Finally, the most successful antioxidant skin care requires acknowledgement of the critical role of Ferulic Acid. It was discovered to be a performance enhancing antioxidant at the Duke University Medical Center. These amazing conclusions are discussed in peer reviewed medical journals with unprecedented scientific data.
- (2) Information from BulkActives.com regarding the 99% pure ferulic acid sold online, part of which reads:

Ferulic acid is commonly used in the DIY C+E Ferulic serum (commonly known as skinceuticals). The powder provides broad spectrum sun damage and antioxidant protection. It is also used for to skin lightening and brightening formulas
- (3) An article found online at TruthInAging.com, which reads in part:

A 2004 Italian study concluded that ferulic acid is a more powerful antioxidant than alpha-tocopherol (vitamin E), beta-carotene, and

ascorbic acid (vitamin C). Meanwhile, Duke University researchers blended it with vitamin C and E and proclaimed it a "potent ubiquitous plant anti-oxidant". In fact, it was discovered to act synergistically with other antioxidants and, in this case, rendered the vitamins C and E more powerful. The Duke Study found it particularly good for preventing sun damage, and studies elsewhere have demonstrated that exposure to ultraviolet light actually increases the antioxidant power of ferulic acid.

According to these sources, the prevailing opinion is that ferulic acid is an important active ingredient in products for the purposes of wrinkle reduction and age spot reduction. Consumers who are seeking products for this purpose are likely to know this and will be looking for labels that identify this ingredient. Consumers will see FERULAC and think that the mark identifies the ingredient ferulic acid. A term that describes an ingredient of the goods is merely descriptive. TMEP §1209.01(b); *see In re Keebler Co.*, 479 F.2d 1405, 178 USPQ 155 (C.C.P.A. 1973) (holding RICH 'N CHIPS merely descriptive of chocolate chip cookies); *In re Andes Candies Inc.*, 478 F.2d 1264, 178 USPQ 156 (C.C.P.A. 1973) (holding CREME DE MENTHE merely descriptive of candy); *In re Entenmann's, Inc.*, 15 USPQ2d 1750 (TTAB 1990) (holding OATNUT merely descriptive of bread containing oats and hazelnuts), *aff'd per curiam*, 928 F.2d 411 (Fed. Cir. 1991); *Flowers Indus., Inc. v. Interstate Brands Corp.*, 5 USPQ 2d 1580 (TTAB 1987) (holding HONEY WHEAT merely descriptive of bread containing honey and wheat); *In re Int'l Salt Co.*, 171 USPQ 832 (TTAB 1971) (holding CHUNKY CHEESE merely descriptive of cheese flavored salad dressing).

While applicant's mark is spelled FERULAC and the acid is spelled "ferulic," a novel spelling of a merely descriptive word or term is also merely descriptive if purchasers would perceive the different spelling as the equivalent of the descriptive word or term. *See In re Hercules Fasteners, Inc.*, 203 F.2d 753, 97 USPQ 355 (C.C.P.A. 1953) (holding "FASTIE," phonetic spelling of "fast tie," merely descriptive of tube sealing machines); *Andrew J. McPartland, Inc. v. Montgomery Ward & Co.*, 164 F.2d 603, 76 USPQ 97 (C.C.P.A. 1947) (holding "KWIXTART," phonetic spelling of "quick start," merely descriptive of electric storage batteries); *In re State Chem. Mfg. Co.*, 225 USPQ 687 (TTAB 1985) (holding "FOM," phonetic equivalent spelling of "foam," merely descriptive of foam rug shampoo); TMEP §1209.03(j).

In this case, applicant has argued that its mark is like BOTOX which contains "botulinic," or like NATUPEEL, which contains the word "peel," or like other trademarks that have part of a descriptive word in them. However, applicant's mark does not merely have part of a descriptive word in it. Applicant's mark is the word "ferulic" with a single letter changed. With both applicant's 2(d) arguments and with its arguments regarding descriptiveness, applicant is expecting consumers to engage in analysis of the trademark that is too specific than can reasonably be expected. The proposed mark FERULAC looks similar to and would sound exactly like "ferulic" to a consumer exercising the normal standard of care when purchasing products for wrinkle reduction or age spot reduction.

For these reasons, the wording FERULAC is merely descriptive of the goods and cannot register based on the current record.

The foregoing refusals are continued and made FINAL.

#### RESPONSE GUIDELINES – FINAL REFUSALS

If applicant does not respond within six months of the date of issuance of this final Office action, the application will be abandoned. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a). Applicant may respond to this final Office action by:

- (1) Submitting a response that fully satisfies all outstanding requirements, if feasible; and/or
- (2) Filing an appeal to the Trademark Trial and Appeal Board, with an appeal fee of \$100 per class.

37 C.F.R. §§2.6(a)(18), 2.64(a); TBMP ch. 1200; TMEP §714.04.

In certain rare circumstances, a petition to the Director may be filed pursuant to 37 C.F.R. §2.63(b)(2) to review a final Office action that is limited to procedural issues. 37 C.F.R. §2.64(a); TMEP §714.04; *see* 37 C.F.R. §2.146(b); TBMP §1201.05; TMEP §1704 (explaining petitionable matters). The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

/Fred Carl III/  
Law Office 108  
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**RESPOND TO THIS ACTION:** Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For technical assistance with the form, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

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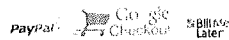


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#### Product Features

- Palmer's Skin Success Age Spot Serum with patented Kojic Dipalmitate Complex is clinically proven to reduce hyperpigmentation.
- Palmer's Skin Success lightens age spots and freckles caused by sun exposure, hormones, Melasma

- Palmer's Skin Success lightens age spots and freckles caused by sun exposure, hormones, melasma and aging.
- Evens out skin tone and refines texture on face, hands, neck and décolletage.
- Palmer's Skin Success contains Hydroquinone to lighten discolorations, Kojic Dipalmitate Complex to brighten skin tone.

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### Product Description

#### Product Description

INDICATIONS: Palmer's Skin Success Age Spot Serum with patented Kojic Dipalmitate Complex is clinically proven to reduce hyperpigmentation. Palmer's Skin Success lightens age spots and freckles caused by sun exposure, hormones, Melasma and aging. Evens out skin tone and refines texture on face, hands, neck and décolletage. Multi-botanical extracts, Alpha Hydroxy Acids, Vitamin E and sunscreen work together to improve skin texture and help prevent future discolorations. Palmer's Skin Success contains Hydroquinone to lighten discolorations, Kojic Dipalmitate Complex to brighten skin tone, and Alpha Hydroxy Acids to even skin tone.

### Product Details

- Item Weight:** 3.2 ounces
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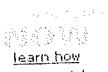
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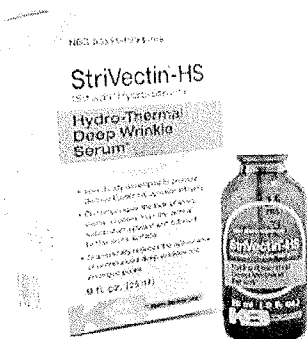
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**RoC Deep Wrinkle Serum, 1-fluid ounces Box**  
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2 Used & new from \$15.75  
*Prime*

**Neutrogena Ageless Intensives Deep Wrinkle Serum, 1-Ounce Tubes**  
Buy new: ~~\$21.99~~ \$18.97  
8 Used & new from \$9.95  
*Prime*

**Don't Go to the Cosmetics Counter Without Me (Don't Go to the Cosmeti...**  
Buy new: ~~\$29.95~~ \$19.77  
33 Used & new from \$18.67  
Track: (355) *Prime*

Amazon.com > Beauty > Skin Care



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### StriVectin Strivectin(TM)-HS Hydro-Thermal Deep Wrinkle Serum

Other products by [Strivectin](#)

4.5 out of 5 stars (8 customer reviews)

List Price: ~~\$153.00~~

Price: **\$95.98**

You Save: ~~\$57.02~~ (37%)

Size: 0.9 oz

In Stock.

Ships from and sold by [Sophia's Beauty](#).

**17 new** from \$95.98

\$95.98 + \$6.00 shipping

In Stock. Sold by [Sophia's Beauty](#)

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In Stock

**Total Inc**

**\$99.90** + \$6.00 shipping

In Stock

**Fab Products**

**\$104.00** + \$6.00 shipping

In Stock

**17 new** from \$95.98

#### Product Features

Size: 0.9 oz.

- This serum targets persistent, deep wrinkles.

#### Frequently Bought Together

### Frequently Bought Together

Size: 0.9 oz

17 new from \$95.98



**Total List Price: \$388.95**  
**Price For All Three: \$214.48**

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Share

- This item:** StriVectin Strivectin(TM)-HS Hydro-Thermal Deep Wrinkle Serum 0.9 oz by Strivectin
- Klein Becker by Klein Becker For women StriVectin-SD ( Intensive Concentrate For Stretch Marks )---/6OZ (Skincare - Night Care) by Strivectin
- StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz (38.45 ml) by Strivectin

### Customers Who Bought This Item Also Bought

Page 1 of 8



Klein Becker by Klein Becker For women StriVectin-SD ( Intensive...  
★★★★★ (11)  
\$72.00



StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz (38...  
★★★★★ (6)  
\$46.50



StriVectin Neck Cream 1.4 fl.oz (40 ml)  
★★★★★ (9)  
\$62.20



StriVectin StriVectin(R) Instant Deep Wrinkle Filler  
★★★★★ (2)  
\$39.90 - \$59.00



StriVectin Instant Facial Sculpting Cream 1 ea  
★★★★★ (1)  
\$59.99

### Important Information

#### Indications

AGING SKIN, WRINKLES, CROW'S FEET, SAGGING SKIN, DEEP LINES, DEEP WRINKLES.

