

ESTTA Tracking number: **ESTTA413622**

Filing date: **06/09/2011**

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	Ultimate Nutrition, Inc.		
Entity	Corporation	Citizenship	Connecticut
Address	21 Hyde Road, Farmington, CT 06034 UNITED STATES		

Correspondence information	William C. Wright Attorney for the Opposer Epstein Drangel LLP 60 East 42nd Street, Suite 2410 New York, NY 10165 UNITED STATES mail@ipcounselors.com Phone:(212) 292-5390
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Applicant Information

Application No	85168760	Publication date	05/10/2011
Opposition Filing Date	06/09/2011	Opposition Period Ends	06/09/2011
Applicant	Herbst, Tanja Rechbergweg 18 Semriach, 8102 AUSTRIA		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Nutritional supplements for boosting energy and endurance
Class 025. All goods and services in the class are opposed, namely: Footwear; Gym shorts; Headgear, namely, caps, hats, bonnets; Hooded sweat shirts; Short-sleeved or long-sleeved t-shirts; Sweat bands; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Track jackets; Track pants; Track suits; Trousers; Trousers for sweating

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	No Intent to Use

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1541169	Application Date	08/07/1987
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Registration Date	05/30/1989	Foreign Priority Date	NONE
Word Mark	ULTIMATE NUTRITION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1985/11/00 First Use In Commerce: 1985/11/00 VITAMINS, AND NUTRITIONAL FOOD SUPPLEMENTS		

U.S. Registration No.	3088065	Application Date	02/19/2004
Registration Date	05/02/2006	Foreign Priority Date	NONE
Word Mark	ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2005/06/01 First Use In Commerce: 2005/06/01 nutritional products, namely dietary supplements		

U.S. Registration No.	3377646	Application Date	05/15/2007
Registration Date	02/05/2008	Foreign Priority Date	NONE
Word Mark	ULTIMATE NUTRITION		
Design Mark			
Description of Mark	The mark consists of the literal element "ULTIMATE NUTRITION" in gold on a black background.		
Goods/Services	Class 005. First use: First Use: 1985/11/00 First Use In Commerce: 1985/11/00 Vitamins, and nutritional food supplements		

U.S. Registration No.	3503661	Application Date	05/15/2007
Registration Date	09/23/2008	Foreign Priority Date	NONE
Word Mark	ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION		

Design Mark	
Description of Mark	The mark consists of the literal element "ULTIMATE NUTRITION" in gold, the literal element "THE FUTURE OF SPORTS NUTRITION" in white, and a gray background.
Goods/Services	Class 005. First use: First Use: 2004/07/01 First Use In Commerce: 2004/07/01 Vitamins, and nutritional food supplements

U.S. Registration No.	3909232	Application Date	02/02/2010
Registration Date	01/18/2011	Foreign Priority Date	NONE
Word Mark	ULTIMATE NUTRITION		
Design Mark			
Description of Mark	The mark consists of a medal displaying the house mark "ULTIMATE NUTRITION" and a depiction of a globe.		
Goods/Services	Class 005. First use: First Use: 2010/07/26 First Use In Commerce: 2010/07/26 Dietary supplements; nutritional supplements; food supplements; vitamins		

Attachments	76576821#TMSN.jpeg (1 page)(bytes) 77181059#TMSN.jpeg (1 page)(bytes) 77181067#TMSN.jpeg (1 page)(bytes) 77925899#TMSN.jpeg (1 page)(bytes) Notice of Opposition - Ultimate Nutrition v. Tanja Herbst.pdf (45 pages)(800123 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/William C. Wright/
Name	William C. Wright
Date	06/09/2011

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

	x	
	:	
ULTIMATE NUTRITION, INC.,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	
	:	
TANJA HERBST	:	
	:	
Applicant.	:	
	X	

NOTICE OF OPPOSITION

Opposer, Ultimate Nutrition, Inc., with an address of 21 Hyde Road, Farmington, Connecticut 06034 believes that it is or will be damaged by the registration of the trademark VENS NUTRITION, as reflected in Ser. No. 85/168,760, and therefore opposes same. As grounds therefor, Opposer, by and through its undersigned attorneys, alleges as follows:

1. Opposer Ultimate Nutrition, Inc. ("Ultimate Nutrition") is a Connecticut corporation with its principal place of business at 21 Hyde Road, Farmington, Connecticut 06034.
2. Upon information and belief, TANJA HERBST is a citizen of Austria having an address of Rechbergweg 18, Semriach 8102, Austria.

