

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Cookies Creative Consulting &
Promotions LLC

Serial No.: 88316398

Intl. Class: 41

Filed: February 26, 2019

Mark: RUNTZ

Docket No: 48340-0020001

Law Office: 123

Examining Attorney: Collier L. Johnson II

RESPONSE TO OFFICE ACTION

On February 26, 2019, an application was filed to register the term RUNTZ as a standard-character word mark for Class 41 “entertainment services, namely, organizing social entertainment events and musical performances in the field of cannabis culture; Educational services, namely, providing educational information in the field of cannabis.” See U.S. Serial No. 88316398 (the “Application”). On July 9, 2019, the Examining Attorney issued a §2(e)(1) refusal, finding that the word RUNTZ was merely descriptive of the applied-for Class 41 services.

First, the evidence does not establish that the mark is merely descriptive. The Examining Attorney relied on two articles from the websites Weedmaps.com and Hytiva.com, both of which use the term RUNTZ *as a trademark associated with Applicant*. Notably, the article the Examining Attorney cited from Weedmaps.com (<https://weedmaps.com/brands/tasty-farms/products/tasty-farms-runtz>) is no longer available. In fact, it has been replaced with an article with specific references to Applicant (i.e., Cookies). See <https://weedmaps.com/strains/runtz>, a copy of which is attached as **Exhibit 1**. While the Hytiva article does not attribute the RUNTZ strain to any particular person or entity, it is an outlier, as the majority of articles that refer to this strain identify the source as “Cookies” or the “Cookies Family.” See **Exhibit 2** (additional articles from several third-party websites that attribute the RUNTZ strain to the Applicant). Because both of

the articles relied upon for the § 2(e)(1) refusal use RUNTZ as a trademark and not merely as the name of the goods themselves, they do not establish that RUNTZ is merely descriptive.

Second, the evidence does not establish that the mark is merely descriptive *in the context of the applied-for Class 41 services*. It is well-established that the determination of whether a mark is merely descriptive cannot be made in the abstract, but rather, “must be made in relation to the goods or services for which registration is sought.” TMEP §1209.01(b). Here, the evidence supporting the descriptiveness finding consists of two articles where the term RUNTZ is used *as a trademark* to identify a specific cannabis strain. Yet, even if the evidence showed that RUNTZ was descriptive of a cannabis strain (which it does not, for the reasons noted above), it would not establish that RUNTZ is merely descriptive of the Class 41 entertainment and educational services described in the Application.

Third, the evidence does not establish that the mark is “merely” descriptive. The TTAB construes the word “merely” to have its ordinary meaning of “only” or “solely.” A mark is “merely” descriptive when it does *nothing more* than describe the goods or services. *In re Colonial Stores, Inc.*, 394 F. 2d 549 (CCPA 1963); *In re Quik-Print Copy Shop, Inc.*, 616 F. 2d 523 (CCPA 1980). Or, as Chief Judge Marky put it: “The ultimate in descriptiveness is the name of a thing.” *In re Abcor Dev. Corp.*, 200 USPQ 215, 219 (CCPA 1978) (Marky, C.J., concurring). Here, there is no evidence showing that consumers view the term RUNTZ as *only* referring to applied-for Class 41 services. In fact, the Examining Attorney’s evidence shows that the opposite is true.

Fourth, the §2(e)(1) refusal is improper since the RUNTZ mark is a fanciful term. “[A] mark is considered merely descriptive if it **immediately** conveys knowledge of a quality, feature, function, or characteristic of an applicant’s services.” TMEP §1209.01(b). In contrast, fanciful

marks are “terms that have been invented for the sole purpose of functioning as a trademark or service mark.” TMEP §1209.01(a). In this case, Applicant searched several dictionaries and found no entries for the term RUNTZ. See **Exhibit 3** (search results from Dictionary.com, Merriam-Webster, Cambridge English Dictionaries, and Wikipedia, none of which have entries for RUNTZ). Moreover, the Applicant was unable to find any evidence of the term RUNTZ being used in a descriptive manner within its industry or by its competitors. In sum, because RUNTZ is a made-up term with no established meaning, it cannot be merely descriptive.