#### Ingredients

Water (Aqua), Tripeptide, Glycerin, Butylene Glycol, Sodium Polystyrene Sulfonate, Yeast Extract (Faex), PEG-8, Albumen, Polypeptide, Hydrolyzed Soy Protein, Glycereth-26, Arginine, Xanthan Gum, PEG-12 Dimethicone, Acrylates/C10-30 Alkyl Acrylate Crosspolymer, Tetrasodium EDTA, Phenoxyethanol, Methylparaben, Ethylparaben, Butylparaben, Propylparaben Isobutylparaben.

#### Directions

You apply StriVectin-HS with your fingertips directly to the most pronounced wrinkles at the corners of the eye, between the brow, around the lips and down the nasolabial folds (the lines that run from the edge of your nose to the corners of your mouth). Wait one to three minutes or until the serum becomes dry and slightly tacky to the touch. Soak a clean facecloth in hot (not scalding) water (wring out excess water) and hold it firmly to your face for sixty seconds or until the towel cools.

#### Legal Disclaimer

See Box

## Product Description

Size: 0.9 oz

### Product Description

What it is: A deep-penetrating, bio-functional complex specifically developed to support the integrity of the Dermal-Epidermal Junction (DEJ); a "wavy," complex layer of cells that act as the interface between the epidermis and the dermis and play a critical role in the natural process of tissue repair and the soundness of skin architecture. What it is formulated to do: StriVectin(TM)-HS Hydro-Thermal Deep Wrinkle Serum travels directly to the base of deep wrinkles, decompressing the look of sharp, visible creases from the dermal substratum upward and outward to the skin's surface, dramatically reducing the appearance of pronounced deep wrinkles, enlarged pores, and stubborn surface imperfections.

## Product Details

Size: 0.9 oz

**Item Weight:** 1 ounces

**Shipping Weight:** 1 pounds ([View shipping rates and policies](#))

**ASIN:** B000GAW796

**UPC:** 817777009408

**Average Customer Review:** (8 customer reviews)

**Amazon.com Sales Rank:** #4,830 in Beauty (See [Bestsellers in Beauty](#))




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## Customers Who Viewed This Item Also Viewed

<a href="#">Klein Becker by Klein Becker For women StriVectin-SD Intensive...</a> (11) \$72.00	<a href="#">StriVectin StriVectin(R) Instant Deep Wrinkle Filler</a> (2) \$39.90 - \$59.00	<a href="#">StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz (38...</a> (6) \$46.50	<a href="#">StriVectin-SD Anti-Aging Breakthrough Erase Face Wrinkles and St...</a> (3) \$71.06	<a href="#">StriVectin SD Cream</a> (1) \$76.00

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[Buy StriVectin@ 20% Off](#)

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SkinStore.com - Shop the Full Line of StriVectin. Save 20% Storewide! Code: SPRING20
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www.PureSkin.com/StriVectin - Lowest Prices From PureSkin! Order Today. Call 1-800-419-6127.
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StriVectin-HS 25ml Hydro-Thermal Deep Wrinkle Serum

\$153.00  
+ Free Shipping  
 [DrSkinSpa-Free Shipping](#)


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Looking for "wrinkle serum" Products?

Other customers suggested these items:



[Jurlique Herbal Recovery Gel \(1 oz\)](#)

 (2) \$134.00

Suggested by 2 customers

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[stretch marks](#) (5)

[treatment](#) (5)

[skin care](#) (5)

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[strivectin-sd](#) (3)

[wrinkles](#) (2)

[neck cream](#) (2)

[anti-aging](#) (1)

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[strivectin neck cream](#)  
(4)

[strivectin sd](#) (2)

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### Customer Reviews

0 Reviews

- 5 star: (2)
- 4 star: (0)
- 3 star: (1)
- 2 star: (2)
- 1 star: (3)

**Average Customer Review**  
★★★★☆ (8 customer reviews)

Share your thoughts with other customers:

[Create your own review](#)

#### Most Helpful Customer Reviews

8 of 8 people found the following review helpful:

★★★★★ **Try It Yourself**, May 12, 2008

By [Sungsg "Hugz Sungsg & JL" ☺](#) (NW Idaho) - [See all my reviews](#)

Amazon Verified Purchase (What's this?)

not certain about this product.... been using this product since December 2007 as prescribed, but it seems to have plateau out a few months ago. No difference has been realized by me since February. Based on usage, I've been purchasing one monthly, so dunno if I will continue using it. After first 4 weeks of usage could notice a difference in my pores, slightly smaller pores, but as far as my laugh lines, no appreciable difference. Maybe I'm doing something wrong.

Help other customers find the most helpful reviews

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Was this review helpful to you?  Yes  No

[Comment \(1\)](#)

7 of 7 people found the following review helpful:

★★★★★ **StriVectin-HS**, September 20, 2008

By [Moses First "Moses" ☺](#) (Fresno, Ca USA) - [See all my reviews](#)

I bought the StriVectin-HS 2 1/2 months ago, using it twice a day and followed instructions. I have seen no progress in the deminishing of my wrinkles. I paid \$153.00 for it at Gottschalks and I have been very disappointed in this product.

Help other customers find the most helpful reviews

[Report this](#) [Permalink](#)

Was this review helpful to you?  Yes  No

[Comment](#)

4 of 4 people found the following review helpful:

★★★★★ **don't waste your money**, February 21, 2009

By [C. Schrauben ☺](#) (Grand Rapids, MI USA) - [See all my reviews](#)

#### Most Recent Customer Reviews

★☆☆☆☆ **WORTHLESS!!!!**  
USED THIS EXACTLY PER INSTRUCTIONS AND NOTHING!!!!WASTED ALOT OF MONEY ON SOMETHING THAT DID NOTHING!!PLEASE DON'T MAKE THE SAME MISTAKE!!!

[Read more](#)

Published 1 month ago by Jacqueline Evans

★★★★★ **Hassle to apply and benefits are iffy.**

Be smart and purchase this from a seller who allows returns within 30 days. If you don't see improvement in 3 1/2 weeks, return it.

[Read more](#)

Published 4 months ago by Sinclair

★★★★★ **StriVectin-HS**

I Love the product however "The Beauty Center" is the company I had to go through to get it was horrible on the delivery ! I will order it elsewhere next time.

Published 6 months ago by J. Gillen

★★★★★ **CROWS AWAY!!**

I LOYALY used this product for 2 months. I applied very little. Applied on small fine lines. The begging of small crows feet? My trown line? 2 big ol lines on my forehead?

[Read more](#)

Published 13 months ago by Lee5458



REAL NAME

I bought this product hoping everything I read was true. It does not even come close to measuring up to it's claims!! I used the entire bottle- faithfully every day, and was very disappointed. I see no reduction of fine lines and wrinkles. My olay moisturizer did a better job of making me look younger!! Don't waste your money.

Help other customers find the most helpful reviews [Report this](#) [Permalink](#)

Was this review helpful to you?  Yes  No [Comment](#)

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☆☆☆☆ sad

i had hoped this product would do what is said. it didn't and \$165.00 for something that did nothing is a lot of money.

[Read more](#)

Published 16 months ago by deb

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This product's forum

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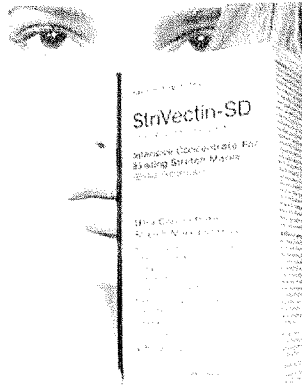
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## StriVectin-SD Anti-Aging Breakthrough Erase Face Wrinkles and Stretch Marks - Value Size 4 oz

Other products by [StriVectin](#)

[View all \(3 customer reviews\)](#)

List Price: ~~\$134.99~~

Price: **\$71.06** (\$7.11 / 100 Items)

You Save: **\$63.93** (47%)

**In Stock.**

Ships from and sold by [The Natural Health Shoppe](#).

