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Sent: 10/19/2018 10:02:09 AM

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Subject: U.S. TRADEMARK APPLICATION NO. 87445940 - LITTLE MOON ESSENTIALS CRAMPY BELLY - 01002-1-8220 - Request for Reconsideration Denied - Return to TTAB

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Attachment Information:

Count: 21

Files: crampy ev-1.jpg, crampy ev-2.jpg, crampy ev-3.jpg, crampy ev-4.jpg, crampy ev-5.jpg, crampy ev-6.jpg, crampy ev-7.jpg, crampy ev-8.jpg, ev-1.jpg, ev-2.jpg, ev-3.jpg, ev-4.jpg, ev-5.jpg, ev-6.jpg, ev-7.jpg, ev-8.jpg, ev-9.jpg, ev-10.jpg, ev-11.jpg, ev-12.jpg, 87445940.doc

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

**U.S. APPLICATION SERIAL NO.** 87445940

**MARK:** LITTLE MOON ESSENTIALS CRAMPY BELLY



**CORRESPONDENT ADDRESS:**

URY FISCHER

LOTT & FISCHER PL

POST OFFICE DRAWER 141098

CORAL GABLES, FL 33114-1098

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

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**APPLICANT:** LITTLE MOON ESSENTIALS, LLC

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

01002-1-8220

**CORRESPONDENT E-MAIL ADDRESS:**

teas@lottfischer.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 10/19/2018

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The disclaimer requirement made final in the Office action dated March 13, 2018 is maintained and continues to be final. See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issues, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue in the final

Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues.

Specifically, applicant argues that the wording "CRAMPY BELLY" is not merely descriptive of several of the goods identified in the application, such as lip balms and hair conditioners, that would never be used on a person's stomach. However, a mark does not need to be merely descriptive of *all* the goods or services specified in an application. *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); *In re Franklin Cnty. Historical Soc'y*, 104 USPQ2d 1085, 1089 (TTAB 2012). "A descriptiveness refusal is proper 'if the mark is descriptive of **any** of the [goods] for which registration is sought.'" *In re The Chamber of Commerce of the U.S.*, 675 F.3d at 1300, 102 USPQ2d at 1219 (quoting *In re Stereotaxis Inc.*, 429 F.3d 1039, 1040, 77 USPQ2d 1087, 1089 (Fed. Cir. 2005))(emphasis added).

Applicant also argues that the combination of terms "ESSENTIALS CRAMPY BELLY RUB" creates a non-descriptive composite mark. However, if the individual components of a mark retain their descriptive meaning in relation to the goods, the combination results in a composite mark that is itself descriptive and not registrable. *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1516 (TTAB 2016) (citing *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1317-18 (TTAB (2002))); TMEP §1209.03(d); *see, e.g., Apollo Med. Extrusion Techs., Inc. v. Med. Extrusion Techs., Inc.*, 123 USPQ2d 1844, 1851 (TTAB 2017) (holding MEDICAL EXTRUSION TECHNOLOGIES merely descriptive of medical extrusion goods produced by employing medical extrusion technologies); *In re Cannon Safe, Inc.*, 116 USPQ2d 1348, 1351 (TTAB 2015) (holding SMART SERIES merely descriptive of metal gun safes); *In re King Koil Licensing Co.*, 79 USPQ2d 1048, 1052 (TTAB 2006) (holding THE BREATHABLE MATTRESS merely descriptive of beds, mattresses, box springs, and pillows). Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the goods is the combined mark registrable. *See In re Colonial Stores, Inc.*, 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968); *In re Positec Grp. Ltd.*, 108 USPQ2d 1161, 1162-63 (TTAB 2013).

In this case, both the individual components and the composite result are descriptive of applicant's goods and do not create a unique, incongruous, or nondescriptive meaning in relation to the goods. Specifically, the attached evidence from <https://www.ubykotex.com>, <https://www.refinery29.com>, <https://www.webmd.com>, <https://www.naturalbirthandbabycare.com>, <http://vkool.com>, <http://giftedmom.org>, <https://hhma.org>, and <http://www.iemily.com> shows that the phrase "crampy belly" is commonly used to refer to the state of having abdominal pain in the front part of the human trunk below the ribs, which may be eased using soothing products. Additionally, the combination of "crampy belly" and "rub" does not create a double entendre, incongruity, idiomatic expression, or otherwise well-known phrase that has a unique meaning, other than that of an ointment designed to be rubbed on the skin to ease abdominal pain in the front part of the human trunk below the ribs. Thus, combination of the terms does not create a non-descriptive meaning.

