

ESTTA Tracking number: **ESTTA265021**

Filing date: **02/06/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177192
Party	Defendant Martanna LLC
Correspondence Address	HOWARD G. SLAVIT SAUL EWING LLP SUITE 1000, THE WATERGATE WASHINGTON, DC 20037-1922 UNITED STATES hslavit@saul.com, sbates@saul.com, okolawole@saul.com
Submission	Defendant's Notice of Reliance
Filer's Name	Howard G. Slavit
Filer's e-mail	hslavit@saul.com, jtotoaro@saul.com, cwalter@saul.com
Signature	/howard g slavit/
Date	02/06/2009
Attachments	Applicant's Second Notice of Reliance.pdf (29 pages)(375520 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NAUTICA APPAREL, INC.,)	
)	
Opposer,)	Opposition No. 91177192
)	
v.)	Mark: GET NAUTI
)	
MARTANNA L.C.,)	Serial No. 78610037
)	
Applicant.)	Filed: April 15, 2005

APPLICANT'S SECOND NOTICE OF RELIANCE PURSUANT TO 37 C.F.R. §2.122(e)

Please take notice that Applicant in the above-captioned proceeding, Martanna L.C., hereby notices its reliance on certain excerpts from the application file of a registration owned by Opposer, Nautica Apparel, Inc. and cited in Opposer's Notice of Opposition in the above-captioned proceeding. These excerpts consist of (1) an Office Action issued to Opposer regarding application Serial Number 78885472 (sent June 22, 2006) in which the Examining Attorney states that Opposer must submit an English translation of the mark NAUTICA consistent with several of Opposer's prior registrations; (2) Opposer's response to this Office Action (signed November 22, 2006) in which Opposer makes the following statement: "The foreign wording in the mark translates into English as Nautical"; and (3) the TARR record (printed January 29, 2009) for Registration Number 3233030 which incorporates that translation statement. Copies of these excerpts are attached to this notice.

The attached excerpts are relevant to Opposer's representations as to the meaning of the word NAUTICA. The attached excerpts are relevant as an expression of the U.S. Patent and Trademark Office's understanding that the word NAUTICA has a meaning in English, and that that meaning is "nautical".

Dated: February 6, 2009

Respectfully submitted,

/Howard G. Slavit/

Howard G. Slavit, Esq.
John Totaro, Esq.
Saul Ewing LLP
2600 Virginia Avenue, NW
Suite 1000 – The Watergate
Washington, DC 20037
Telephone: 202-295-6604
Facsimile: 202-295-6704
Counsel for Applicant Martanna L.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Reliance pursuant to 37 C.F.R. Section 2.122(e) was served by first-class United States mail, postage prepaid, upon:

Stephen L. Baker, Esq.
Neil Friedman, Esq.
Baker and Rannells PA
575 Route 28
Suite 102
Raritan, NJ 08869
s.baker@br-tmlaw.com
n.friedman@br-tmlaw.com
Counsel for Opposer Nautica Apparel, Inc.

/Howard G. Slavit/

Howard G. Slavit

To: Nautica Apparel, Inc. (margaret_bizzari@vfc.com)
Subject: TRADEMARK APPLICATION NO. 78885472 - NAUTICA - N/A
Sent: 6/22/2006 10:45:39 AM
Sent As: ECOM115@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
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[Attachment - 6](#)
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[Attachment - 13](#)
[Attachment - 14](#)
[Attachment - 15](#)
[Attachment - 16](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/885472

APPLICANT: Nautica Apparel, Inc.

CORRESPONDENT ADDRESS:
LISA A. WHITNEY
NAUTICA APPAREL, INC.
40 W 57TH ST
NEW YORK, NY 10019-4001

78885472

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK: NAUTICA

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:
margaret_bizzari@vfc.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and

Law Office number.
4. Your telephone number and e-mail
address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/885472

The assigned examining attorney has reviewed the referenced application and determined the following.

Search of the Office Records

-
The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

However before this application can be approved for publication the applicant must address the following informalities.

INFORMALITIES

Translation Required

-
Applicant must submit an English translation of the mark. 37 C.F.R. §2.61(b); TMEP §809.
The following translation statement is suggested:

“The English translation of Nautica is Nautical”.

The examining attorney has attached a sampling of the applicant’s prior registrations in which this translation for the mark was provided. The examining attorney has also attached dictionary evidence for the translation.