OPPOSER AND ITS MARKS

3. Ultimate Nutrition was founded in 1979 by Victor H. Rubino ("Rubino"). At the time Rubino was one of the top amateur power lifters in the United States.

4. Rubino knew that supplements were the key to improving his performance through increased strength and faster recovery. Since he was not satisfied with the current supplements that were available to him, Rubino launched his own company called Ultimate Nutrition.

5. In the late 1970's and early 1980's, Ultimate Nutrition was among the first companies to sell Amino Acid tablets, protein powders, carbohydrate powders, and various types of fat burners. By the late 1980's and early 1990's Ultimate Nutrition launched several legendary products such as Sports Energizer, an electrolyte fueled ready to drink beverage. By the mid 1990's Ultimate Nutrition again was on the cutting edge as one of the first companies to sell Whey Protein powder in a bottle.

6. Today, Ultimate Nutrition continues to excel with a wide range of products including ISO MASS XTREME GAINER, PROSTAR WHEY, MUSCLE JUICE 2544, GLUTAPURE, PROTEIN ISOLATE, ISO SENSATION 93, AMINO 2000, ULTRA RIPPED, HORSE POWER and RED ZONE.

7. Opposer is the owner of the mark ULTIMATE NUTRITION®, Reg. No. 1,541,169, for vitamins and nutritional food supplements. Said registration was issued on May 30, 1989, claims a date of first use of November, 1985, and is in full force and effect and is incontestable. (Exhibit A). Opposer is also the owner of four trademarks which it also uses in connection with its products and which feature ULTIMATE NUTRITION:

- a. ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION®, Reg. No. 3,088,065, for nutritional products namely dietary supplements, dated May 2, 2006 (Exhibit B);
- b. ULTIMATE NUTRITION® (stylized), Reg. No. 3,377,646, for vitamins and nutritional food supplements, dated February 5, 2008 (Exhibit C);
- c. ULTIMATE NUTRITON THE FUTURE OF SPORTS NUTRITION® (stylized), Reg. No. 3,503,661, for vitamins and nutritional food supplements, dated September 23, 2008 (Exhibit D); and
- d. ULTIMATE NUTRITION and Globe logo ®, Reg. No. 3909232, for dietary supplements; nutritional supplements; food supplements; vitamins, dated January 18, 2011 (Exhibit E).

8. Opposer has used ULTIMATE NUTRITION as a trademark, service mark, corporate name and trade name throughout the nation for over twenty (25) years. ULTIMATE NUTRITION is used as Opposer's house mark on nearly every one of its products.

9. Through widespread and favorable public acceptance and recognition, the mark ULTIMATE NUTRITION is an asset of substantial value as a symbol of Opposer, its quality products/services and its good will.

APPLICANT'S ACTIONS

10. Applicant filed with the United States Patent and Trademark Office an Intention to Use application to register the mark VENS NUTRITION, Ser. No. 85/168,760, for Dietary and nutritional supplements; Nutritional supplements for boosting energy and

endurance; and for Footwear; Gym shorts; Headgear, namely, caps, hats, bonnets; Hooded sweat shirts; Short-sleeved or long-sleeved t-shirts; Sweat bands; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Track jackets; Track pants; Track suits; Trousers; Trousers for sweating, dated November 4, 2010. (“Applicant’s Mark”)

11. The parties offer identical or highly similar goods/services under their respective marks.

12. Applicant’s goods bearing the mark VENS NUTRITION, as reflected in Ser. No. 85/168,760, are sold or are intended to be sold in the same channels of trade and to the same consumers as Opposer’s.

I. PRIORITY AND LIKELIHOOD OF CONFUSION

13. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 12 as if fully set forth herein.

14. Opposer acquired rights in ULTIMATE NUTRITION as a trade name, trademark/service mark prior to any date on which Applicant can rely in connection with its goods bearing Applicant’s Mark.

