

**To:** JOSH EICHENSTEIN([joshua@eichiplaw.com](mailto:joshua@eichiplaw.com))  
**Subject:** U.S. Trademark Application Serial No. 97240580 - RAVERS NATURALS  
**Sent:** August 28, 2023 05:07:06 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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### Attachments

1RaverCollins.jpg  
2RaverOxford.jpg  
3Ravesense.jpg  
4RaveNation.jpg  
5RavePack.jpg  
6DopeVitamins (1).jpg  
6DopeVitamins (2).jpg  
6DopeVitamins (3).jpg  
7HappyTuesdays (1).jpg  
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8Freedom.jpg  
9RaveSleep (1).jpg  
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22Bivins.jpg  
23MixMag.jpg  
24RateMyRave (1).jpg  
24RateMyRave (2).jpg  
25Medium.jpg  
26Bionity.jpg  
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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.** 97240580

**Mark:** RAVERS NATURALS

**Correspondence Address:**

JOSH EICHENSTEIN  
EICHENSTEIN LAW FIRM PC  
2029 CENTURY PARK EAST, SUITE 400  
LOS ANGELES CA 90067  
UNITED STATES

**Applicant:** Ravers Naturals LLC

**Reference/Docket No.** N/A

**Correspondence Email Address:** joshua@eichiplaw.com

**REQUEST FOR RECONSIDERATION AFTER FINAL ACTION DENIED**

**Issue date:** August 28, 2023

**This Office action is in response to applicant's communication filed on July 25, 2023.**

**Applicant's request for reconsideration is denied.** See 37 C.F.R. §2.63(b)(3). The trademark

examining attorney has carefully reviewed applicant's request and determined the request did not: (1) raise a new issue, (2) resolve all the outstanding issue(s), (3) provide any new or compelling evidence with regard to the outstanding issue(s), or (4) present analysis and arguments that were persuasive or shed new light on the outstanding issue(s). TMEP §§715.03(a)(ii)(B), 715.04(a).

Accordingly, the following refusal made final in the Office action dated April 28, 2023 is **maintained and continued**:

- Section 2(e)(1) – Merely Descriptive Refusal

See TMEP §§715.03(a)(ii)(B), 715.04(a).

In addition, the following requirement made final in that Office action is **satisfied**:

- Clarification of Domicile Address Required

See TMEP §§715.03(a)(ii)(B), 715.04(a).

### **Section 2(e)(1) – Merely Descriptive Refusal**

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

Applied has applied to register the mark RAVERS NATURALS for use in connection with "Inhalers sold filled with essential oils for use in aromatherapy" in International Class 003, "Nutritional supplements" in International Class 005, "Hooded sweat shirts; Tee shirts; Wearable garments and clothing, namely, shirts" in International Class 025, "Chewing gum" in International Class 030 and "On-line wholesale and retail store services featuring inhaler aromatherapy products, chewing gum, and nutritional supplements" in International Class 035.

First, the previously attached and attached dictionary evidence from *Collins Dictionary* and *Oxford Learners Dictionary* defines a "RAVER" as "a young person who has a busy social life and goes to a lot of parties, raves, or nightclubs" or "a person who goes to raves", respectively. Further, the attached Internet evidence from various sources shows that the wording "RAVER" is commonly used in connection with similar goods and services to that of applicant's to describe the intended user of goods and services. See specifically, attached from *Ravesense* via Instagram ("FESTIVAL NASAL INHALERS curated from 100% natural essential oils. For ravers, by ravers, for the best night of your life"), *Rave Nation* ("Similar to Vicks inhalers these inhalers are strong, flavorful, and made in the USA. Ravers will love the strength and flavor of these menthol inhalers."), *Rave Package* via Instagram ("A supplements stack that protects ravers from free radical damage and helps ravers recover their physical and mental state quickly"), *Dope Vitamins* ("THE MOST ADVANCED PREVENTION FOR RAVERS...Rave Renew is created for ravers who want to enjoy festivals without the consequences."), *Happy Tuesdays* ("Thousands of ravers in 50+ countries take Happy Tuesdays before bed to support their body's natural recovery while they sleep."), *Freedom Rave Wear* ("Exclusive Designs Made By Ravers For Ravers[...]Freedom Rave Wear merges quality, sustainability, and style, using recycled materials to create innovative rave fashion."), *Rave-or-Sleep* ("For a more dramatic raver or clubber look, you can go for costumes with crazy features like holographic fabrics, bold fits,

and neon colors.), *Daily Ravers* ("FASHION FOR RAVERS") and *The Rave Cave* ("VitaPLUR is a company based in USA engineering innovative supplements for ravers which promote health and wellbeing DURING events. They are best known for their harm prevention E-boost chewing gum which can help prevent clenching/grinding/gurning by delivering magnesium directly to your jaw muscles.").