Fifth, the §2(e)(1) refusal is improper since the RUNTZ mark is *at least* suggestive of Applicant’s services. “[I]f some imagination, thought or perception is required to determine the nature of the goods or services from the mark, the mark is suggestive.” See *e.g.*, *In re Gyulay*, 3 U.S.P.Q.2d 1009 (Fed. Cir. 1987); *In re Shutts*, 217 U.S.P.Q. 363 (TTAB 1983). Here, the Examining Attorney found that RUNTZ is merely descriptive of a cannabis strain based on two articles that show the term RUNTZ being used *as a trademark*. Evidence attached as **Exhibits 1–2** shows that this strain is uniquely associated with the Applicant. See *e.g.*, www.leafly.com/strains/runtz (referring to the RUNTZ strain as part of the “Cookies Family”). Thus, it requires a mental leap to find that RUNTZ is merely descriptive of Applicant’s Class 41 services, which are not mentioned in any of these articles. There is simply no basis to conclude that consumers would *immediately* understand the term RUNTZ as communicating information about Applicant’s services.

Finally, it is well-settled that the USPTO bears the burden for establishing the propriety of a descriptiveness refusal. It is equally well-settled that “there is a thin line of demarcation between a suggestive mark and a merely descriptive one.” See *e.g.*, *In re Atavio*, 25 USPQ2d 1361 (TTAB 1992). As a result, *any doubt* on the issue of distinctiveness must be resolved in the

Applicant's favor. See e.g., *In re Box Solutions Corp.*, 79 U.S.P.Q.2d 1953 (TTAB 2006); *In re Grand Metropolitan Foodservice Inc.*, 30 U.S.P.Q.2d 1974, 1976 (T.T.A.B. 1994). Here, the Examining Attorney provided no evidence showing any connection between the term RUNTZ and the Class 41 services described in the application, and the evidence the Examining Attorney did submit shows RUNTZ being used *as a trademark*. Therefore, because the USPTO has not met its burden for the descriptiveness refusal in this case, it must be withdrawn.

In conclusion, Applicant respectfully requests that the Examiner approve the application for publication. Please apply any charges or credits to Deposit Account No. 06 1050 (48340-0020001).

EXHIBIT 1



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RUNTZ

HYBRID

Description

Coming out of LA, this strain's candy-like smelling sweetness and colorful nugs lead to its naming. A mix of Zkittlez and Gelato #33, this strain has a smooth flavor that mostly matches the smell, with additional tropical and earthy hints.

With a few different phenotypes, this hybrid strain can lean to either a more dominant sativa or indica. These nugs produce thick resin layers which make it extremely potent in any form. Perhaps that is why this strain is so elusive. Make sure to get your hands on this if you can; it'll have you feeling like a kid in a candy store.

Top reported effects*



Euphoric



Hungry



Relaxed

Top reported flavors*



Diesel



Pineapple



Sweet

Grow information

This strain is adaptable to both indoor and outdoor growing conditions. While outdoor cultivation provides a slightly better yield, greater than 600 grams per plant, this strain will still do well indoors. With an indoor flowering time of 63 days, this strain from Apothecary Genetics produces dense nugs that can yield up to 450 grams per square meter.

41 Runtz products



Flower | Hybrid
A. Black Runtz - Quality Rating 9/10 - House Exclusive Reserve

1G \$16 2G \$32 4G \$55 1/8 \$90 1/4 \$90 1/2 \$160 OZ \$260

Speedy Weedy Delivery Powered by Golden Juniper
5.4mi • Del Mar, California • Delivery