15. Applicant’s Mark is confusingly similar to Opposer’s pleaded marks in appearance, sound, connotation and commercial impression.

16. The goods and services of the respective parties are similar and/or related in some manner, and/or the conditions and activities surrounding the marketing of the goods/services are such that they would or could be encountered by the same persons

under circumstances that could give rise to the mistaken belief that they originate from the same source.

17. As a result, Applicant's Mark, when used in connection with Dietary and nutritional supplements; Nutritional supplements for boosting energy and endurance; and for Footwear; Gym shorts; Headgear, namely, caps, hats, bonnets; Hooded sweat shirts; Short-sleeved or long-sleeved t-shirts; Sweat bands; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Track jackets; Track pants; Track suits; Trousers; Trousers for sweating is likely to cause confusion or mistake or to deceive and mislead the trade and the purchasing public into believing that Applicant's goods are the goods of Opposer, or that Applicant or its goods are authorized, licensed or controlled by Applicant, or that Applicant is affiliated with or in some way related to Opposer. Accordingly, any such use or registration of Applicant's Mark would violate Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

II. NO INTENT TO USE

18. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 17 as if fully set forth herein.

19. Upon information and belief, on or before November 4, 2010, Applicant did not have a bona fide intention to use Applicant's Mark on any or all of the following goods: "Dietary and nutritional supplements; Nutritional supplements for boosting energy and endurance; and for Footwear; Gym shorts; Headgear, namely, caps, hats, bonnets; Hooded sweat shirts; Short-sleeved or long-sleeved t-shirts; Sweat bands; Sweat jackets;

Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Track jackets; Track pants; Track suits; Trousers; Trousers for sweating”.

20. By reason of the foregoing, Opposer is and will continue to be damaged by Applicant’s Mark.

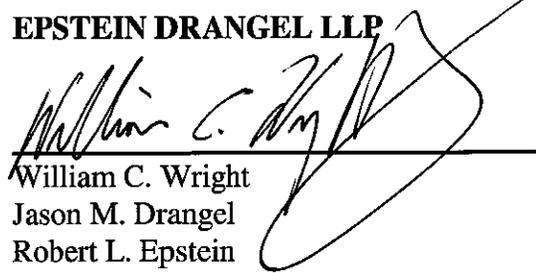
WHEREFORE, it is respectfully requested that this opposition be sustained and that the Board refuse registration of Applicant’s Mark.

Respectfully submitted,

EPSTEIN DRANGEL LLP

Dated: June 9, 2011

By:



William C. Wright
Jason M. Drangel
Robert L. Epstein
Lincoln Building
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel.: (212) 292-5390
Fax: (212) 292-5391

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served by First Class Mail, with sufficient postage prepaid, on this 9th day of June, 2011, upon Applicant and Applicant's attorney:

MARIJAN STEPHAN HUCKE
HUCKE & HUCKE
AN DER FUCHSKAUL 14
PULHEIM 50259
FEDERAL REPUBLIC OF GERMANY

And

TANJA HERBST
RECHBERGWEG 18
SEMRIACH 8102
AUSTRIA

BY:

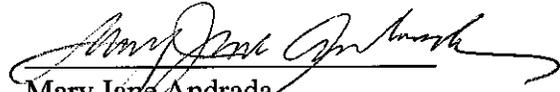

Mary Jane Andrada

EXHIBIT A

**United States Patent and Trademark Office**

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TARR Status ASSIGN Status TDR TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark	ULTIMATE NUTRITION
Goods and Services	IC 005. US 006. G & S: VITAMINS, AND NUTRITIONAL FOOD SUPPLEMENTS. FIRST USE: 19851100. FIRST USE IN COMMERCE: 19851100
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73677100
Filing Date	August 7, 1987
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	October 4, 1988
Registration Number	1541169
Registration Date	May 30, 1989
Owner	(REGISTRANT) ULTIMATE NUTRITION PRODUCTS, INC. CORPORATION CONNECTICUT 161 WOODFORD AVENUE PLAINVILLE CONNECTICUT 06062 (LAST LISTED OWNER) TD BANK, N.A. BANK UNITED STATES 102 WEST MAIN STREET NEW BRITAIN CONNECTICUT 06050
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Paul A. Fattibene
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITION" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080624.
Renewal	1ST RENEWAL 20080624
Live/Dead Indicator	LIVE