**3 new** from \$71.06

\$71.06 + \$2.29 shipping

In Stock. Sold by [The Natural Health Shoppe](#)

Quantity:



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**DAB Nutrition (Direct Super Center)**

[Add to Cart](#)

**\$79.95** (this item ships for FREE with Super Saver Shipping. [Details](#))  
In Stock

**3 new** from \$71.06

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### Product Features

- StriVectin is the most powerful anti-ageing weapon to erase sagging, wrinkles, lines and fine lines.
- StriVectin is also an excellent moisturizer
- No knives. No plastic surgery. Just RESULTS YOU CAN SEE from the 28th day

### Frequently Bought Together



Total List Price: ~~\$304.94~~  
Price For All Three: \$179.76

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- This item:** StriVectin-SD Anti-Aging Breakthrough Erase Face Wrinkles and Stretch Marks - Value Size 4 oz by StriVectin
- [StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz \(38.45 ml\)](#) by StriVectin
- [StriVectin Neck Cream 1.4 fl oz \(40 ml\)](#) by StriVectin

Customers Who Bought This Item Also Bought



[StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz \(38.45 ml\)](#)  
★★★★★ (6)  
\$46.50



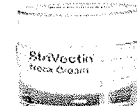
[StriVectin Neck Cream 1.4 fl oz \(40 ml\)](#)  
★★★★★ (9)  
\$62.20



[Klein Becker by Klein Becker For women StriVectin-SD \(Intensive...\)](#)  
★★★★★ (11)  
\$72.00



[StriVectin-SD Eye Cream \(1.3oz\)](#)  
★★★★★ (5)  
\$59.00



[StriVectin Neck Cream 1.4 fl oz](#)  
★★★★★ (1)  
\$65.99

Important Information

**Indications**

AGING SKIN, WRINKLES, CROW'S FEET, SAGGING, TIRED SKIN, FATIGUE, LINES, FINE LINES.

**Directions**

STRIVECTIN-SD's efficacy is at its peak during nighttime, when you are asleep. It is extra-concentrated, so use it sparingly and AVOID THE EYE CONTOUR AREA because redness, tearing and allergies might occur because it is extra-concentrated. DO NOT USE IT AROUND THE EYES.

Product Description

Product Description

Before you consider having plastic surgery, you might want to consider trying STRIVECTIN-SD, THE 21st CENTURY ANTI-AGING BREAKTHROUGH. If you haven't done so yet, here is your chance to give your face a far more youthful appearance. Women who already had

BREAKTHROUGH. If you haven't done so yet, here is your chance to give your face a far more youthful appearance. Women who already had a facelift, back-up their surgery with a StriVectin-SD treatment in order to maximize the results. Only because StriVectin-SD is the most powerful weapon ever invented to fight the damage of time. The RESULTS are the GREATEST NEWS: STRIVECTIN'S IMPACT ON WRINKLES SHOWS AFTER ONLY 28 DAYS. So all you have to lose by giving it a try...is to LOSE YOUR WRINKLES.

### Product Details

**Shipping Weight:** 2 pounds (View shipping rates and policies)

**ASIN:** B001377RZK

**Average Customer Review:** (3 customer reviews)

**Amazon.com Sales Rank:** #5,556 in Health & Personal Care (See [Bestsellers in Health & Personal Care](#))

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### Customers Who Viewed This Item Also Viewed

Page 1 of 12



[Klein Becker by Klein Becker For women StriVectin SD Intensive...](#)  
 (11)  
\$72.00



[StriVectin SD Cream Stretch Mark & Wrinkle Removal 6 oz.](#)  
\$78.00



[StriVectin Instant Facial Sculpting Cream 1 ea](#)  
 (1)  
\$59.99



[StriVectin-SD Intensive Concentrate, StriVectin For Existing Str...](#)  
 (1)  
\$77.00



[StriVectin-SD Eye Cream, for Orbital Area Application 1.0 oz \(30...](#)  
 (6)  
\$46.50

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- [StriVectin® SD 20% Off](#) SkinStore.com - Buy the **Anti-Aging Breakthrough**. Save 20% Storewide! Code: SPRING20
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Complex For Face and Eyes

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 **ULTA Beauty**

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Customer Reviews

3 Reviews

- 5 star: (2)
- 4 star: (0)
- 3 star: (0)
- 2 star: (0)
- 1 star: (1)

**Average Customer Review**  
★★★★☆ (3 customer reviews)

Share your thoughts with other customers:

Most Helpful Customer Reviews

4 of 4 people found the following review helpful:

★★★★☆ **As good as Retin A.** September 10, 2008

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Simple and straightforward

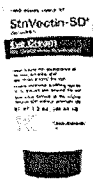
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### StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz (38.45 ml)

Other products by [StriVectin](#)

★☆☆☆☆ (6 customer reviews)

List Price: ~~\$74.95~~

Price: **\$46.50**

You Save: **\$28.45 (38%)**

**In Stock.**

Ships from and sold by **Total Inc.**

14 new from \$46.50

\$46.50 + \$8.99 shipping

In Stock. Sold by **Total Inc**

Quantity: 1

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**More Buying Choices**

14 new from \$46.50

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#### Product Features

- Helps reduce the appearance of fine lines, wrinkles, and dark circles around the eye
- Includes additional soothing agents for the delicate skin around the eye
- Same functional compound as the original StriVectin-SD® without aromatic oils

#### Frequently Bought Together



Total List Price: ~~\$322.95~~

Price For All Three: **\$180.70**

[Add all three to Cart](#) | [Add all three to Wish List](#)

These items are shipped from and sold by different sellers. [Show details](#)

- This item:** StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz (38.45 ml) by StriVectin
- [Klein Becker by Klein Becker For women StriVectin-SD \( Intensive Concentrate For Stretch Marks \)--/6OZ \(Skincare - Night Care\)](#) by StriVectin
- [StriVectin Neck Cream 1.4 fl oz \(40 ml\)](#) by StriVectin

#### Customers Who Bought This Item Also Bought

**Klein Becker by Klein  
 Becker For women  
 StriVectin-SD  
 (Intensive...  
 (11)  
 \$72.00**

**StriVectin Neck Cream  
 1.4 fl oz (40 ml)  
 (9)  
 \$62.20**

**StriVectin Instant Facial  
 Sculpting Cream 1 ea  
 (1)  
 \$59.99**

**StriVectin-SD Anti-Aging  
 Breakthrough Erase Face  
 Wrinkles and St...  
 (3)  
 \$71.06**

**StriVectin SD Cream  
 (1)  
 \$76.00**

**Important Information**

**Ingredients**

Water (Deionized), C12-15 Alkyl Benzoate, Sesame Oil, Capric/Caprylic Stearic Triglyceride, Cetearyl Olivata (Source Olive Oil), Sorbitan Olivata, Sweet Almond Oil, Striadril Complex (Consisting of Palmitoyl Pentapeptide-3, Phyllanthus Emblica Fruit Extract, Siegesbeckia Orientalis Extract, Polyglycerylmethacrylate, Propylene Glycol, Palmitoyl Oligopeptide, Glucosamine HCl, Algae Extract, Yeast Extract, Urea, Butylene Glycol, Hydrocotyl Extract, Coneflower Extract, Hydrolyzed Wheat Protein,

**Ingredients**

Hydrolyzed Wheat Starch, Imperata Cylindrica Root Extract, Bearberry (Arctostaphylos Uva Ursi) Extract, Licorice PTH, Glycerin, PPG 12/SMDI Copolymer, Glyceryl Stearate, PEG 100 Stearate, Stearic Acid, Cocoa Butter, Kukui Nut Oil, Santalum Album Extract (Sandalwood), Phellodendron Amurense Bark Extract, Hordeum Distychnum Extract, Meadowsweet, Hydrocotyl Extract, Amino Acids, Green Tea Extract, Shea Butter, Algae (Seaweed) Extract, Mugwort Extract (Artemisia Vulgaris), Plantago Lanceolata Leaf

**Ingredients**

Extract, Crithmum Maritimum Extract, Phenoxyethanol, Tocopherol (Natural), Mango Butter, Methylparaben, Xanthan Gum, Triethanolamine, Propylparaben, Dipotassium Glycyrrhizate, Stearyl Glycyrrhetinate, Disodium EDTA, Tetrahexyldecyl Ascorbate (vitamin C), Retinyl Palmitate

**Directions**

Begin with clean, dry skin. Apply StriVectin-SD Eye Cream twice daily, morning and evening (do not exceed three applications per 24-hour period). Use sparingly. StriVectin-SD Eye Cream is a concentrated formula. Gently massage StriVectin-SD Eye Cream into the target area, using a circular motion, until completely absorbed. StriVectin-SD Eye Cream penetrates immediately, leaving your skin youthful, smooth, and silky. As StriVectin-SD Eye Cream begins to work within your chosen target area

**Product Description**

**Product Description**

Congratulations for choosing StriVectin-SD® Eye Cream! You have made the right choice. Helps reduce the appearance of fine lines, wrinkles, and dark circles around the eye. Includes additional soothing agents for the delicate skin around the eye. Same active formula as the original StriVectin-SD® without aromatic oils. There is no question that StriVectin-SD® (the stretch-mark-reducer-turned-anti-wrinkle-phenomenon) has become the most sought-after topical around the globe. However, there is one drawback: since the original StriVectin-SD formula was designed as a stretch-mark reducer, it contained aromatic agents (such as peppermint) which caused some user's eyes to water when applied to the delicate skin in the orbital eye area... the eyelid and that area directly below the eye.



Because of the effectiveness of StriVectin-SD at reducing the appearance of fine lines and facial wrinkles, Klein-Becker USA® was asked to prepare a formula that could be applied to the orbital eye area. StriVectin-SD Eye Cream consists of the same active compounds contained in the original StriVectin-SD formula. . . but without the aromatic components, and enhanced with soothing agents to help protect the delicate skin around the eyes. . . it even helps reduce the appearance of dark circles!  
International distribution is not authorized without prior written consent.  
Product resale allowed only through authorized representatives.