Infused Flower | Hybrid
Runtz CBD

1/8 \$30

OGX The Hemp CBD ONLY
87.7mi • Loma Linda, California • Dispensary



Cartridge
Wind Cannabis - Runtz

1G \$55

Empire Connect
89.2mi • San Bernardino, California • Dispensary



Flower | Hybrid
Headstash | Runtz

THC/A 22.0%

1/8 \$60 1/4 \$120 1/2 \$240 OZ \$480

Cookies LA
100.9mi • Maywood, California • Dispensary

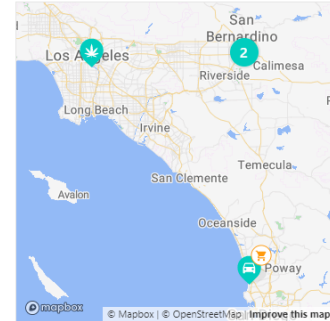


Flower | Hybrid
Insane | Hawaiian Runtz

1/8 \$60

Cookies LA

Retailers carrying Runtz near you



5.4mi • Del Mar, California
Speedy Weedy Delivery
Powered by Golden Juniper
Medical
★★★★☆ 4.7



87.7mi • Loma Linda, California
OGX The Hemp CBD ONLY
Recreational
★★★★☆ 4.6



89.2mi • San Bernardino, California
Empire Connect
Recreational
★★★★☆ 4.4



100.9mi • Maywood, California
Cookies LA
Recreational
★★★★☆ 3.6

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100.9mi • Maywood, California • Dispensary



Flower | Hybrid
Synergy I Banana Runtz
1/8
\$50

Cookies LA
100.9mi • Maywood, California • Dispensary



Flower | Indica
Runtz by Green Earth Co.
1G \$13.50 2G \$27 1/8 \$40 1/4 \$80 1/2 \$135 OZ \$270

Green Earth Delivery
108.7mi • Los Angeles, California • Delivery



Flower | Indica
WEST COAST RUNTZ
1/8
\$40

West Coast Holistic Center
124.8mi • Mission Hills, CA • Dispensary



Flower | Hybrid
Dr. Greenthumb's - Insane Hawaiian Runtz (22.03% THC) - *Special Pricing (\$...
1/8
\$50

Cana Farms
125.5mi • Calabasas, California • Delivery

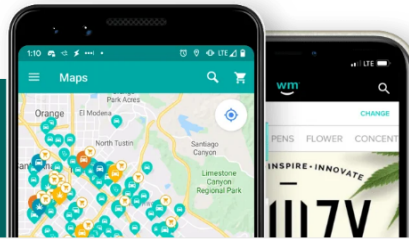


Flower | Hybrid
BANANA RUNTZ, 1/8
EACH
\$68.10

The Greenhouse Collective
226.7mi • Lompoc, California • Dispensary

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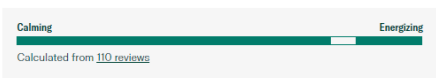
Home > Strains > Runtz



We're filling in this page with lab-sourced data and expert information. [Become a lab or brand partner](#) to bring this flower's shapes and colors to life.

Hybrid 4.7 ★ 110 reviews

Runtz



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Runtz

A hyped Cookies Family strain, Runtz is a cross of [Zkittlez](#) and [Gelato](#) that is rare and sought-after. Celebrated for its incredibly fruity profile that smells just like a bag of the sugary candy, the strain has resin-drenched buds that range in color from rich purple to lime green. Runtz is also noted for its creamy smoke that is smooth and welcoming

alongside a euphoric and elevating high that lasts for hours.