Claim of Prior Registrations

If applicant is the owner of U.S. Registration Nos. 1464663, 1553539, 1580007, then applicant must submit a claim of ownership. 37 C.F.R. §2.36; TMEP §812. The following standard format is suggested:

Applicant is the owner of U.S. Registration Nos. 1464663, 1553539, 1580007 and OTHERS.

The examining attorney has attached the third party registrations for the applicant's convenience.

Teas Plus Status Lost

Applicant must submit an additional application processing fee of \$50 per class because the application as filed does not meet the TEAS Plus application requirements in 37 C.F.R. §2.22(a). 37 C.F.R. §§2.6(a)(iv) and 2.22(b). The following application requirements were not met: a translation of the non-English wording in the mark; a claim of ownership of prior registrations owned by applicant for the same mark. Please see the requirements and/or refusals above for more information.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Kathryn E. Coward/
Trademark Examining Attorney
United States Patent & Trademark Office
Law Office 115
(571) 272-9468

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office,** not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

Print: Jun 20, 2006

78114981

TYPED DRAWING

Serial Number

78114981

Status

REGISTERED

Word Mark

NAUTICA BLUE

Standard Character Mark

No

Registration Number

2987139

Date Registered

2005/08/23

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Nautica Apparel, Inc. CORPORATION DELAWARE 40 West 57th Street New York NEW YORK 10019

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: MEN'S, WOMEN' AND CHILDREN'S WEARING APPAREL, NAMELY, UNDERSHIRTS, T-SHIRTS, SHIRTS, BLOUSES, PANTS, SHORTS BATHING SUITS AND SWIMWEAR. First Use: 2000/10/00. First Use In Commerce: 2000/10/00.

Prior Registration(s)

1464663;1523565;1553539;AND OTHERS

Translation Statement

The English translation of the word NAUTICA in the mark is "NAUTICAL".

Filing Date

2002/03/14

Examining Attorney

GOLDEN, BRETT J.

Print: Jun 20, 2006

78114981

Attorney of Record
Stephen L. Baker

Print: Jun 20, 2006

78293506

TYPED DRAWING

Serial Number

78293506

Status

REGISTERED

Word Mark

NAUTICA

Standard Character Mark

No

Registration Number

2865300

Date Registered

2004/07/20

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Nautica Apparel, Inc. CORPORATION DELAWARE 40 West 57th Street New York NEW YORK 10019

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: DUVETS, DUVET COVERS, PILLOW CASES AND PILLOW PROTECTORS. First Use: 1998/08/00. First Use In Commerce: 1998/08/00.

Prior Registration(s)

1464663;2141441;2247914;2639939;2731466;AND OTHERS

Translation Statement

The foreign wording in the mark translates into English as "nautical".

Filing Date

2003/08/28

Examining Attorney

THOMPSON, TRICIA

Attorney of Record

Print: Jun 20, 2006

78293506

Lisa A. Whitney

Print: Jun 20, 2006

78614003

DESIGN MARK

Serial Number

78614003

Status

REGISTERED

Word Mark

NAUTICA COMPETITION

Standard Character Mark

Yes

Registration Number

3076796

Date Registered

2006/04/04

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Nautica Apparel, Inc. CORPORATION DELAWARE 40 West 57th Street New York NEW YORK 10019

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: men's, women's and children's wearing apparel, namely, shoes, sneakers, boots, undershirts, shirts, pants, jackets, coats, bathing suits, bathrobes, pajamas, slippers, shorts, ties, socks, hats, caps, gloves and foul weather gear. First Use: 1996/04/00. First Use In Commerce: 1996/04/00.

Prior Registration(s)

1523565;1613918;1862585;AND OTHERS

Translation Statement

The English translation of "NAUTICA" is NAUTICAL.

Filing Date

2005/04/21

Examining Attorney

Print: Jun 20, 2006

78614003

DUBOIS, MICHELLE

Attorney of Record
Lisa A. Whitney

NAUTICA COMPETITION

**Ultralingua Dictionaries
and Language Tools**
Quality dictionaries &
grammar checkers for
Mac, Windows, Palm,
and Pocket PC.



