

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant: Areoz GmbH

Serial No.: 88/555,620

Mark: XLUBE (word)

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

RESPONSE TO OFFICE ACTION

Areoz, GmbH (hereinafter “Applicant”), by its Counsel Leigh Augustine, herewith responds to the points raised by the Examiner in refusing registration of the mark XLUBE (word), Serial Number 88/555,620.

Applicant seeks registration of the mark XLUBE (word) for use with “Gels for use as personal lubricant; Personal lubricants; Personal sexual lubricants; Water-based personal lubricants” in International Class 05 (“Applicant’s Mark”).

1. Likelihood of Confusion

The Examining Attorney issued an Office Action on October 30, 2019, citing a likelihood of confusion with the goods identified in Registration No. 3655935 for the mark X (Stylized plus design) for “personal lubricants in the nature of gels and lotions; water-based personal lubricants” in International Class 05 (the “935 Mark”).

The Examining Attorney also cited a likelihood of confusion with the goods identified in Registration No. 5,099,063 for the mark X (Stylized) for “Gels for use as personal lubricant; Personal lubricants; Personal sexual lubricants; Water-based personal lubricants” in International Class 05 are related to, and overlap in-part with, registrant’s goods listed as “Adult sexual stimulation aids, namely, sex toys, condoms; kits for adult sexual stimulation comprised of curated items in the nature of sex toys, condoms, personal lubricants, massage oils, visual aids for adult sexual stimulation in the nature of printed photographs and printed stories in illustrated form featuring erotic subject matter, printed short stories in the field of erotica, printed products, namely, music playlists featuring the names and artists of musical compositions for use in adult sexual stimulation, pre-recorded video discs featuring animated videos of adult subject matter for

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use in adult sexual stimulation, and products for sensory excitation in the nature of artificial penises, penis enlargers, vibrators, benwa balls, and artificial vaginas” in International Class 10 (the “063 Mark”).

Regarding the 935 Mark, Applicant asks the Examining Attorney review the status of said mark, taking specific notice that the Section 8 & 15 Renewal was due between July 14, 2018 and July 14, 2019. The registrant of that mark did not file any renewal or extension documents during this timeframe. As it has now been more than six months *after* the expiration date, the 935 Mark must be deemed abandoned, and as such, is not a barrier to Applicant’s application.

Further, regarding the 063 Mark, Applicant respectfully requests that the Examining Attorney take notice that with this Office Action Response, Applicant is contemporaneously filing a cancellation action at the TTAB against the 063 Mark, as the owner, Minion Marketing, LLC dba The Nooky Box is a limited liability company with an address at 421 E. Spruce Street, Apt B, Missoula, Montana 59802, and was “Involuntarily Dissolved” by the Montana Secretary of State effective December 1, 2018, (see **Attachment A**) and Registrant Minion Marketing’s website TheNookyBox.com/subscription-box/ (see **Attachment B**), sells no product and in fact states, **“Hey there, The Nooky Box is no longer offering an adult subscription box service. Don’t worry! We recommend our good friends at Unbound Box. Unbound has an amazing subscription box service with plenty of options to meet both your budget and your curiosity.”**

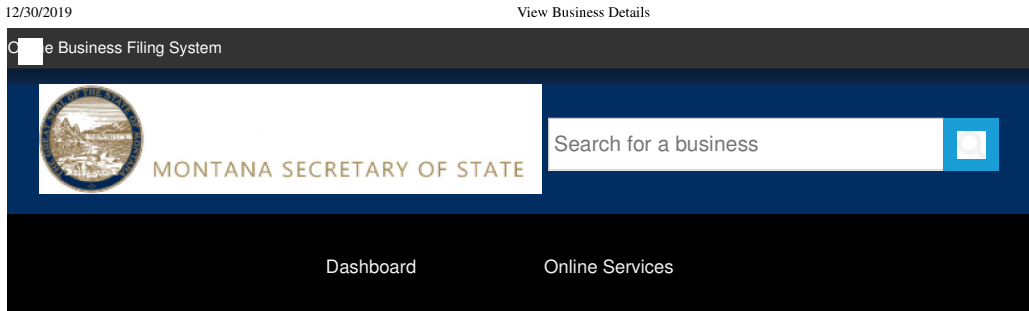
Applicant therefore requests that this Application be suspended pending the disposition of the 063 Mark at the TTAB. Upon confirming that the 935 Mark has become abandoned, and upon the cancellation order of the 063 mark being affirmed by the TTAB, Applicant respectfully requests the Examining Attorney reconsider and withdraw the Section 2(d) refusal.

2. Conclusion

For the foregoing reasons, and upon confirming that the 935 Mark has become abandoned, and upon the cancellation order of the 063 mark being affirmed by the TTAB, Applicant respectfully requests the Examining Attorney reconsider and withdraw the Section 2(d) refusal.

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Attachment A



View Business Details

MINION MARKETING, LLC (C255714), Domestic Limited Liability Company

[Log in to ePass](#) to file your business documents and maintain your business. If you don't have an ePass account you will be able to create one.

Request Entity Information Confirm Receipt Of REGISTERED AGENT Authority

General Details Documents History Details

Entity Name	MINION MARKETING, LLC
Entity Status	Involuntary Dissolution
▶ Show entity status history	
Business Identifier	C255714
Entity Type	Domestic Limited Liability Company
Type of Limited Liability Company	Limited Liability Company
Formation Date	12/08/2014
Inactive Date	12/01/2018
Removal Reason	Involuntary Dissolution – failure to file annual report
Involuntary Intent Date	09/01/2018
Last AR Filed Date	04/17/2017

Business Names

[▶ Show Business Name History](#)

12/30/2019

[View Business Details](#)

State or Country of Jurisdiction

Country United States
State Montana

Registered Agent in Montana


Agent Name

Entity Name [UNITED STATES CORPORATION AGENTS INC](#)
Street Address 1215 24TH ST W SUITE 125, BILLINGS, Montana, 59102,
United States
Mailing Address Same as Street Address
Email Address [Not Provided]
Registered Agent Type Commercial

Business Mailing Address of Principal Office

Postal Address 421 E SPRUCE ST APT B, MISSOULA, Montana, 59802,
United States
Term Perpetual
Purpose NONE STATED

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Attachment B

thenookybox.com/subscription-box/

EIP EIP desktop EIP today - home

nooky box
yay sex!

Subscription Box About Blog



The Best Adult Subscription Box (Our Recommendation)

Hey there,

The Nooky Box is no longer offering an adult subscription box service.

Don't worry!

We recommend our good friends at [Unbound Box](#).

Unbound has an amazing subscription box service with plenty of options to meet both your budget and curiosity.

yay sex!

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