30 Day Guarantee

Manufactured in the USA

### Product Details

**Item Weight:** 2.7 ounces

**Shipping Weight:** 2.1 ounces ([View shipping rates and policies](#))

**ASIN:** B00186YRA4

**UPC:** 817777002201

**Average Customer Review:** ★★★★★ (0 customer reviews)

**Amazon.com Sales Rank:** #74 in Beauty (See [Bestsellers in Beauty](#))

Popular in this category: ([What's this?](#))

#3 in [Beauty](#) > [Skin Care](#) > [Eyes](#) > [Dark Circle Treatments](#)

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### Customers Who Viewed This Item Also Viewed



[StriVectin-SD Eye Cream](#)  
1.3oz  
★★★★ (2)  
\$46.00



[Klein Becker by Klein Becker For women StriVectin-SD \(Intensive...](#)  
★★★★ (11)  
\$72.00



[StriVectin StriVectin-SD Eye Cream](#)  
★★★★ (21)  
\$59.00



[StriVectin SD Cream Stretch Mark & Wrinkle Removal 6 oz.](#)  
\$78.00



[StriVectin-SD Anti-Aging Breakthrough Erase Face Wrinkles and St...](#)  
★★★★ (3)  
\$71.06

### Customers Viewing This Page May Be Interested in These Sponsored Links ([What's this?](#))

- Buy [StriVectin® 20% Off](#)
- SkinStore.com - Shop the Full Line of StriVectin. Save 20% Storewide! Code: SPRING20
- StriVectin Eye Cream

StriVectin Eye Cream

www.Sephora.com/Klein-Becker - Find Top-Rated StriVectin Products at Sephora. Free Shipping over \$50!

Buy StriVectin SD Line

www.SkinWest.com - SkinWest Winter Special. Free \$15 Dermalogica Gift w/Purchase

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Product Ads from External Websites ([What's this?](#))



StriVectin Eye Cream 1.3 oz

★★★★ (8) \$49.00  
+ \$4.99 Est. shipping  
Midwest Skincare



StriVectin-SD Eye Cream

★★★★ (21) \$59.00  
+ \$5.95 Est. shipping  
ULTA Beauty



Obagi Elastiderm Eye Treatment Cream

★★★★ (11) \$88.92  
+ Free Shipping  
Dermstore



StriVectin Neck Cream 1.4oz Lifts, Shapes, and Refines

\$89.00  
+ Free Shipping  
DrSkinSpa-Free Shipping

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Tags Customers Associate with This Product ([What's this?](#))

Click on a tag to find related items, discussions, and people.

- [eye treatment](#) (1)
- [quick](#) (1)
- [fine lines](#) (1)
- [wrinkles](#) (1)

Your tags: [Add your first tag](#)

Search Products Tagged with

Search input field with a GO button and a list of suggested tags.

Customer Reviews

6 Reviews

- 5 star: (3)
- 4 star: (0)
- 3 star: (2)
- 2 star: (1)
- 1 star: (0)

Average Customer Review

★★★★ (6 customer reviews)

Share your thoughts with other customers:

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Most Helpful Customer Reviews

15 of 15 people found the following review helpful:

★★★★ UNBELIEVABLE!, May 13, 2005

By KB (United States) - [See all my reviews](#)

OLAY promotion banner: get up to \$28 in savings\* \*rollover for details.

by [Kb](#) (United States) - [See all my reviews](#)

I've tried them all - perscription RetinA, laser treatments, Botox. I was highly skeptical that an over the counter cream would be effective, but the science was interesting to me. The label says you will see a difference in 28 days. I saw a difference day one, a big difference day 5, a REMARKABLE difference day 14 - now I can't WAIT for day 28. It truly is unbelievable. My crows feet - the deep ones, are dissapearing before my eyes ( and beside them!!!!) - the deep creases in my forehead and neck are significantly reduced. Consider me a convert - I only wish I could bathe in it!!!

Help other customers find the most helpful reviews

[Report this](#) [Permalink](#)

Was this review helpful to you?  Yes  No

[Comment](#)

3 of 3 people found the following review helpful:

[★★★★★](#) **Radical Difference?**, November 9, 2006

By [C. White "SpunSugary"](#) (Detroit, MI) - [See all my reviews](#)  
REAL NAME

This eyecream is no better than the one I'd been using. A Loreal product that I paid \$20 for. I was expecting something a little better for 3X the price.

Help other customers find the most helpful reviews

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Was this review helpful to you?  Yes  No

[Comment](#)

2 of 2 people found the following review helpful:

[★★★★★](#) **Worked well but temporary and very expensive**, November 17, 2009

By [Sinclair "="](#) (San Diego, CA) - [See all my reviews](#)  
REAL NAME

I think this product is overpriced and will only help some people but if it does help you significantly, it may be worth the cost. A good friend and I both started using this around the same time. We both noticed an undeniable difference in the fine lines on/around our eyes/eyelids. The areas above my eyelids were lifted from use of this product and this made my eyes look years younger.

For some reason, this effect was temporary for me. The wrinkles and sagging seemed to creep back for me and my friend. I can't explain why. I stopped using it for a few months figuring it was a waste of money to keep using it if it wasn't helping. When I went back to using it, I saw improvement, again. I can't explain why it would stop working and then work again, but this is what happened with me. If anyone can explain this, please add a comment to my review.

Given their competition, I think it would be a smart marketing move for the company to lower the price.

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Was this review helpful to you?  Yes  No

[Comment](#)

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#### Most Recent Customer Reviews

[★★★★★](#) **Great product**

I am in my 30s and this product is great. It softens the skin around my eyes and makes it feel great. I recommend this product to anyone.

Published 1 month ago by S. Matyushkina

[★★★★★](#) **quick results!**

Within a couple of days I could see a very notable difference in the lines around my eyes. However, although this claims - as a somewhat secondary effect - to reduce dark circles,...

[Read more](#)  
Published 3 months ago by Rose

[★★★★★](#) **Umm..NO**

I have been using this for months and I have had no results as far as helping fine lines or crows feet.

[Read more](#)  
Published 8 months ago by Alendra Dior

#### Search Customer Reviews

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### Customer Discussions




This product's forum

Discussion	Replies	Latest Post
No discussions yet		

Ask questions, Share opinions, Gain insight  
Start a new discussion

Topic:

#### Active discussions in related forums

Discussion	Replies	Latest Post
 <b>skin care</b> AcneFree repair lotion alternatives	5	2 days ago
 <b>skin care</b> regenerist or total effects?	17	2 days ago
 <b>skin care</b> getting rid of breast scars	2	18 days ago

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#### The Skin Care community



Latest activity  
1 hour ago

3,853 customers have contributed 3,036 products, 25 discussions and more...

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eye treatments (1 discussion)

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[Beauty](#) > [Skin Care](#) > [Face](#)

Ad feedback

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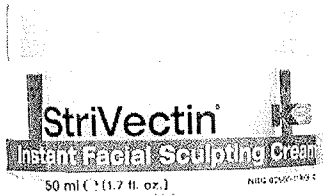
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### StriVectin StriVectin(R) Instant Facial Sculpting Cream(TM)

Other products by [StriVectin](#)  
[\(1 customer review\)](#)

List Price: ~~\$79.00~~  
Price: **\$59.99**  
You Save: **\$19.01 (24%)**

Size: 1.7 oz

In Stock.  
Ships from and sold by [Payless Beauty](#).

**11 new** from \$57.90

[See larger image](#)



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**\$59.99** + \$6.00 shipping

In Stock, Sold by [Payless Beauty](#)

Quantity:

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**\$57.90** + \$6.99 shipping  
In Stock

**SkinDirect** [Add to Cart](#)

**\$71.50** + \$6.95 shipping  
In Stock

**CosmeticMal...** [Add to Cart](#)

**\$73.77** + \$4.03 shipping  
In Stock

**11 new** from \$57.90

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### Product Features

Size: 1.7 oz

- Reduce the appearance of fines, wrinkles, and crow's feet
- Make your face look more youthful, sculpted and defined.

