



United States Copyright Office

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July 13, 2017

Christopher M. Thomas, Esq.
Parker Poe
PNC Plaza
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601

**Re: Second Request for Reconsideration for Refusal to Register Itsa Packaging Design;
Correspondence ID: 1-1YBCBMA; SR #: 1-3021918141**

Dear Mr. Thomas:

The Review Board of the United States Copyright Office (“Board”) has considered NeuMillennial, LLC’s second request for reconsideration of the Registration Program’s refusal to register a two-dimensional artwork claim in the work titled “Ista Packaging Design” (the “Work”). After reviewing the application, deposit copy, and relevant correspondence, along with the arguments in the second request for reconsideration, the Board finds that the Work exhibits copyrightable authorship and thus may be registered.

The Work consists of six pages of graphic packaging designs that are nearly identical, with the exception of the background color and words and short phrases on each product. In the upper-center of each design is a black diamond-shaped logo, with the stylized word “Ista” in the center and a border in white. The background consists of a spiral pattern in black with either red, yellow, blue and light blue, dark green and light blue, or light green and light blue as the alternating color of the spiral. For each graphic with two colors as the alternate color in the spiral, that color changes at the midpoint of the black diamond-shaped logo. The left side of each graphic contains a black rectangle and words and short phrases, including information about the company, in black and white and displayed vertically. The right side of each graphic contains a black rectangle, words and short phrases, and graphic designs, including designs for a jar, clock, and thumbs up, and a barcode, all in black and white and displayed vertically. At the bottom-center of each work are words and short phrases describing the name of the product and the contents of the packaging. A reproduction of the Work is included as Appendix A.

The Board’s finding is based on the “minimal degree of creativity” required by the U.S. Supreme Court in *Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991). The Board notes, however, that registration would not cover any general claims of layout or formatting, which are not accepted by the Copyright Office because they are a “template of expression.” COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 313.3(E) (3d ed. 2014). Moreover, the Board finds that the copyright in the Work is thin, and does not protect the use of standard swirl designs. Thus, the Office cautions that registration covers only the original and

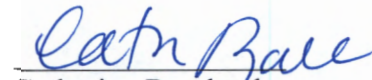
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creative features displayed in the Work, and not standard designs or other unoriginal elements. See, e.g., *Satava v. Lowry*, 323 F.3d 805, 812 (9th Cir. 2003); *Ets-Hokin v. Skyy Spirits, Inc.*, 323 F.3d 763, 766 (9th Cir. 2003).

For the reasons stated herein, the Board reverses the refusal to register the copyright claim in the Work. Accordingly, the Board's decision will be referred to the Office's Registration Program so that the application for the Work can be registered.

BY:



Catherine Rowland

Copyright Office Review Board

Appendix A



EYE MARKER
10mm W x 5mm H

LOT NUMBER
20mm W x 10mm H

Itsa
itsaflavor.com

Ingredients: Natural flavor, propylene glycol, artificial flavor, water, ethanol.
Do not ingest card.
Distributed by NeuMillennial, LLC
PO Box 79220 Charlotte, NC 28271 USA
Product of Finland
© 2016 NeuMillennial, LLC



CHERRY DROP

CONTAINS 1 FLAVOR CARD
NET WT .04oz (1.2g)



Enjoy.



Wait 2 to 24 hours,
the longer the stronger.



Place card with
dry herbs.

HOW TO

*Own your
Flavor*

EYE MARKER
10mm W x 5mm H

LOT NUMBER
20mm W x 10mm H

Itsa
itsaflavor.com

Ingredients: Propylene glycol, natural flavor, water, artificial flavor, ethanol.
Do not ingest card.

Distributed by NeuMillennial, LLC.
PO Box 79220 Charlotte, NC 28271 USA
Product of Finland
© 2016 NeuMillennial, LLC

MELLOW PEACH

CONTAINS 1 FLAVOR CARD
NET WT .04oz (1.1g)

HOW TO
*Give your
Flavor*

Place card with dry herbs. →
Wait 2 to 24 hours. →
the longer the stronger.

Enjoy. →

8 14724 02001 1

EYE MARKER
10mm W x 5mm H

LOT NUMBER
20mm W x 10mm H



Itsa
itsaflavor.com

Ingredients: Propylene glycol, natural
flavor, water, artificial flavor, ethanol.
Do not ingest card.

Distributed by NeuMillennial, LLC.
PO Box 79220 Charlotte, NC 28271 USA
Product of Finland
© 2016 NeuMillennial, LLC

MINT BLUEBERRY

CONTAINS 1 FLAVOR CARD
NET WT .04oz (1.1g)



HOW TO
*Own your
Flavor*

Place card with
dry herbs.
Wait 1 to 6 hours.
Enjoy.
the longer the stronger



Itsa
itsaflavor.com

Ingredients: Ethanol, water, natural flavor.
Do not ingest card.

Distributed by NeuMillennial, LLC
PO Box 73220 Charlotte, NC 28271 USA
Product of Finland
© 2016 NeuMillennial, LLC



MINT CHILL

CONTAINS 1 FLAVOR CARD
NET WT .04oz (1.1g)



Enjoy.



Wait 1 to 6 hours,
the longer the stronger



Place card with
dry hard.

HOW TO

*Own your
Flavor*

EYE MARKER
10mm W x 5mm H

LOT NUMBER
20mm W x 10mm H



EYE MARKER
10mm W x 5mm H

LOT NUMBER
20mm W x 10mm H

Itsa
itsaflavor.com

Ingredients: Propylene glycol, natural
flavor, water, artificial flavor, ethanol.
Do not ingest card.
Distributed by NeuMillennial, LLC
PO Box 79220 Charlotte, NC 28271 USA
Product of Finland
© 2016 NeuMillennial, LLC

MINT LIME

CONTAINS 1 FLAVOR CARD
NET WT .04oz (1.1g)



HOW TO
*Own your
Flavor*

EYE MARKER
10mm W x 5mm H

LOT NUMBER
20mm W x 10mm H

Itsa
itsaflavor.com

Ingredients: Propylene glycol, natural flavor, water, artificial flavor, ethanol. **Do not ingest card.**

Distributed by NeuMillennial, LLC
PO Box 79220 Charlotte, NC 28271 USA
Product of Finland
© 2016 NeuMillennial, LLC

MINT RASPBERRY

CONTAINS 1 FLAVOR CARD
NET WT .04oz (1.1g)

HOW TO
Own your Flavor

Place card with dry herbs. → →
Wait 1 to 6 hours, the longer the stronger
Enjoy.

8 14724 02003 5