Ultralingua web

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Definitions & translations

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náutica *s.f.*: **1. seamanship** *n.*

Expressions:

milla **náutica** *s.f.*: **1. nautical mile** *n.* [Unidades] **2. knot** *n.*

[More results...](#)

náutico *adj.* -a: **1. nautical** *adj.*

Expressions:

deporte **náutico** *s.m.*: **1. water sport** *n.* [Deporte]

[More results...](#)

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Print: Jun 21, 2006

73631447

DESIGN MARK

Serial Number

73631447

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

NAUTICA

Standard Character Mark

No

Registration Number

1464663

Date Registered

1987/11/10

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

NAUTICA APPAREL, INC. CORPORATION DELAWARE 40 WEST 57TH STREET NEW YORK NEW YORK 10019

Goods/Services

Class Status -- ACTIVE. IC 025. US 039. G & S: HOSIERY, SHOES, UNDERSHIRTS, UNDERSHORTS, SHIRTS, BLOUSES, TROUSERS, JACKETS, PANTS, COATS, SUITS, BATHING SUITS, BATHROBES, SLIPPERS AND SHORTS. First Use: 1985/05/03. First Use In Commerce: 1985/05/03.

Translation Statement

THE ENGLISH TRANSLATION OF THE WORD "NAUTICA" IN THE MARK IS "NAUTICAL".

Filing Date

1986/11/20

Examining Attorney

CLARK, ROBERT C.

Attorney of Record

STEPHEN L BAKER

nautica

Print: Jun 21, 2006

73737613

DESIGN MARK

Serial Number

73737613

Status

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

Word Mark

NAUTICA

Standard Character Mark

No

Registration Number

1553539

Date Registered

1989/08/29

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

NAUTICA APPAREL, INC. CORPORATION DELAWARE 40 WEST 57TH STREET NEW YORK NEW YORK 10019

Goods/Services

Class Status -- ACTIVE. IC 009. US 002 026. G & S: SPECTACLES, NAMELY EYEGLASSES AND SUNGLASSES, AND ACCESSORIES, NAMELY CASES AND STRAPS. First Use: 1987/01/05. First Use In Commerce: 1987/01/05.

Prior Registration(s)

1464663;1523565

Translation Statement

THE ENGLISH TRANSLATION OF THE WORD "NAUTICA" IN THE MARK IS "NAUTICAL".

Filing Date

1988/06/24

Examining Attorney

GLYNN, GERALD T.

Print: Jun 21, 2006

73737613

Attorney of Record
ELIHU H. MODLIN

nautica

Print: Jun 21, 2006

73745061

DESIGN MARK

Serial Number

73745061

Status

REGISTERED AND RENEWED

Word Mark

NAUTICA

Standard Character Mark

No

Registration Number

1580007

Date Registered

1990/01/30

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

NAUTICA APPAREL, INC. CORPORATION DELAWARE 40 WEST 57TH STREET NEW YORK NEW YORK 10017

Goods/Services

Class Status -- ACTIVE. IC 018. US 003 041. G & S: UMBRELLAS, LUGGAGE, TRUNKS, DUFFLE BAGS, GARMENT BAGS FOR TRAVELING, TRAVEL KITS AND LEATHER BOXES IN THE NATURE OF JEWELRY BOXES. First Use: 1987/01/05. First Use In Commerce: 1987/01/05.

Goods/Services

Class Status -- ACTIVE. IC 016. US 032 037 038. G & S: NOTEBOOKS, DESK TOP ORGANIZERS, CALENDARS, AND PHONEBOOK COVERS MADE OF LEATHER OR IMITATION LEATHER. First Use: 1987/01/05. First Use In Commerce: 1987/01/05.

Goods/Services

Class Status -- ACTIVE. IC 025. US 039. G & S: BELTS AND SUSPENDERS. First Use: 1987/01/05. First Use In Commerce: 1987/01/05.

Prior Registration(s)

Print: Jun 21, 2006

73745061

1463626;1464663;1484341;AND OTHERS

Translation Statement

THE ENGLISH TRANSLATION OF THE WORD "NAUTICA" IN THE MARK IS "NAUTICAL".

Filing Date

1988/08/09

Examining Attorney

PEDERSEN, CHRIS A. F.