### Frequently Bought Together

Size: 1.7 oz



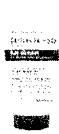
Total List Price: ~~\$386.95~~  
Price For All Three: **\$178.49**

[Add all three to Cart](#) | [Add all three to Wish List](#)

These items are shipped from and sold by different sellers. [Show details](#)

- This item:** StriVectin Instant Facial Sculpting Cream 1 ea by StriVectin
- Klein Becker by Klein Becker For women StriVectin-SD ( Intensive Concentrate For Stretch Marks )--/6OZ (Skincare - Night Care)** by StriVectin
- StriVectin-SD Eye Cream, for Orbital Area Application 1.3 oz (38.45 ml)** by StriVectin

Customers Who Bought This Item Also Bought



**StriVectin StriVectin-SD® Eye Cream**  
★★★★★ (21)  
\$59.00



**The Mayo Clinic Diet: Eat Well, Enjoy...** by Mayo Foundation for M...  
★★★★★ (35)  
\$16.47



**Avon BEYOND COLOR Plumping Lip Conditioner SPF 15**  
★★★★★ (23)  
\$8.00



**StriVectin Neck Cream**  
1.4 fl.oz. (40 ml)  
★★★★★ (4)  
\$90.00



**Dior DiorShow Mascara**  
★★★★★ (144)  
\$24.00

Important Information

**Ingredients**

Water, Propylheptyl Caprylate, Hydrogenated Polyisobutene, Yeast Extract (Faex), Hydrolyzed Soy Protein, Glycerin, Silica, Ethylhexyl Palmitate, Caprylic/Capric Triglyceride, Isododecane, Cetyl Alcohol, C12-15 Alkyl Benzoate, PEG-100 Stearate, Glyceryl Stearate, Myristyl Myristate, Stearyl Alcohol, Anemarrhenae Asphodeloides (Root) Extract, Calcium Hydrozomethionine, Butyrospermum Parkii (Shea Butter), Secale Cereale (Rye) Seed Extract, Caprylyl Glycol, Acrylates/C10-30 Alkyl Acrylate Crosspolymer, Phenylethyl Resorcinol, Pentylene Glycol, Butylene Glycol, Prunus Amygdalus Dulcis (Sweet Almond) Seed Extract, Sorbitan Stearate, 3- Aminopropane Sulfonic Acid, Hydroxyethylcellulose, Disodium EDTA, Tocopherol, Triethanolamine, Dimethicone/Vinyl Dimethicone Crosspolymer, Polysorbate 20, Ethylhexylglycerin, Phenoxyethanol, Methylparaben, Ethylparaben, Butylparaben, Propylparaben, Isobutylparaben, Sodium Methylparaben, Sodium Ethylparaben, Sodium Methylparaben, Sodium Ethylparaben, Sodium Propylparaben.

Product Description

Size: 1.7 oz.

Product Description

Not only will StriVectin's® New Instant Facial Sculpting Cream reduce the appearance of fine lines, wrinkles and crows' feet, but it also accentuates your cheekbones & jaw line as it lifts, tightens & tones your skin... making your face look more sculpted, youthful & defined. It even reduces the appearance of "ear wrinkles"... those nasty little lines in front of your ears (you know, the wrinkles you ignore but everyone else gets to see). So if you want to transform your entire facial contour, get StriVectin's NEW Instant Facial sculpting Cream. You won't be disappointed.

Product Details

Size: 1.7 oz.

- Item Weight:** 6.6 ounces
- Shipping Weight:** 1 ounces ([View shipping rates and policies](#))
- ASIN:** B0023VUUQI
- UPC:** 817777001686
- Average Customer Review:** ★★★★★ (1 customer review)
- Amazon.com Sales Rank:** #45 in Beauty (See [Bestsellers in Beauty](#))

Popular in this category: ([what's this?](#))

#6 in [Beauty](#) > [Skin Care](#) > [Body](#) > [Moisturizers](#) > [Lotions](#)

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Customers Who Viewed This Item Also Viewed



[StriVectin Instant Facial Sculpting Cream 1 ea](#)  
★★★★★ (1)  
\$59.99



[StriVectin Instant Facial Sculpting Cream 1.7oz](#)  
\$79.00



[StriVectin Instant Facial Sculpting Cream 1.2 Oz](#)  
\$59.99



[StriVectin Instant Facial Sculpting Cream 2-Pack 35ml Each](#)  
\$112.00



[StriVectin Neck Cream 1.4 fl oz \(40 ml\)](#)  
★★★★★ (9)  
\$62.20

Customers Viewing This Page May Be Interested in These Sponsored Links ([what's this?](#))

- Buy **StriVectin** @ **20% Off** [SkinStore.com](#) - Shop the Full Line of **StriVectin**. Save 20% Storewide! Code: SPRING20
- Youthology Eye Serum** [www.youthology.com](#) - Look up to 10 years younger without expensive and dangerous treatments!
- Save 40% On StriVectin** [www.PureSkin.com/StriVectin](#) - Lowest Prices From PureSkin! Order Today. Call 1-800-419-6127.

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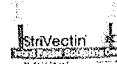
Product Ads from External Websites ([what's this?](#))



StriVectin Instant Facial Sculpting Cream  
★★★★★ (1) \$79.00  
+ Free Shipping  
Dermstore



StriVectin Instant Facial Sculpting Cream  
\$79.00  
+ Free Shipping  
Skinterra



Instant Facial Sculpting Cream  
★★★★★ (1) \$79.00  
+ \$5.95 Est. shipping  
ULTA Beauty

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| <a href="#">treatment</a> (5)                               | <a href="#">strivectin-sd</a> (2) |                                |
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### Customer Reviews

1 Review

- 5 star: (1)
- 4 star: (0)
- 3 star: (0)
- 2 star: (0)
- 1 star: (0)

**Average Customer Review**  
☆☆☆☆☆ (1 customer review)

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#### Most Helpful Customer Reviews

7 of 9 people found the following review helpful:

☆☆☆☆☆ **Velvet in a Jar**, October 1, 2009

By **Mary Terese Weir**  - [See all my reviews](#)

REAL NAME

Amazon Verified Purchase (What's this?)

Strivectin products have been on the market for many years, and there's a reason for that. They work. Creamy, easy to apply and the result is lovely, soft skin. If there were one thing I would change about Strivectin, it would be to add sunscreen to it. And fragrance. Unfortunately, both of those additives would ruin the product! I was told by a dermatologist that in her field, they actually advise against using facial creams with sunblock and fragrance, as the additives like that irritate skin. I am very happy to have chosen Strivectin (again) and will continue to use it. I like the rosy glow it gives my face, and I have noticed an overall smoothing of my skin.

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Customer Discussions




This product's forum

Discussion Replies Latest Post  
No discussions yet

Ask questions, Share opinions, Gain insight  
Start a new discussion

Topic:

Active discussions in related forums

Discussion	Replies	Latest Post
 <a href="#">skin care</a> AcneFree repair lotion alternatives	5	2 days ago
 <a href="#">skin care</a> regenerist or total effects?	17	2 days ago
 <a href="#">skin care</a> getting rid of breast scars	2	18 days ago

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The Skin Care community



Latest activity  
12 minutes ago

3,854 customers have contributed 3,038 products, 25 discussions and more...

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LASPLASH.COM: Health & Beauty

## SkinCeuticals - Antioxidants and Skin Care Basics

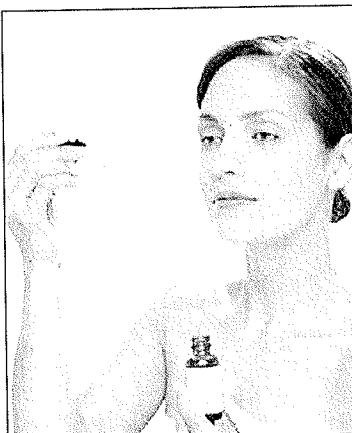
By Susi Phoenix

Taking proper care of our skin is an ongoing, year-round process, particularly when we spend more time outdoors. If you care about your skin but fail to use the right products, not only will the results be disappointing but it will be a waste of your time and money. Even worse, you will not be getting the protection and benefits your skin desperately needs in today's stressful, polluted environment. So take the time to do at least a bit of research to know what you need and the best way to get it.

First, you need to know about oxidants (also known as 'free radicals') and anti-oxidants. One easy way to understand the effect of oxidants is to think about them as the body's normal 'rust' factor. Oxidants are the enemy of healthy cells. This is considered the primary cause of aging and a variety of diseases.

Oxidants thrive by exposure to sunlight or pollution, smoking, drinking alcohol, stress or unhealthy eating habits. Basically, a free radical is a thief and your body pays the price. It is an unstable element due to a missing element. So it steals from another cell to stabilize itself, damaging the other cell in the process. Besides the impact on your health, it also causes the skin to lose its youthful appearance.

Luckily, there is a variety of antioxidant agents to minimize this destructive effect, by binding the free radicals together. Even better, the anti-oxidants can help already damaged cells. However, it can only be a guardian once, so ideally they are constantly replenished. Otherwise, you get premature aging, a compromised immune system leading to higher risk for certain diseases, hyperpigmentation, and loss of skin elasticity.



The only way to neutralize this oxidative stress is with antioxidants. While taking care of what goes into your body is easy with the available supplements and a healthier diet, dealing with the effects of oxidants in your skin is a different matter. You can't control the level of sunlight or pollution it is regularly exposed to unless you plan on making a hazmat suit part of your daily attire.

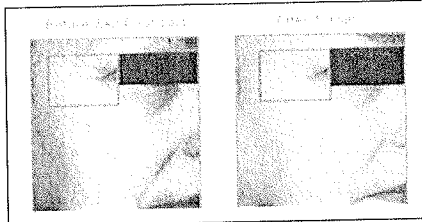
Next, be aware that your skin constantly needs vitamin C. It is crucial for collagen production, which is destroyed by oxidative stress. Taking a pill isn't the answer either, topical application is needed. The body limits the amount of orally ingested antioxidants able to benefit the skin. There are many products to pick from. Yet, when formulated properly as SkinCeuticals products are vitamin C can be delivered to the skin at 40 times the levels achieved orally.

And vitamin E is crucial too as the body's most important fat-soluble antioxidant. Its effect on cell membranes is critical to keep the cell whole. Otherwise, the cell and its components will be destroyed. It safeguards other fat-soluble vitamins from

will be destroyed, it safeguards other fat-soluble vitamins from oxidative injury, and is needed for tissue repair, to promote healing as well as being a natural anticoagulant.