Second, the previously attached and attached dictionary evidence from *Collins Dictionary* and *Oxford Learners Dictionary* defines "NATURALS" as "exist or occur in nature and are not made or caused by people" or "having little or no processing", respectively. Further, the attached Internet evidence from various sources shows that the wording "NATURALS" is commonly used in connection with similar goods and services to that of applicant's to describe goods and services featuring unprocessed products. See specifically, attached from *Ravesense* via Instagram ("FESTIVAL NASAL INHALERS curated from 100% natural essential oils. For ravers, by ravers, for the best night of your life"), *BoomBoom* (offering "100% NATURAL" nasal ticks), *Creekside Naturals* ("Creekside Naturals Sniffle Sticks are all-natural aromatherapy nasal inhalers that soothe and moisturize irritated nasal cavities, providing relief from cold and allergy symptoms."), *RaveAid* ("RaveAid is a natural dietary supplement that can help make your experience safer by boosting and replenishing your body with important nutrients."), *Happy Tuesdays* ("Thousands of ravers in 50+ countries take Happy Tuesdays before bed to support their body's natural recovery while they sleep."), *Stevita Naturals* (offering naturally flavored chewing gum), *Simply* ("Refreshing and subtly sweet, our natural Spearmint chewing gum is simply delicious."), *All Naturals* ("ALL NATURALS offers a stylish and timeless selection of everyday casual and formal clothing made from natural materials.") and *Natural Clothing Company* ("The clothing made of natural fibers have an imperfect texture, which gives the colors unique shading.").

Further, third-party registrations featuring goods and services the same as or similar to applicant's goods and services are probative evidence on the issue of descriptiveness where the relevant word or term is disclaimed, registered under Trademark Act Section 2(f) based on acquired distinctiveness, or registered on the Supplemental Register. E.g., *In re Morinaga Nyugyo Kabushiki Kaisha*, 120 USPQ2d 1738, 1745 (TTAB 2016) (quoting *Inst. Nat'l des Appellations D'Origine v. Vintners Int'l Co.*, 958 F.2d 1574, 1581-82, 22 USPQ2d 1190, 1196 (Fed. Cir. 1992)); *In re Box Solutions Corp.*, 79 USPQ2d 1953, 1955 (TTAB 2006).

Accordingly, the trademark examining attorney has attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and services as those of applicant showing the wording "NATURALS" disclaimed or registered on the Supplemental Register.

In the Response, applicant argues the mark is suggestive. However, a mark is suggestive if some imagination, thought, or perception is needed to understand the nature of the goods and services described in the mark; whereas a descriptive term immediately and directly conveys some information about the goods and services. See *Stoncor Grp., Inc. v. Specialty Coatings, Inc.*, 759 F.3d 1327, 1332, 111 USPQ2d 1649, 1652 (Fed. Cir. 2014) (citing *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251-52, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012)); TMEP §1209.01(a). In the present case, the wording "RAVERS" and "NATURALS" immediately conveys that applicant's goods and services are intended to be used by ravers and feature natural products or ingredients. See above and previously attached evidence. As such, the wording does not require any further imagination to understand the nature of the goods and services, and therefore, the mark is not suggestive.

Additionally, determining the descriptiveness of a mark is done in relation to an applicant's goods and

services, the context in which the mark is being used, and the possible significance the mark would have to the average purchaser because of the manner of its use or intended use. *See In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (citing *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963-64, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); TMEP §1209.01(b). Descriptiveness of a mark is not considered in the abstract. *In re Bayer Aktiengesellschaft*, 488 F.3d at 963-64, 82 USPQ2d at 1831.

Accordingly, the attached Internet evidence from various sources demonstrates that the average purchaser of applicant's goods and services would understand the wording "RAVERS" and "NATURALS" to be descriptive because the average purchasers of applicant's goods and services are in fact "RAVERS" who are familiar with and marketed with similar products and services. *See specifically*, attached from *Bivins Brothers* (applicant's website designer explaining the design of applicant's website is intended to attract ravers, stating "Ravers Naturals needed to take their amazing product and dream up a website that spoke directly to their audience: people passionate about raves and EDM."), *Mixmag* ("Brands tend to struggle when marketing to ravers. Step forward BoomBoom in another attempt; this all-natural nose inhaler "invigorates and energizes with a blast of intense refreshment"."), *Rate My Rave* ("Inside The Rave: What are your rave essentials?...Chewing gum...Vix Nasal Spray...Electrolyte tablets/sachets..."), *Medium* ("Ravers are no strangers to sniffing Vicks Vaporub or rubbing it all over their noses. Menthol inhalers are the modern version of that often eye watering practice."), *Bionity* ("The inhaler is also commonly used at raves where the active ingredients are blown into the face entering the mouth, nose and eyes of a "raver" who has taken MDMA. This is due to the euphoric feeling supposedly attained by the receiver on MDMA, as the menthol feels pleasant along with the effects of heightened sensual perception caused by the MDMA.") and *The National Drug Intelligence Center* ("Teenagers overtook the traditional young adult ravers and a new rave culture emerged; events became highly promoted, heavily commercialized, and less secretive...Moreover, many club owners and promoters appear to promote the use of drugs--especially MDMA. They provide...menthol nasal inhalers...to enhance the effects of MDMA").

Finally, "[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.

Therefore, the mark is merely descriptive, and the refusal pursuant to Section 2(e)(1) of the Trademark Act is maintained and continued.

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

**If applicant has not filed an appeal** and time remains in the response period for the final Office action, applicant has the remainder of that time to (1) [file another request for reconsideration](#) that complies with and/or overcomes any outstanding final requirement(s) and/or refusal(s), and/or (2) [file a notice of appeal](#) to the Board. TMEP §715.03(a)(ii)(B).

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