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Serial Number: 73677100 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1541169

Mark (words only): ULTIMATE NUTRITION

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2008-06-24

Filing Date: 1987-08-07

Transformed into a National Application: No

Registration Date: 1989-05-30

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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: 40S -Scanning On Demand

Date In Location: 2008-08-14

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

1. TD BANK, N.A.

Address:

TD BANK, N.A.
102 WEST MAIN STREET
NEW BRITAIN, CT 06050
United States

Legal Entity Type: BANK

State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 005

1987-11-04 - Non-final action mailed

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Paul A. Fattibene

Correspondent

Paul A. Fattibene

Fattibene and Fattibene

2480 Post Road

Southport CT 06890

Phone Number: 203-255-4400

Fax Number: 203-259-0033



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 6Serial #: 73677100

Filing Dt: 08/07/1987

Reg #: 1541169

Reg. Dt: 05/30/1989

Registrant: ULTIMATE NUTRITION PRODUCTS, INC.

Mark: ULTIMATE NUTRITION

Assignment: 1Reel/Frame: 1678/0487

Received: 01/28/1998

Recorded: 01/12/1998

Pages: 4

Conveyance: CHANGE OF NAME AND ADDRESS CHANGE

Assignor: ULTIMATE NUTRITION PRODUCTS, INC.

Exec Dt: 09/17/1996

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Assignee: PROSTAR, INC.

7 CORPORATE AVENUE

FARMINGTON, CONNECTICUT 06034-0643

Correspondent: FRANK J. THOMPSON, ESQ.

111 PROSPECT STREET

STAMFORD, CT 06901

Assignment: 2Reel/Frame: 1824/0116

Received: 12/09/1998

Recorded: 12/05/1998

Pages: 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: PROSTAR, INC.

Exec Dt: 11/30/1998

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Assignee: ULTIMATE NUTRITION, INC.

7 CORPORATE AVENUE

FARMINGTON, CONNECTICUT 06034-0643

Correspondent: FRANK J. THOMPSON, ESQ.

111 PROSPECT STREET

STAMFORD, CT 06901

Assignment: 3Reel/Frame: 3969/0830

Received: 04/15/2009

Recorded: 03/25/2009

Pages: 17

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

Assignee: TD BANK, N.A.

102 WEST MAIN STREET

NEW BRITAIN, CONNECTICUT 06050

Correspondent: ROBERT L. IAMONACO, ESQUIRE

THE LAW OFFICES OF ROBERT L. IAMONACO &
ASSOCIATES, P.C.

150 TRUMBULL STREET, SECOND FLOOR

HARTFORD, CONNECTICUT 06103

Assignment: 4Reel/Frame: 4238/0402

Received: 07/08/2010

Recorded: 07/08/2010

Pages: 22

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECORDS TO IDENTIFY THE DOCUMENT AS A SECURITY AGREEMENT NOT AN ASSIGNMENT PREVIOUSLY RECORDED ON REEL 003969 FRAME 0830. ASSIGNOR(S) HEREBY CONFIRMS THE SECURITY AGREEMENT.

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Assignee: TD BANK, N.A.
102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050

Entity Type: BANK
Citizenship: UNITED STATES

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

Assignment: 5

Reel/Frame: 4239/0098 **Received:** 07/09/2010 **Recorded:** 07/09/2010 **Pages:** 10

Conveyance: NUNC PRO TUNC SECURITY INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 06/25/2009
Entity Type: CORPORATION
Citizenship: CONNECTICUT
Entity Type: BANK
Citizenship: CONNECTICUT

Assignee: TD BANK, N.A.
102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

Assignment: 6

Reel/Frame: 4238/0945 **Received:** 07/08/2010 **Recorded:** 07/08/2010 **Pages:** 5

Conveyance: TERMINATION AND RELEASE OF SECURITY AGREEMENT

Assignor: TD BANK, N.A.