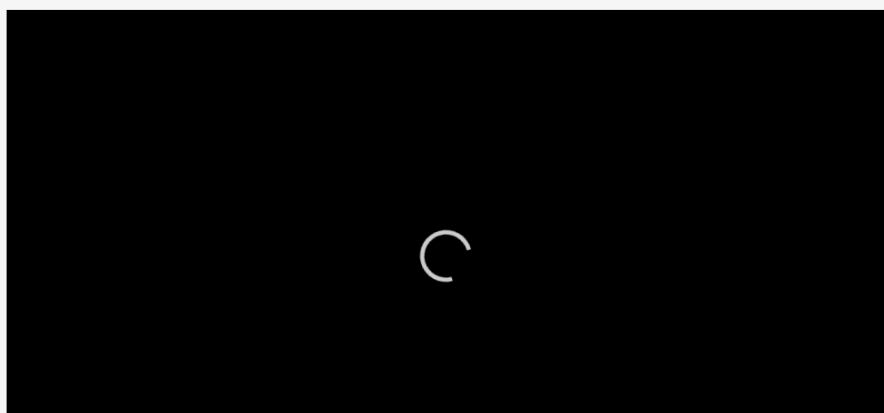
Effects

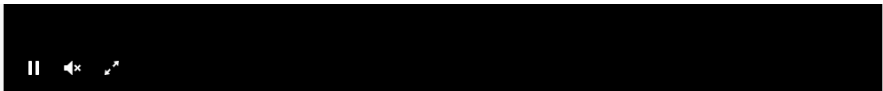
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67 people reported 294 effects



Strain spotlight





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Reviews 110

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<
>

Danjsul3
Member since 2019

I know that I personally have heard people say that rappers have weed that is 20 times stronger than what we have but allows you to function. This strain, when properly cultured, produces a weaponized dose of sativa dominant...

[Read full review](#)

Reported feelings: Creative Energetic Euphoric

TaydoeCash
Member since 2019

This new strain is the shit. This strain has taken us stoners to a new high.

[Read full review](#)

Reported feelings: Creative Euphoric Giggly

leafyshare
Member since 2018

This weed is definitely creative and an indica dominate strain. My friend rolled a skimp ass backwood and it got us BLASTED. We were slapping so loud and we were up the night! Helps with anxiety and makes you talkative for...

[Read full review](#)

Reported feelings: Creative Energetic Euphoric

write a review

Find Runtz nearby

Oh no! This strain is not available within 20 miles of your location.

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Lineage



Products with Runtz

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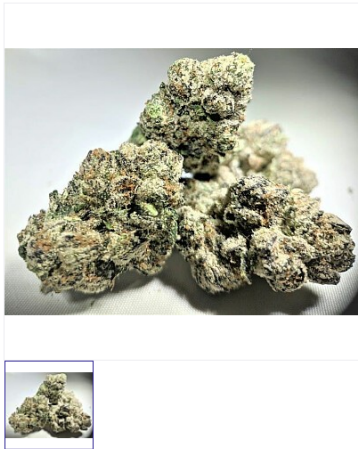
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Hybrid




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Flower | Cookies

White Runtz

★★★★★ 4.7 (10 Reviews)

This official Runtz cross is the perfect blend of Gelato and Zkittlez. The sweet candy rainbow from the Zkittlez mixed with the gassy sweetness of Gelato provides a unique flavor and taste found no where else.

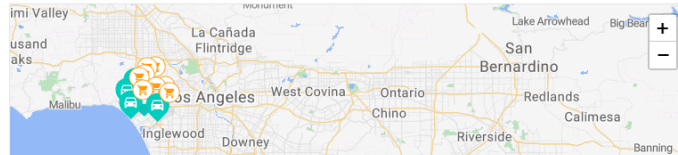
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10 Closest Retailers to San Diego, CA Carrying White Runtz

Balboa Ave Cooperative
 ★★★★★ 4.6 (299 Reviews)
 Medical & Recreational - Pickup
 San Diego, California - 3.3mi
 Open Now Order Online
 \$55.00 Each



Evergreen - Santa Ana 92705
 ★★★★★ 4.8 (969 Reviews)
 Recreational
 Santa Ana, California
 Open Now
 \$67.20 (1/8 oz)

Hey High
 ★★★★★ 5.0 (17 Reviews)
 Medical & Recreational - Delivery
 Culver City, California
 Closed Order Online
 \$32.00 (1/8 oz)

Hey High
 ★★★★★ 4.8 (66 Reviews)
 Medical & Recreational - Delivery
 Culver City, California
 Closed Order Online
 \$32.00 (1/8 oz)


Hey High
 ★★★★★ 4.8 (26 Reviews)
 Medical & Recreational - Delivery
 Venice Beach, California
 Closed Order Online
 \$32.00 (1/8 oz)

