

ESTTA Tracking number: **ESTTA168190**

Filing date: **10/11/2007**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Celestron Acquisition, LLC
Granted to Date of previous extension	10/13/2007
Address	2835 Columbia Street Torrance, CA 90503 UNITED STATES

Attorney information	Michael K. Grace, Jill M. Abasto GRACE & GRACE LLP 444 S. Flower St., Ste. 3875 Los Angeles, CA 90071 UNITED STATES mgrace@gracelaw.com, jabasto@gracelaw.com Phone:(213) 452-1220
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Applicant Information

Application No	77001790	Publication date	08/14/2007
Opposition Filing Date	10/11/2007	Opposition Period Ends	10/13/2007
Applicant	Nextar (Hong Kong) Limited Citicorp Centre Unit 1712, 17/F., 18 Whitfield Road Causeway, HONG KONG		

Goods/Services Affected by Opposition

Class 009. First Use: 2005/10/25 First Use In Commerce: 2005/10/25 All goods and services in the class are opposed, namely: Portable car GPS Navigation units, Audio, Video, Audio-Video, DVD and Multimedia Players

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2408412	Application Date	10/08/1999
Registration Date	11/28/2000	Foreign Priority Date	NONE
Word Mark	NEXSTAR		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1999/08/02 First Use In Commerce: 1999/08/02 TELESCOPES AND PARTS THEREFOR, NAMELY, HAND CONTROLS, EYEPIECES, STAR DIAGONALS, STAR POINTER FINGERSCOPIES AND MOUNTING BRACKETS, AC ADAPTERS, TRIPODS, AND MOTOR DRIVES TO MOVE THE TELESCOPES

U.S. Registration No.	2423081	Application Date	10/08/1999
Registration Date	01/23/2001	Foreign Priority Date	NONE
Word Mark	NEXSTAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/08/02 First Use In Commerce: 1999/08/02 TELESCOPES AND PARTS THEREFOR, NAMELY, HAND CONTROLS, EYEPIECES, STAR DIAGONALS, STAR POINTER FINGERSCOPIES AND MOUNTING BRACKETS, AC ADAPTERS, TRIPODS, AND MOTOR DRIVES TO MOVE THE TELESCOPES		

Related Proceedings	United States District Court for the Central District of California, Case No. CV 07-05368 DDP (JCx)
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Signature	/jill m abasto/
Name	Michael K. Grace, Jill M. Abasto
Date	10/11/2007

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

In the matter of trademark application Serial No. 77/001,790

MARK: NEXSTAR

FILED: September 18, 2006

PUBLISHED: August 14, 2007

CELESTRON ACQUISITION, LLC,
a Delaware limited liability company,

Opposer,

Opposition No. _____

v.

NEXSTAR (HONG KONG) LIMITED,
a Hong Kong corporation,

Applicant.

NOTICE OF OPPOSITION

Opposer, Celestron Acquisition, LLC, a limited liability company organized and existing under the laws of Delaware, and doing business at 2835 Columbia Street, Torrance, California 90503, believes that it would be damaged by issuance of a registration for NEXSTAR as shown in Serial No. 77/001,790 and hereby opposes such registration.

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The grounds for opposition are as follows:

1. Since as least as early as August 2, 1999, Opposer has continuously used and is still using the marks NEXSTAR and NEXSTAR (and design) (“Opposer’s Mark”) in interstate commerce to advertise and promote the sale of its telescopes and telescope parts and accessories, in International Class 9, in the United States.
2. Opposer owns U.S. Registration Nos. 2,423,081 and 2,408,412 for Opposer’s Mark. Registration No. 2,423,081 is incontestable.
3. Opposer uses Opposer’s Mark to identify, advertise and promote the sale of telescopes with a built-in global positioning system (“GPS”) and a GPS telescope accessory kit for post-sale attachment to Opposer’s telescopes. Opposer has been using Opposer’s Mark on its GPS telescopes and GPS telescope accessory kits since as least as early as December 2001.
4. Opposer has invested substantial time, money, and effort to develop and promote Opposer’s Mark.
5. Opposer’s Mark has become famous by reason of its prominent, widespread and continuous use by Opposer for over seven years to sell telescopes and telescope accessory kits.
6. Applicant Nextar (Hong Kong) Limited, (“Applicant”) filed an application on September 18, 2006, to register NEXTAR (the “Applicant’s Mark”) for “portable car GPS navigation units, audio, video, audio-video, DVD and multimedia players” in International Class 9. Applicant alleges first use of Applicant’s Mark on October 25, 2005.
7. By sight and sound, Applicant’s Mark is confusingly similar to Opposer’s Mark. Applicant’s GPS navigation units identified in the Application are similar to Opposer’s GPS telescope accessory kits bearing Opposer’s Mark.

8. Applicant's Mark so resembles Opposer's Mark as to be likely, when used in connection with the goods identified in the Application, to cause confusion or mistake, or to deceive, within the meaning of Title 15 U.S.C. Section 1052(d).

9. Applicant's use of Applicant's Mark has caused actual confusion or mistake. Opposer has been contacted by Applicant's irate customers, who have complained about the inferior quality of Applicant's GPS devices under the mistaken belief that Opposer had authorized or endorsed Applicant's products.

10. Applicant's use of Applicant's Mark has diluted and, if not stopped, will continue to dilute the distinctive quality of Opposer's Mark. On information and belief, Applicant's use of Applicant's Mark is intended to dilute the distinctiveness of Opposer's Mark as an indicator origin in the marketplace.

11. Opposer has not endorsed, approved, or associated itself with Applicant or Applicant's Mark in any manner.

12. On August 16, 2007, Opposer filed an action against Applicant for trademark infringement, trademark dilution, false designation of origin and unfair competition in the United States District Court, Central District of California, based on Applicant's use of Applicant's Mark, USDC Case No. CV 07-05368 DDP (JCx). That action is pending.

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WHEREFORE, Opposer requests that this Opposition to Application Serial No. 77/001,790 be sustained and registration refused.

Respectfully submitted,

GRACE & GRACE LLP

Dated: October 11, 2007

By: 

Michael K. Grace (Cal. SBN 126737)

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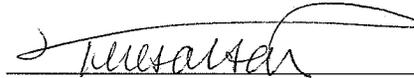
E-mail: mgrace@gracelaw.com

Attorneys for Celestron Acquisition, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Tim T. Chang, Esq., Nextar (Hong Kong) Limited, by mailing said copy on October 11, 2007, via First Class Mail, postage prepaid to:

Tim T. Chang, Esq.
801 S. Garfield Avenue, Suite 328
Alhambra, California 91801



Teresa Tsai