Exec Dt: 06/25/2010
Entity Type: BANK
Citizenship: CONNECTICUT
Entity Type: CORPORATION
Citizenship: CONNECTICUT

Assignee: ULTIMATE NUTRITION, INC.
21 HYDE ROAD
FARMINGTON, CONNECTICUT 06032

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

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Web interface last modified: Apr 30, 2009 v2.1

EXHIBIT B

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Record 1 out of 1

TARR Status ASSIGN Status TDR TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION

Word Mark ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION

Goods and Services IC 005, US 006 018 044 046 051 052, G & S: nutritional products, namely dietary supplements. FIRST USE: 20050601. FIRST USE IN COMMERCE: 20050601

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76576821

Filing Date February 19, 2004

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition May 24, 2005

Registration Number 3088065

Registration Date May 2, 2006

Owner (REGISTRANT) Ultimate Nutrition, Inc. CORPORATION CONNECTICUT 21 Hyde Road P.O. Box 643 Farmington CONNECTICUT 060340643

(LAST LISTED OWNER) TD BANK, N.A. BANK UNITED STATES 102 WEST MAIN STREET NEW BRITAIN CONNECTICUT 06050

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Frank J. Thompson

Prior Registrations 1541169

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE NUTRITION and SPORTS NUTRITION APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Serial Number: 76576821 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3088065

Mark

ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION

(words only): ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2006-05-02

Filing Date: 2004-02-19

Transformed into a National Application: No

Registration Date: 2006-05-02

Register: Principal

Law Office Assigned: LAW OFFICE 110

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: 2006-03-21

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

1. TD BANK, N.A.

Address:

TD BANK, N.A.
102 WEST MAIN STREET
NEW BRITAIN, CT 06050
United States

Legal Entity Type: BANK

State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

nutritional products, namely dietary supplements

Basis: 1(a)

First Use Date: 2005-06-01

First Use in Commerce Date: 2005-06-01

ADDITIONAL INFORMATION

Disclaimer: NUTRITION and SPORTS NUTRITION

Prior Registration Number(s):

1541169

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.

2010-07-14 - Assignment Of Ownership Not Updated Automatically

2009-04-22 - Automatic Update Of Assignment Of Ownership

2006-05-02 - Registered - Principal Register

2006-03-17 - Law Office Registration Review Completed

2006-03-03 - Assigned To LIE

2006-02-28 - Allowed for Registration - Principal Register (SOU accepted)

2006-02-24 - Amendment From Applicant Entered

2006-02-13 - Communication received from applicant

2006-02-13 - PAPER RECEIVED

2006-01-30 - Non-final action mailed

2006-01-30 - SU - Non-Final Action - Written

2006-01-27 - Statement Of Use Processing Complete

2006-01-03 - Use Amendment Filed

2006-01-03 - PAPER RECEIVED

2005-12-02 - TEAS Change Of Correspondence Received



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Trademark Assignment Abstract of Title

Total Assignments: 4Serial #: 76576821 Filing Dt: 02/19/2004Reg #: 3088065

Reg. Dt: 05/02/2006

Registrant: Ultimate Nutrition, Inc.

Mark: ULTIMATE NUTRITION THE FUTURE OF SPORTS

Assignment: 1Reel/Frame: 3969/0830 Received: 04/15/2009

Recorded: 03/25/2009

Pages: 17

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

Assignee: TD BANK, N.A.102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050Correspondent: ROBERT L. IAMONACO, ESQUIRE
THE LAW OFFICES OF ROBERT L. IAMONACO &
ASSOCIATES, P.C.
150 TRUMBULL STREET, SECOND FLOOR
HARTFORD, CONNECTICUT 06103**Assignment: 2**Reel/Frame: 4238/0402 Received: 07/08/2010

Recorded: 07/08/2010

Pages: 22

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECORDS TO IDENTIFY THE DOCUMENT AS A SECURITY AGREEMENT NOT AN ASSIGNMENT PREVIOUSLY RECORDED ON REEL 003969 FRAME 0830. ASSIGNOR(S) HEREBY CONFIRMS THE SECURITY AGREEMENT.