Just being careful outdoors doesn't solve the whole problem of skin protection, unfortunately, due to indoor photodamage. Many people are not aware that UVA rays, unlike UVB, can penetrate glass exposing the skin to detrimental photoaging at all times. So it is an issue indoors or out, especially if you have one of those really nice corner offices with lots of windows, a great sun room or spend a lot of time in your car.

The SkinCeuticals advantage is acknowledged in their trail blazer status. They were the first to formulate pure high concentration L-ascorbic acid and transparent zinc oxide. Or to effectively combine pure vitamin C and pure vitamin E. To see for yourself the amazing difference the SkinCeuticals advantage makes, check out more before and after pictures at <http://skincarex.com/skinceuticals.html>



Finally, the most successful antioxidant skin care requires acknowledgement of the critical role of Ferulic Acid. It was discovered to be a performance enhancing antioxidant at the Duke University Medical Center. These amazing conclusions are discussed in peer reviewed medical journals with unprecedented scientific data. And Ferulic Acid is the cornerstone of the SkinCeuticals advantage in their scientifically grounded new products.



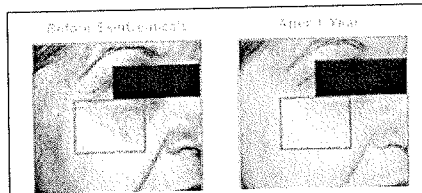
SkinCeuticals, highly and continually praised by doctors, is now introducing C E Ferulic Serum, a powerful antioxidant cocktail with 8-Fold Photoprotection (measure of a product's ability to neutralize free radicals and protect against oxidative stress) for anti-aging skincare. It beats available products with its advanced antioxidant technology of AOX+. Add up to 96% sunburn cell reduction to neutralize the type of unavoidable, every day type of environmental damage we are all constantly exposed to, and you have another winner in the SkinCeutical line.

For adequate skin protection, an understanding of the difference between photoprotection and SPF is needed. Photoprotection is not SPF (a measure of protection against UVB radiation only). Photoprotection is a measure of a product's ability to protect against oxidative stress. To date no approved, standardized measure of UVA protection exists in the United States.

How does C E Ferulic Acid compare with sunblock? Recent studies reveal that sunscreens block only 45% to 55% of free radicals generated in skin by UV light. The average consumer does not adequately apply sunscreen, using only one quarter of the sunscreen needed for full SPF protection. So SPF 30, wrongly used, is only as effective as an SPF of 3 to 4 (radically less). Even worse, consumers commonly have false confidence in the sunblock they are misusing, sadly unaware of the resulting true destruction to their skin.

Just using a sunblock correctly is simply not enough either. That's where SkinCeuticals so boldly and successfully stepped in. These amazing serums are designed to not only prevent future damage and protect the skin from new injury but aid in correcting previous damage. Sunblocks are not.

C E Ferulic doesn't come off the skin the way sunscreen does. It was designed for longer term



sunscreen does. It was designed for longer term protection within the skin so it can't be washed or rubbed off. In contrast, sunscreens must be applied between the skin and the sun to work at all, and then constantly reapplied. For the above reasons, SkinCeuticals recommends a dual attack by the daily use of a broad-spectrum sunscreen in partnership with C E Ferulic for the maximum photoprotection.



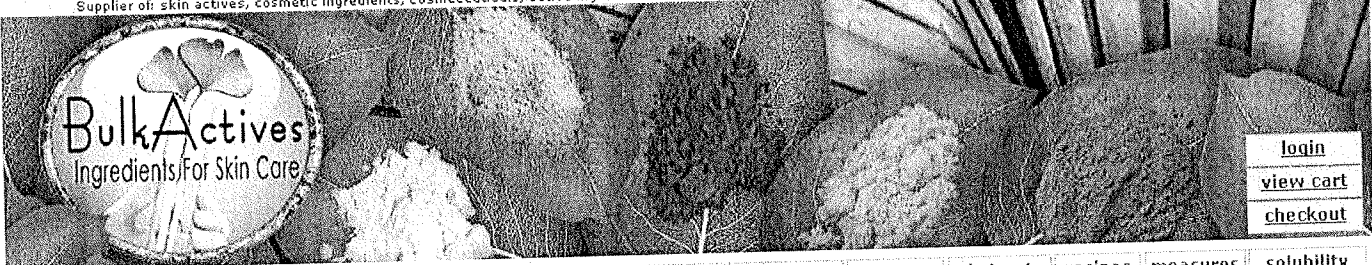
To sum up, the SkinCeuticals exciting AOX+ Serums give your skin certain advantages. It protects against environmental stresses and damage causing premature aging. It neutralizes free radicals. It repairs existing photodamage by improving skin tone and stimulating collagen production. It reduces sunburn cell formation by 96%. It minimizes the appearance of fine lines and wrinkles, gives a more even and youthful skin tone. Its reservoir effect works so that once absorbed, it remains protective up to 4 days later. Plus it's an excellent addition to sunscreen protection. It is light-weight and fast absorbing to be ideal for all skin types.

So there are some basics necessary to an understanding of how to be the best custodian of your irreplaceable skin. That, combined with a trial of the wonderful products from SkinCeuticals, should convince you how valuable their use is to nurture and safeguard your skin.

For more information and to find a dealer, call 1-800-

811-1660, or visit [www.skinceuticals.com](http://www.skinceuticals.com).

Supplier of skin actives, cosmetic ingredients, cosmeceuticals, active ingredients, and cosmeceuticals, for DIY skin care and cosmetics, and homemade skin care products.



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preservatives  
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stimulate HA production  
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wrinkle relaxers  
wrinkle tighteners

### Ferulic acid 99% (Natural)

- Ferulic acid in skin care:
- antioxidant,
  - lightening & brightening
  - stabilizes L-Ascorbic
  - sun damage protection



#### Ferulic Acid Natural

15g / 0.53oz US\$5.45

Add to Cart In stock: YES

15g / 0.53oz US\$5.45

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Ferulic acid is commonly used in the DIY C+E Ferulic serum (commonly known as skinCeuticals). The powder provides broad spectrum sun damage and antioxidant protection. It is also used for to skin lightening and brightening formulas.

[Read references and abstracts](#)

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#### Product details

**Assay:** 99.3% **Appearance:** Fine white to off white powder.  
**Solubility:** non-denatured ethanol, very slightly soluble in water, slightly soluble in Dimethyl isosorbide  
**Percentage for C+E+Ferulic:** 0.5%  
**Suggested percentage:** No data available - up to customer's discretion.  
**Storage:** Store in cool and dry place. Keep away from direct strong light and heat.  
**Country of origin:** China **Manufacturer's Data:** Ferulic Acid COA

#### C+E+Ferulic

"SkinCeuticals antioxidant combination of C+E+Ferulic delivers an unprecedented 8 times the skin's natural protection against photoaging - neutralizing free radicals, helping build collagen, and providing unmatched antioxidant protection. Containing 15% pure L-ascorbic acid and 1% alpha tocopherol, the addition of 0.5% Ferulic acid doubles the already synergistic benefits of the original high-

BulkActives are DIY skin care suppliers of skin actives, cosmetic ingredients, cosmeceuticals, active ingredients, and standardized botanical extracts for diy skin care products and homemade cosmetics.

#### New & Updates

Last website update: Tue, Mar 16, 2010

Attention: BulkActives is a part-time business. Orders are processed on Saturdays and mailed on Mondays at the latest, usually earlier.

Social networking: Follow us on Twitter for updates or read our blog for skin care articles.

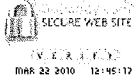
Free original software: Recipe creator database and HLB calculator

We now offer a range of NON-formaldehyde releasing preservatives: phenoxyethanol (paraben free) & paraben and phenoxyethanol combo

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Green Tea EGCG  
White willow - bark extract  
Ferulic Acid  
MAP

Out of stock:  
d-Panthenol  
Tetrasodium EDTA





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0.5% Ferulic acid doubles the already synergistic benefits of the original high-potency formula, C+E, transforming it into an unrivaled super-antioxidant combination." SkinCeuticals, CE Ferulic Fact Sheet

### DIY C+E+Ferulic serum

SkinCeuticals ingredient listing - DIY alternative

**Water**

*Ethoxydiglycol* (solvent for Ferulic acid, penetration enhancer) - **Replace with Arlasolve DMI**

**L-ascorbic Acid .15%**

*Propylene Glycol* (solvent for Ferulic acid) - Can use **Ethanol (UNdenatured ethanol, vodka, grain alcohol, Everclear)**. Do NOT use denatured alcohol.