Further, although the evidence above does not specifically reference cosmetics, the attached evidence from <https://littlemoonessentials.com>, <https://kellysthoughtsonthings.com>, <https://www.newdirectionsaromatics.com>, <https://www.healthline.com>, <https://articles.mercola.com>, <https://www.webmd.com>, <https://www.themiracleofessentialoils.com>, and <https://www.theresaneoforthat.com> shows that products, like applicant's rubs, containing camphor or wintergreen are commonly used to treat abdominal pain in the front part of the human trunk below the ribs, which could also be referred to as a crampy belly pain. Thus, consumers encountering the phrase "crampy belly rub" in the marketplace for such goods would immediately understand that the product is an ointment designed to be rubbed on the skin to ease abdominal pain in the front part of the human trunk below the ribs.

Accordingly, the request is denied.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with any outstanding final requirement and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Monica L. Beggs/

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Eating during your period is tricky. I always crave carbs and sweets, but eating too much of those things while on my period never fails to make me feel even worse. Too much sugar and white carbs (like white bread and pasta) only make me feel bloated and lethargic. But other than avoid certain foods during that time of the month, focus on adding more of the following types of foods to ensure you feel great while you're on the rag.

Calcium

Calcium deficiency can exacerbate symptoms of PMS, like depression and irritability. Dairy products obviously contain calcium, but if you don't eat dairy, try dark leafy greens, like kale or spinach. You can pretty much incorporate greens into every meal: spinach in a breakfast green monster (my nickname for smoothies with fruit and greens), salad for lunch, and sautéed greens for dinner.

Complex Carbohydrates

Your brain is telling you to reach for that cookie, but your **body** will thank you if you have a piece of sprouted or whole grain bread with an indulgent topping — like honey and almond butter or PB & dark chocolate chips — instead.

Magnesium

Foods rich in magnesium, like beans, tofu, and nuts, are thought to reduce bloating in menstruating women. Shoot for at least 200mg per day.

Vitamin E

Vitamin E has been shown to reduce period pain, what's obviously a good thing! A great source of Vitamin E is avocado. You can whip up some guacamole or just slice one up and go to town! I love plain raw avocado as a snack.

Vitamin B6

This powerhouse of a vitamin aids in the metabolism of proteins and red blood cells, and has even been shown to relieve symptoms of depression. Potatoes and bananas are great sources of this vitamin. Snack on a banana and nuts to get your magnesium and B6 fix.

Iron

Iron deficiency is the most common nutrient deficiency among women. Make sure you're getting enough by consuming lots of dark greens, beans, and nuts. Red meat and eggs also contain iron, but it's a myth that they're the only good sources of it.

Vitamin C and Zinc

These nutrients help with iron absorption, which is especially crucial during your period. Red berries, kiwi, and bell peppers have plenty of C, as do broccoli, spinach, and tomatoes. Pumpkin seeds are a great source of zinc, add them to oatmeal, cereal, or salads. Top a sweet potato with pumpkin seeds, whipped spinach, a small handful of nuts, and a sprinkle of goat cheese for a delicious meal that incorporates many of the items on this list.

Water, Water, Water

Getting dehydrated is the easiest way to feel horrible when you're on your period.

Your Favorite Treat!

Sure the above foods are great, but I definitely understand that sometimes you just need chocolate (or your treat of choice) when you're on your period. So don't feel bad about it! If you find yourself craving the sweet stuff, just go for a small piece of dark chocolate (70% or more cacao), and you'll at least be getting some extra antioxidants with your sugar!

Sources

[http://www.associatedcontent.com/article/162079/the\\_top\\_10\\_food\\_remedies\\_that\\_actually\\_help.html?cat=53](http://www.associatedcontent.com/article/162079/the_top_10_food_remedies_that_actually_help.html?cat=53)

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