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Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

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NEW YORK, NY 10165**Assignment: 3**Reel/Frame: 4239/0098 Received: 07/09/2010

Recorded: 07/09/2010

Pages: 10

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Citizenship: CONNECTICUT

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NEW BRITAIN, CONNECTICUT 06050Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165**Assignment: 4**Reel/Frame: 4238/0945 Received: 07/08/2010

Recorded: 07/08/2010

Pages: 5

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Exec Dt: 06/25/2010

Entity Type: BANK

Citizenship: CONNECTICUT

Assignee: ULTIMATE NUTRITION, INC.
21 HYDE ROAD
FARMINGTON, CONNECTICUT 06032

Entity Type: CORPORATION
Citizenship: CONNECTICUT

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

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TARR Status ASSIGN Status TDR TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)



Word Mark ULTIMATE NUTRITION

Goods and Services IC 005. US 006 018 044 046 051 052. G & S: Vitamins, and nutritional food supplements. FIRST USE: 19851100. FIRST USE IN COMMERCE: 19851100

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.11.21 - Rectangles that are completely or partially shaded
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Trademark Search Facility Classification Code SHAPES-COLORS-2 Design listing or lined for two colors
SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons
SHAPES-MISC Miscellaneous shaped designs

Serial Number 77181059

Filing Date May 15, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition November 20, 2007

Registration Number 3377646

Registration Date February 5, 2008

Owner (REGISTRANT) Ultimate Nutrition, Inc. CORPORATION CONNECTICUT 21 Hyde Road Farmington CONNECTICUT 06032

(LAST LISTED OWNER) TD BANK, N.A. BANK UNITED STATES 102 WEST MAIN STREET NEW BRITAIN CONNECTICUT 06050

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Charles H. Knull

Prior Registrations 1541169

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITION" APART FROM THE MARK AS SHOWN

Description of Mark The color(s) gold, black is/are claimed as a feature of the mark. The mark consists of the literal element "ULTIMATE NUTRITION" in gold on a black background.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Serial Number: 77181059 Assignment Information Trademark Document Retrieval

Registration Number: 3377646

Mark



(words only): ULTIMATE NUTRITION

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-02-05

Filing Date: 2007-05-15

Transformed into a National Application: No

Registration Date: 2008-02-05

Register: Principal

Law Office Assigned: LAW OFFICE 108

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: 2008-02-05

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

1. TD BANK, N.A.

Address:

TD BANK, N.A.
102 WEST MAIN STREET
NEW BRITAIN, CT 06050
United States

Legal Entity Type: BANK

State or Country Where Organized: United States

2007-10-02 - Assigned To LIE

2007-08-31 - Approved for Pub - Principal Register (Initial exam)

2007-08-30 - Examiner's Amendment Entered

2007-08-30 - Notification Of Examiners Amendment E-Mailed

2007-08-30 - Examiners amendment e-mailed

2007-08-30 - Examiners Amendment -Written

2007-08-28 - Assigned To Examiner

2007-05-19 - Notice Of Design Search Code Mailed

2007-05-18 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Charles H. Knull

Correspondent

CHARLES H. KNULL

ULLMAN, SHAPIRO & ULLMAN LLP

299 BROADWAY STE 1700

NEW YORK, NY 10007-1914

Phone Number: 212-571-0068

Fax Number: 212-571-9424



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 4Serial #: 77181059 Filing Dt: 05/15/2007Reg #: 3377646

Reg. Dt: 02/05/2008

Registrant: Ultimate Nutrition, Inc.

Mark: ULTIMATE NUTRITION

Assignment: 1Reel/Frame: 3969/0830 Received: 04/15/2009

Recorded: 03/25/2009

Pages: 17

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

Assignee: TD BANK, N.A.102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050Correspondent: ROBERT L. IAMONACO, ESQUIRE
THE LAW OFFICES OF ROBERT L. IAMONACO &
ASSOCIATES, P.C.
150 TRUMBULL STREET, SECOND FLOOR
HARTFORD, CONNECTICUT 06103**Assignment: 2**Reel/Frame: 4238/0402 Received: 07/08/2010

Recorded: 07/08/2010

Pages: 22

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECORDS TO IDENTIFY THE DOCUMENT AS A SECURITY AGREEMENT NOT AN ASSIGNMENT PREVIOUSLY RECORDED ON REEL 003969 FRAME 0830. ASSIGNOR(S) HEREBY CONFIRMS THE SECURITY AGREEMENT.