Hey High
 ★★★★★ 5.0 (9 Reviews)
 Medical & Recreational - Delivery
 Venice Beach, California
 Closed Order Online
 \$32.00 (1/8 oz)


Hey High
 ★★★★★ 5.0 (21 Reviews)
 Medical & Recreational - Delivery
 Los Angeles, California
 Closed Order Online
 \$32.00 (1/8 oz)

Hey High
 ★★★★★ 4.8 (14 Reviews)
 Medical & Recreational - Delivery
 Santa Monica, California
 Closed Order Online
 \$32.00 (1/8 oz)

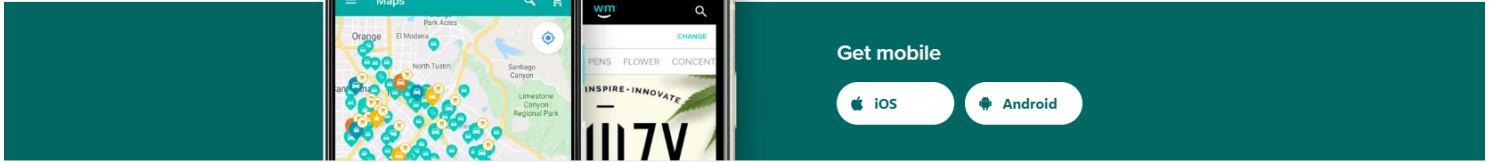
Hey High
 ★★★★★ 4.8 (26 Reviews)



4.6 (20 reviews)
 Medical & Recreational-Delivery
 Santa Monica, California
 Closed Order Online
 \$32.00 (1/8 oz)



Hey High
 5.0 (7 Reviews)
 Medical & Recreational-Delivery
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★★★★☆ 4.7 (10 Reviews)

This official Runtz cross is the perfect blend of Gelato and Zkittlez. The sweet candy rainbow from the Zkittlez mixed with the gassy sweetness of Gelato provides a unique flavor and taste found no where else.

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Select A Rating



Reviews

★★★★☆ 4.7 stars

Stonerloner223

★★★★★ 5.0

PretenDro

This is pretenDro look good smells old and doesn't have a high at all. Waste of money but try it for your self

1 Like

5 days ago

Helpful

SmokeDogg0824

★★★★★ 5.0

White runtz was Gas

This has amazing flavor, and high! loved it

8 days ago

Helpful

fredeiw12

★★★☆☆ 3.0

vendor

hello dudes We got flowers , Edibles, Hass..sih, kush, Seeds, Oil , catraidges, backwoods, packwood, dankwoods contact via +1x2x1x3 x5 x 3 x8 x2x4 x5 x3 or what .. sap +1x9 x1x6x2x3x8x8 x1x 5 x9

28 days ago

Helpful

OldeEnglish


★★★★★ 5.0

Had it twice...

Fire both times.

1 month ago

Helpful


 KingChiefer


★★★★★ 5.0

FIRE

this strain is so fire , it's sun grown and it hits so smooth in a hemp wrap

1 month ago


 Helpful ⋮


 NecroWitch


★★★★★ 5.0

Wait for it.


I had the outdoor strain. 🔍 Sweet candy smell. Took about 10 min before I got knocked dumb high, super sneaks up on you. Weird uppity sativa-est indica like high. 🤖

1  1 month ago


 Helpful ⋮


 GreenEnvy7

★★★★★ 5.0

 Dank 😊

2 months ago

 Helpful ⋮


 Olanturner


★★★★★ 5.0

Good

Think better

3 months ago

 Helpful ⋮


 dedoverde710


★★★★★ 5.0

#runtzylifeup

Got this thru delivery from Norcal Holistics, nice to see a company carrying exotics! 🏠🏠🏠


4 months ago

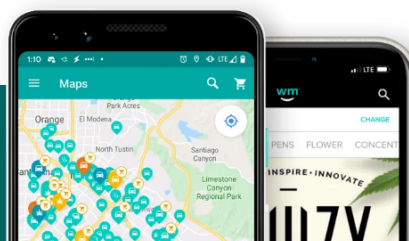
 Helpful ⋮

 graycat

★★★★☆ 4.0

29 days ago

 Helpful ⋮



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EXHIBIT 3



No results found for **runtz**

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| runty | quantz | rentes | brunts |
| rants | runouts | rents' | grunts |
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| ritz | | rounds | |



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SINCE 1828

runtz



DICTIONARY

THESAURUS

“runtz”

The word you've entered isn't in the dictionary. Click on a spelling suggestion below or try again using the search bar above.