**Glycerin** (solvent, humectant)

*Laureth-23* (nonionic surfactant, emulsifier) - **Replace with Gelmaker Plus**

**Alpha Tocopherol .1%** - **Replace with mixed tocopherols and tocotrienols**

*Phenoxyethanol* (bactericide) Use **Euxyl PE 9010** or **Euxyl K300**

*Triethanolamine* (pH balancer)

**Ferulic Acid .5%**

**Panthenol** (humectant, emollient, moisturizer)

**Sodium Hyaluronate** (humectant)

**Optional extras:** Idebenone, CoQ10, ascorbyl tetraisopalmitate, centella asiatica

### References:

- 'Stabilized ascorbic acid compositions and methods therefor' (Pinnell's C+E+ferulic patent) [USPTO patent search](#) (patent number: 20050154054) or [Google patents](#)
- SkinCeuticals CE Ferulic Fact Sheet
- 'Ferulic acid stabilizes a solution of vitamins C and E and doubles its photoprotection of skin' [Read Full Text here](#)

- [Tetrasodium EDTA](#)
- [GABA](#)
- [Alpha Bisabolol](#)
- [Xanthan Gum](#)
- [Quercetin](#)
- [Oat Beta Glucan](#)

### Ferulic acid in skin care:

- antioxidant,
- lightening & brightening
- stabilizes L-Ascorbic
- sun damage protection



### Ferulic Acid Natural

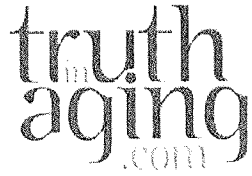
15g / 0.53oz US\$5.45

Add to Cart In stock: YES

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**DISCLAIMER:** Any statements about products sold by BulkActives have not been evaluated by the FDA. Products sold by BulkActives are not intended to be used as nutritional supplements. Products sold by BulkActives are not intended to diagnose, treat, cure, or prevent any disease.



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# Face: What is it?

### COMING SOON!

Marta This Month: my fallback routine for problem skin

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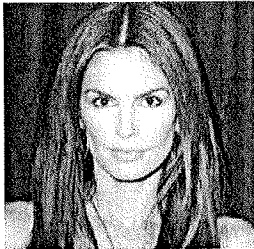


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July 21, 2009  
Posted by Marta

## What is it: Ferulic Acid

2008-03-22 12:48:56

I am in danger of getting antioxidant fatigue. There seems to be a new super-duper-better-than-anything-that-has-come-before-it product every week. Still, the latest to reach my radar did pique my interest: ferulic acid.

Ferulic acid is found in the cell walls of plants such as wheat, rice, peanuts, oranges and apples. It seems to be particularly abundant in coffee and amaranth (the name comes from the Greek for "the one that does not wither," presumably as a result of all the ferulic acid). It is an antioxidant that can seek and destroy several different types of free radical -- 'superoxide', 'hydroxyl radical', and 'nitric oxide' -- according to a 2002 Japanese study.

A 2004 Italian study concluded that ferulic acid is a more powerful antioxidant than alpha-tocopherol (vitamin E), beta-carotene, and ascorbic acid (vitamin C). Meanwhile, Duke University researchers blended it with vitamin C and E and proclaimed it a "potent ubiquitous plant anti-oxidant". In fact, it was discovered to act synergistically with other antioxidants and, in this case, rendered the vitamins C and E more powerful. The Duke Study found it particularly good for preventing sun damage, and studies elsewhere have demonstrated that exposure to ultraviolet light actually increases the antioxidant power of ferulic acid.

Naturally this super antioxidant does more than prevent wrinkles. It fights cancer, is helpful for diabetics and even reduces hot flashes.

Products with ferulic acid aren't easy to come by. There is a DIY option for around \$9. You can buy a small tube of ferulic acid from Skin Actives and add it other potions. But be careful with what you mix it or you could find yourself making an appearance in court. The topical combination of vitamin C (15%), vitamin E (1%) and ferulic acid (0.5%) has been patented by SkinCeuticals. They call the formula called



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ASTROLOGY AND BEYOND

ferulic acid (0.5%) has been patented by SkinCeuticals. They sell the formula, called CE Ferulic, for \$139, although there is an offer currently running on Amazon.com.

,p>



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Pro-Xytane



Gamma Oryzanol

« « Stila Rock The Vote Red Lipstick Reviewed and recommended: REN Moringa Seed Micro-Protein Universal Shampoo » »

### 4 Responses to "What is it: Ferulic Acid"

1. *jo* says:

July 22, 2008 at 8:41 pm

Pure Skin Formulations (PSF) offers a 2g "Ferulic Acid Cosmetic Additive" for \$5 with the following:

Add to 1oz/30mL of your favorite serum, cream or lotion for an instant added antioxidant boost! Ferulic Acid has been found to provide excellent antioxidant and anti-inflammatory properties. Ferulic Acid also has been found to stabilize and boost the effectiveness of L-ascorbic Acid (Vitamin C) in aqueous solutions.

To use: Add contents of vial to 1 ounce (30mL/30g) of your favorite serum, cream, or lotion. Dilute. Do not apply directly to skin. Shake or mix well. Not for addition to carbomer-based gels. Water soluble.

<https://www.psfskincare.com/cgi-bin/commerce.cgi?prcadd=action&key=AXBST&reference=/cgi-bin/commerce.cgi%3Fsearch%3Daction%26keywords%3Dall%26searchstart%3D0%26template%3DPDGCommTemplates/FullNav/SearchResult.html%26category%3DCCC3>

2. *marta* says:

July 23, 2008 at 10:27 am

Great tip. I've ordered some!

3. *Mike626* says:

July 23, 2008 at 11:36 am

Marta, I took a look at the Skin Actives site. The prospect of formulating my own products is compelling. I'm wondering, with your knowledge and clinical eye, why do you purchase any ready-to-use products at all?

It seems that armed with a site like Skin Actives, you would be able to make nearly all of the products you use for less than half the price. Do you think that the quality of ready-made products are superior?

4. *marta* says:

July 23, 2008 at 3:04 pm

You know until recently I wouldn't have had enough knowledge or certainty the confidence to mix my own potions. One of the attractions about DIY is not just what you can put in, but all the crap you can choose to leave out. So, I am now



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Marta Wohle, Founder

### Our Top 5 Picks



A selection of products  
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### Marta This Month



This month's update on  
Marta's skin and hair care regimen

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Apr 22, 2011

NOTICE OF ABANDONMENT

TM108

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SPAIN

ATTORNEY  
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SERIAL NUMBER: 79/071102  
MARK: FERULAC  
APPLICANT: SESDERMA, S.L.

THE ABOVE IDENTIFIED TRADEMARK APPLICATION WAS ABANDONED IN FULL ON 03/16/2011 FOR THE FOLLOWING REASON:

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- \* A PETITION FEE OF \$100, MADE PAYABLE TO THE COMMISSIONER OF TRADEMARKS; AND
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# EXHIBIT Q

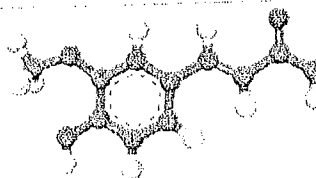
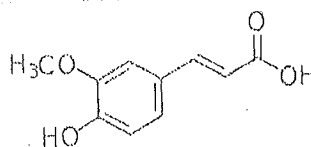
# EXHIBIT Q

# Ferulic acid

From Wikipedia, the free encyclopedia

Ferulic acid is a hydroxycinnamic acid, a type of organic compound. It is an abundant phenolic phytochemical found in plant cell wall components such as arabinoxylans as covalent side chains. It is related to *trans*-cinnamic acid. As a component of lignin, ferulic acid is a precursor in the manufacture of other aromatic compounds. The etymology is from the genus *Ferula*, referring to the giant fennel (*Ferula communis*).

Ferulic acid



## Names

### IUPAC name

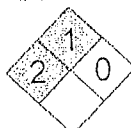
(*E*)-3-(4-hydroxy-3-methoxy-phenyl)prop-2-enoic acid

### Other names

- 2-propenoic acid, 3-(4-hydroxy-3-methoxyphenyl)-ferulic acid
- 3-(4-hydroxy-3-methoxyphenyl)-2-propenoic acid
- 3-(4-hydroxy-3-methoxyphenyl)acrylic acid
- 3-methoxy-4-hydroxycinnamic acid
- 4-hydroxy-3-methoxycinnamic acid
- (2*E*)-3-(4-hydroxy-3-methoxyphenyl)-2-propenoic acid
- Ferulate
- Coniferic acid
- trans-ferulic acid
- (*E*)-ferulic acid

## Identifiers

CAS Number	1135-24-6 ( <a href="http://www.commonchemistry.org/ChemicalDetail.aspx?ref=1135-24-6">http://www.commonchemistry.org/ChemicalDetail.aspx?ref=1135-24-6</a> ) <sup>ⓘ</sup>
3D model (JSmol)	Interactive image ( <a href="http://chemapps.stolaf.edu/jmol/jmol.php?model=COc1cc%28ccc1O%29%2FC%3DC%2FC%28%3DO%29O">http://chemapps.stolaf.edu/jmol/jmol.php?model=COc1cc%28ccc1O%29%2FC%3DC%2FC%28%3DO%29O</a> )
ChEBI	