Attorney of Record

ALAN BLUM, ESQ.

nautica

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78885472
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION (no change)	
OWNER SECTION (no change)	
LEGAL ENTITY SECTION (no change)	
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	"Applicant claims ownership of U.S. Registration Number(s) 1464663, 1553539, 1580007."
TRANSLATION	"The foreign wording in the mark translates into English as Nautical."
PAYMENT SECTION	
NUMBER OF CLASSES	1
FEE PER CLASS	50
TOTAL FEES DUE	50
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Lisa A. Whitney/
SIGNATORY'S NAME	Lisa A. Whitney
SIGNATORY'S POSITION	Vice President
DATE SIGNED	11/02/2006
RESPONSE SIGNATURE	/Lisa A. Whitney/
SIGNATORY'S NAME	Lisa A. Whitney
SIGNATORY'S POSITION	Vice President
DATE SIGNED	11/02/2006
AUTHORIZED SIGNATORY	YES

FILING INFORMATION SECTION	
SUBMIT DATE	Thu Nov 02 12:42:02 EST 2006
TEAS STAMP	USPTO/ROA-68.192.148.138- 20061102124202064086-7888 5472-340769a4373f5b62d9d6 10934c641bacf3-DA-1497-20 061102123344180588

PTO Form 1587 (Rev. 02/2005)
USPS No. 0651-2050 (Exp. 06/30/05)

Response to Office Action To the Commissioner for Trademarks:

Application serial no. **78885472** has been amended as follows:

Additional Statements

"Applicant claims ownership of U.S. Registration Number(s) 1464663, 1553539, 1580007."

"The foreign wording in the mark translates into English as Nautical."

Fees

Fee(s) in the amount of \$50 is being submitted.

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements

in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Lisa A. Whitney/ Date: 11/02/2006
Signatory's Name: Lisa A. Whitney
Signatory's Position: Vice President

Response Signature

Signature: /Lisa A. Whitney/ Date: 11/02/2006
Signatory's Name: Lisa A. Whitney
Signatory's Position: Vice President

RAM Sale Number: 1497
RAM Accounting Date: 11/02/2006

Serial Number: 78885472
Internet Transmission Date: Thu Nov 02 12:42:02 EST 2006
TEAS Stamp: USPTO/ROA-68.192.148.138-200611021242020
64086-78885472-340769a4373f5b62d9d610934
c641bacf3-DA-1497-20061102123344180588

RAM SALE NUMBER: 1497
RAM ACCOUNTING DATE: 20061102

INTERNET TRANSMISSION DATE:
2006/11/02

SERIAL NUMBER:
78/885472

Description	Fee Code	Transaction Date	Fee	Number Of Classes	Total Fees Paid
	7008	2006/11/02	50	1	50

Thank you for your request. Here are the latest results from the TARR web server.

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Serial Number: 78885472 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3233030

Mark

NAUTICA

(words only): NAUTICA

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-04-24

Filing Date: 2006-05-17

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: 2007-04-24

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-04-24

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Nautica Apparel, Inc.

Address:

Nautica Apparel, Inc.

40 West 57th Street
New York, NY 10019
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

Phone Number: 212-887-8125

Fax Number: 212-841-7193

GOODS AND/OR SERVICES

International Class: 014

Class Status: Active

Watches

Basis: 1(a)

First Use Date: 1989-07-01

First Use in Commerce Date: 1989-07-01

ADDITIONAL INFORMATION

Translation: The foreign wording in the mark translates into English as Nautical.

Prior Registration Number(s):

1464663

1553539

1580007

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-04-24 - Registered - Principal Register

2007-02-06 - Published for opposition

2007-01-17 - Notice of publication

2006-12-12 - Law Office Publication Review Completed

2006-12-12 - Restore To TEAS Plus

2006-12-12 - Assigned To LIE

2006-11-27 - Approved for Pub - Principal Register (Initial exam)

2006-11-08 - Teas/Email Correspondence Entered

2006-11-02 - Communication received from applicant

2006-11-02 - TEAS Response to Office Action Received

2006-06-22 - Non-final action e-mailed

2006-06-22 - Non-Final Action Written

2006-06-22 - Removed From TEAS Plus

2006-06-20 - Assigned To Examiner

2006-05-24 - Notice Of Pseudo Mark Mailed

2006-05-23 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lisa A. Whitney

Correspondent

LISA A. WHITNEY
NAUTICA APPAREL, INC.
40 W 57TH ST
NEW YORK, NY 10019-4001
Phone Number: 212-887-8125
Fax Number: 212-841-7193