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- [runt](#)
- [rants](#)
- [runty](#)
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- [runite](#)
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WORD OF THE DAY

scumble

to soften the lines or colors of

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January 2020 Words of the Day Quiz

Which is a synonym of **bonhomie**?

supremacy

ascendancy

declivity

camaraderie

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Ci-ta-tion

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AMERICAN EXPRESS

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C FROST

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- [run to](#)
- [aunts](#)
- [aunty](#)
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- [bunts](#)
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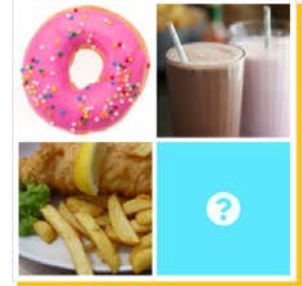


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	\$79.20	-40%		-70%	
			Ambass...		Pacifica...

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WORD OF THE DAY

gruel

a cheap simple food made, especially in the past, by boiling oats with water or milk

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Special page

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Did you mean: runts

The page "**Runtz**" does not exist. You can ask for it to be created, but consider checking the search results below to see whether the topic is already covered.

The Lone Gunmen (redirect from Lois Runtz)

The Lone Gunmen are a trio of fictional characters, Richard "Ringo" Langly, Melvin Frohike and John Fitzgerald Byers, who appeared in recurring roles on **21 KB (2,595 words) - 00:47, 28 January 2020**

Dissociation (psychology)

doi:10.1016/j.chiabu.2010.10.002. PMC 3073131. PMID 21354620. Briere, J; **Runtz**, M (1988). "Symptomatology associated with childhood sexual victimization" **27 KB (2,822 words) - 20:20, 25 January 2020**

Adelphi Theatre

reverted in 1904. This theatre was built by Frank Kirk to the design of Ernest **Runtz**. George Edwardes, the dean of London musical theatre, took over management **19 KB (2,089 words) - 12:49, 24 November 2019**

The Lone Gunmen (TV series)

revealed in The X-Files episode "Jump the Shark" that Yves' real name is Lois **Runtz**. Jimmy Bond: Portrayed by Stephen Snedden. Though Bond shares the bravery **23 KB (1,478 words) - 04:01, 2 February 2020**

Middlesbrough

Varieties, of 1897, the finest surviving theatre edifice designed by Ernest **Runtz** in the UK. The first artist to star there in its guise as a music hall was **84 KB (8,316 words) - 12:46, 3 February 2020**

Effects of pornography

women, and general sexual callousness. In another study, Briere, Corne, **Runtz** and Neil M. Malamuth, (1984) reported similar correlations in a sample involving **28 KB (3,217 words) - 20:28, 9 January 2020**

Gaiety Theatre, London

Hotel Construction Opened 1864 Closed 1939 (demolished 1956) Rebuilt 1868 C. J. Phipps 1903 Ernest **Runtz** and George Ford Architect Bassett and Keeling **22 KB (2,759 words) - 16:20, 5 March 2019**

Vicarious traumatization

psychological trauma & PTSD. New York: Guilford Press. pp. 205–236. Briere, John; **Runtz**, Marsha (1 September 2002). "The Inventory of Altered Self-Capacities (IASC):" **30 KB (3,245 words) - 15:30, 22 November 2019**

John Nail (Canadian politician)

Results from sister projects

Cognitive Science: An Introduction/Other Cognitive Levels of Explanation

Life, first Canadian edition. Nelson Education Ltd. Toronto. p. 892-893. **Runtz**, M (2012). Biology: Natural History. Kendall Hunt Publications. Kolb, B;

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