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

Assignee: TD BANK, N.A.102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165**Assignment: 3**Reel/Frame: 4239/0098 Received: 07/09/2010

Recorded: 07/09/2010

Pages: 10

Conveyance: NUNC PRO TUNC SECURITY INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 06/25/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: CONNECTICUT

Assignee: TD BANK, N.A.102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165**Assignment: 4**Reel/Frame: 4238/0945 Received: 07/08/2010

Recorded: 07/08/2010

Pages: 5

Conveyance: TERMINATION AND RELEASE OF SECURITY AGREEMENT

Assignor: TD BANK, N.A.

Exec Dt: 06/25/2010

Entity Type: BANK

Citizenship: CONNECTICUT

Assignee: ULTIMATE NUTRITION, INC.
21 HYDE ROAD
FARMINGTON, CONNECTICUT 06032

Entity Type: CORPORATION
Citizenship: CONNECTICUT

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

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TARR Status ASSIGN Status TDR TTAB Status (Use the "Back" button of the Internet

Browser to return to TESS)



Word Mark ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION

Goods and Services IC 005. US 006 018 044 046 051 052. G & S: Vitamins, and nutritional food supplements. FIRST USE: 20040701. FIRST USE IN COMMERCE: 20040701

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.11.21 - Rectangles that are completely or partially shaded

Trademark Search Facility Classification Code SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors
SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons

Serial Number 77181067

Filing Date May 15, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition July 8, 2008

Registration Number 3503661

Registration Date September 23, 2008

Owner (REGISTRANT) Ultimate Nutrition, Inc. CORPORATION CONNECTICUT 21 Hyde Road Farmington CONNECTICUT 06032

(LAST LISTED OWNER) TD BANK, N.A. BANK UNITED STATES 102 WEST MAIN STREET NEW BRITAIN CONNECTICUT 06050

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Charles H. Knull

Prior Registrations 3088065

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITION" AND "SPORTS NUTRITION" APART FROM THE MARK AS SHOWN

Description of Mark The color(s) gold and white and gray is/are claimed as a feature of the mark. The mark consists of the literal element "ULTIMATE NUTRITION" in gold, the literal element "THE FUTURE OF SPORTS NUTRITION" in white, and a gray background.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Serial Number: 77181067 Assignment Information Trademark Document Retrieval

Registration Number: 3503661

Mark



(words only): ULTIMATE NUTRITION THE FUTURE OF SPORTS NUTRITION

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-09-23

Filing Date: 2007-05-15

Transformed into a National Application: No

Registration Date: 2008-09-23

Register: Principal

Law Office Assigned: LAW OFFICE 108

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: 2008-09-23

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

1. TD BANK, N.A.

Address:

TD BANK, N.A.

102 WEST MAIN STREET

NEW BRITAIN, CT 06050

United States

Legal Entity Type: BANK

State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Vitamins, and nutritional food supplements

Basis: 1(a)

First Use Date: 2004-07-01

First Use in Commerce Date: 2004-07-01

ADDITIONAL INFORMATION

Color(s) Claimed: The color(s) gold and white and gray is/are claimed as a feature of the mark.

Disclaimer: "NUTRITION" AND "SPORTS NUTRITION"

Description of Mark: The mark consists of the literal element "ULTIMATE NUTRITION" in gold, the literal element "THE FUTURE OF SPORTS NUTRITION" in white, and a gray background.

Design Search Code(s):

26.11.21 - Rectangles that are completely or partially shaded

Prior Registration Number(s):

3088065

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.

2010-07-14 - Assignment Of Ownership Not Updated Automatically

2009-04-22 - Automatic Update Of Assignment Of Ownership

2008-09-23 - Registered - Principal Register

2008-07-08 - Published for opposition

2008-06-18 - Notice of publication

2008-06-04 - Law Office Publication Review Completed
2008-05-30 - Approved for Pub - Principal Register (Initial exam)
2008-05-21 - Teas/Email Correspondence Entered
2008-05-21 - Communication received from applicant
2008-05-21 - TEAS Response to Office Action Received
2007-12-11 - Notification Of Non-Final Action E-Mailed
2007-12-11 - NON-FINAL ACTION E-MAILED
2007-12-11 - Non-Final Action Written
2007-11-26 - Teas/Email Correspondence Entered
2007-11-26 - Communication received from applicant
2007-11-26 - Assigned To LIE
2007-10-18 - TEAS Response to Office Action Received
2007-08-29 - Notification Of Non-Final Action E-Mailed
2007-08-29 - Non-final action e-mailed
2007-08-29 - Non-Final Action Written
2007-08-28 - Assigned To Examiner
2007-05-19 - Notice Of Design Search Code Mailed
2007-05-18 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Charles H. Knull