<h2>Contents</h2> <ul style="list-style-type: none"> <li>▪ 1 Occurrence in nature             <ul style="list-style-type: none"> <li>▪ 1.1 In food</li> <li>▪ 1.2 In herbal medicines</li> <li>▪ 1.3 In processed foods</li> </ul> </li> <li>▪ 2 Metabolism             <ul style="list-style-type: none"> <li>▪ 2.1 Biosynthesis</li> <li>▪ 2.2 Biodegradation</li> </ul> </li> <li>▪ 3 Ecology</li> <li>▪ 4 Extraction</li> <li>▪ 5 Bio-medical considerations</li> <li>▪ 6 Other applications             <ul style="list-style-type: none"> <li>▪ 6.1 As a precursor to vanillin</li> <li>▪ 6.2 Mass spectrometry</li> <li>▪ 6.3 Bitterness masks</li> </ul> </li> <li>▪ 7 See also</li> <li>▪ 8 References</li> </ul>	ChemSpider	CHEBI:17620 ( <a href="https://www.ebi.ac.uk/chebi/searchId.do?chebiId=17620">https://www.ebi.ac.uk/chebi/searchId.do?chebiId=17620</a> ) <sup>✓</sup>
	DrugBank	393368 ( <a href="http://www.chemspider.com/Chemical-Structure.393368.html">http://www.chemspider.com/Chemical-Structure.393368.html</a> ) <sup>✓</sup>
	PubChem	DB07767 ( <a href="https://www.drugbank.ca/drugs/DB07767">https://www.drugbank.ca/drugs/DB07767</a> ) <sup>✓</sup>
	InfoCard	100.013.173 ( <a href="https://echa.europa.eu/substance-information/-/substanceinfo/100.013.173">https://echa.europa.eu/substance-information/-/substanceinfo/100.013.173</a> )
	PubChem CID	445858 ( <a href="https://pubchem.ncbi.nlm.nih.gov/compound/445858">https://pubchem.ncbi.nlm.nih.gov/compound/445858</a> )
	InChI	
	SMILES	
	<b>Properties</b>	
	Chemical formula	C <sub>10</sub> H <sub>10</sub> O <sub>4</sub>
	Molar mass	194.18 g/mol
Appearance	Crystalline Powder	
Melting point	168 to 172 °C (334 to 342 °F; 441 to 445 K)	
Solubility in water	0.78 g/L <sup>[1]</sup>	
Acidity (pK <sub>a</sub> )	4.6 <sup>[1]</sup>	
NFPA 704	<b>Hazards</b> 	
<p>Except where otherwise noted, data are given for materials in their standard state (at 25 °C [77 °F], 100 kPa).</p> <p style="text-align: right;">✓ verify (what is 'x'?)</p> <p style="text-align: right;">Infobox references</p>		

## Occurrence in nature

As a building block of lignocelluloses, such as pectin<sup>[2]</sup> and lignin, ferulic acid is ubiquitous in the plant kingdom.

## In food

Ferulic acid is found in the seeds of coffee, apple, artichoke, peanut, and orange, as well as in both seeds and cell walls of commelinid plants (such as rice, wheat, oats, the Chinese water chestnut (*Eleocharis dulcis*) and pineapple). Often in the form of chlorogenic acid.

In cereals, ferulic acid is localized in the bran the hard outer layer of grain. In wheat, phenolic compounds are mainly found in the form of insoluble bound ferulic acid and be relevant to resistance to wheat fungal diseases.<sup>[3]</sup> The highest known concentration of ferulic acid glucoside has been found in flaxseed (4.1 ± 0.2 g/kg).<sup>[4]</sup> It is also found in barley grain.<sup>[5]</sup>

Asterid eudicot plants can also produce ferulic acid. The tea brewed from the leaves of yacón (*Smallanthus sonchifolius*), a plant traditionally grown in the northern and central Andes, contains quantities of ferulic acid. In legumes, the white bean variety navy bean is the richest source of ferulic acid among the common bean (*Phaseolus vulgaris*) varieties.<sup>[6]</sup> It is also found in horse grams (*Macrotyloma uniflorum*).<sup>[7]</sup>

Although there are many sources of ferulic acid in nature, its bioavailability is limited based on the form in which it is present, with free ferulic acid having a poor water solubility hence poor bioavailability. In wheat grain, ferulic acid is found bound to cell wall polysaccharides, which has an effect on its release and absorption in the small intestine.<sup>[8]</sup>

### In herbal medicines

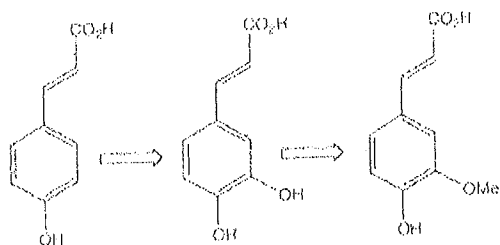
Ferulic acid has been identified in Chinese medicine herbs such as *Angelica sinensis* (female ginseng), *Cimicifuga heracleifolia*<sup>[9]</sup> and *Ligusticum chuangxiang*. It is also found in the tea brewed from the European centaury (*Centaureum erythraea*), a plant used as a medical herb in many parts of Europe,<sup>[10]</sup>

### In processed foods

Cooked sweetcorn releases increased levels of ferulic acid.<sup>[11]</sup> As plant sterol esters, this compound is naturally found in rice bran oil, a popular cooking oil in several Asian countries.<sup>[12]</sup>

Ferulic acid glucoside can be found in commercial breads containing flaxseed.<sup>[13]</sup> Rye bread contains ferulic acid dehydrodimers.<sup>[14]</sup>

## Metabolism



In plants, ferulic acid (right) is derived from phenylalanine, which is converted to 4-hydroxycinnamic acid (left) and then caffeic acid.

## Biosynthesis

Biosynthesis of ferulic acid is by the action of the enzyme caffeate *O*-methyltransferase.<sup>[15]</sup> It is biosynthesized from caffeic acid.

Ferulic acid, together with dihydroferulic acid, is a component of lignocellulose, serving to crosslink the lignin and polysaccharides, thereby conferring rigidity to the cell walls.<sup>[16]</sup>

It is an intermediate in the synthesis of monolignols, i.e., the monomers of lignin, and is also used for the synthesis of lignans.

## Biodegradation

[https://en.wikipedia.org/wiki/Ferulic\\_acid](https://en.wikipedia.org/wiki/Ferulic_acid)

9/4/2017

Ferulic acid is converted by certain strains of yeast, notably strains used in brewing of wheat beers, such as *Saccharomyces delbrueckii* (*Torulaspora delbrueckii*), to 4-vinyl guaiacol (2-methoxy-4-vinylphenol) which gives beers such as Weissbier and Wit their distinctive "clove" flavour. *Saccharomyces cerevisiae* (dry baker's yeast) and *Pseudomonas fluorescens* are also able to convert trans-ferulic acid into 2-methoxy-4-vinylphenol.<sup>[17]</sup> In *P. fluorescens*, a ferulic acid decarboxylase has been isolated.<sup>[18]</sup>

## Ecology


Ferulic acid is one of the possible plant compounds that initiate *Agrobacterium tumefaciens* to infect plant cells.

## Extraction

It can be extracted from wheat bran and maize bran using concentrated alkali.<sup>[19]</sup>

## Bio-medical considerations

Ferulic acid, like many natural phenols, is an antioxidant in vitro in the sense that it is reactive toward free radicals such as reactive oxygen species (ROS). ROS and free radicals are implicated in DNA damage, cancer, and accelerated cell aging. Animal studies and in vitro studies suggest that ferulic acid may have direct antitumor activity against breast cancer<sup>[20]</sup> and liver cancer.<sup>[21]</sup> Ferulic acid may have pro-apoptotic effects in cancer cells, thereby leading to their destruction.<sup>[21]</sup> Ferulic acid may be effective at preventing cancer induced by exposure to the carcinogenic compounds benzopyrene<sup>[22]</sup> and 4-nitroquinoline 1-oxide.<sup>[23]</sup> Note that these are not randomized controlled trials done with human participants, and therefore, the results of these studies may not be directly applicable to human use.



UV-visible spectrum of ferulic acid, with  $\lambda_{max}$  at 321 nm and a shoulder at 278 nm

If added to a topical preparation of ascorbic acid and vitamin E, ferulic acid may reduce oxidative stress and formation of thymine dimers in skin.<sup>[24]</sup> There is also a small amount of research showing oral supplements of ferulic acid can inhibit melanin production in the process of skin whitening.<sup>[25]</sup>

## Other applications

### As a precursor to vanillin

Ferulic acid, being highly abundant, may be useful as a precursor in the manufacturing of vanillin, a synthetic flavoring agent often used in place of natural vanilla extract.<sup>[26]</sup> However, biotechnological processes may be the most efficient method to use ferulic acid as a precursor,<sup>[27]</sup> and as such, research is still ongoing.

## Mass spectrometry

It is used as a matrix for proteins in MALDI mass spectrometry analyses.<sup>[28]</sup>

## Bitterness masker

Kraft Foods has patented the use of sodium ferulate to mask the bitter aftertaste of the artificial sweetener acesulfame potassium.<sup>[29]</sup>

## See also

- Caffeic acid
- Coumaric acid
- Diferulic acids
- Eugenol
- Isoferulic acid, an isomer of ferulic acid

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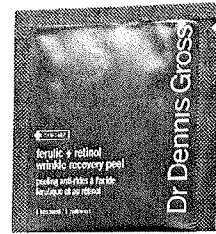
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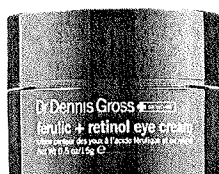
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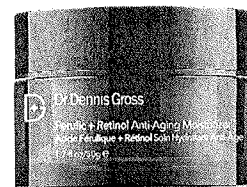
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