Correspondent

CHARLES H. KNULL
ULLMAN, SHAPIRO & ULLMAN LLP
299 BROADWAY STE 1700
NEW YORK, NY 10007-1914
Phone Number: 212-571-0068
Fax Number: 212-571-9424



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Trademark Assignment Abstract of Title

Total Assignments: 4

Serial #: 77181067

Filing Dt: 05/15/2007

Reg #: 3503661

Reg. Dt: 09/23/2008

Registrant: Ultimate Nutrition, Inc.

Mark: ULTIMATE NUTRITION THE FUTURE OF SPORTS

Assignment: 1

Reel/Frame: 3969/0830

Received: 04/15/2009

Recorded: 03/25/2009

Pages: 17

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

Assignee: TD BANK, N.A.

102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050

Correspondent: ROBERT L. IAMONACO, ESQUIRE
THE LAW OFFICES OF ROBERT L. IAMONACO &
ASSOCIATES, P.C.
150 TRUMBULL STREET, SECOND FLOOR
HARTFORD, CONNECTICUT 06103

Assignment: 2

Reel/Frame: 4238/0402

Received: 07/08/2010

Recorded: 07/08/2010

Pages: 22

Conveyance: CORRECTIVE ASSIGNMENT TO CORRECT THE RECORDS TO IDENTIFY THE DOCUMENT AS A SECURITY AGREEMENT NOT AN ASSIGNMENT PREVIOUSLY RECORDED ON REEL 003969 FRAME 0830. ASSIGNOR(S) HEREBY CONFIRMS THE SECURITY AGREEMENT.

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 03/17/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: UNITED STATES

Assignee: TD BANK, N.A.

102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

Assignment: 3

Reel/Frame: 4239/0098

Received: 07/09/2010

Recorded: 07/09/2010

Pages: 10

Conveyance: NUNC PRO TUNC SECURITY INTEREST

Assignor: ULTIMATE NUTRITION, INC.

Exec Dt: 06/25/2009

Entity Type: CORPORATION

Citizenship: CONNECTICUT

Entity Type: BANK

Citizenship: CONNECTICUT

Assignee: TD BANK, N.A.

102 WEST MAIN STREET
NEW BRITAIN, CONNECTICUT 06050

Correspondent: WILLIAM C. WRIGHT
60 EAST 42ND STREET, SUITE 820
NEW YORK, NY 10165

Assignment: 4

Reel/Frame: 4238/0945

Received: 07/08/2010

Recorded: 07/08/2010

Pages: 5

Conveyance: TERMINATION AND RELEASE OF SECURITY AGREEMENT

Assignor: TD BANK, N.A.

Exec Dt: 06/25/2010

Entity Type: BANK

Citizenship: CONNECTICUT

Assignee: ULTIMATE NUTRITION, INC.
21 HYDE ROAD
FARMINGTON, CONNECTICUT 06032

Entity Type: CORPORATION
Citizenship: CONNECTICUT

Correspondent: WILLIAM C. WRIGHT
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Word Mark	ULTIMATE NUTRITION
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Dietary supplements; nutritional supplements; food supplements; vitamins. FIRST USE: 20100726. FIRST USE IN COMMERCE: 20100726
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.07.01 - Globes with outlines of continents 05.15.02 - Laurel leaves or branches (borders or frames); Wreaths 24.07.01 - Coins; Money (coins) 24.07.04 - Medals
Trademark Search Facility Classification Code	ART-01.07 Globes ART-24.07 Coins, medals SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles SHAPES-MISC Miscellaneous shaped designs VEG Plant life such as trees,flowers,fruits,grains,nuts,wreaths,and leaves
Serial Number	77925899
Filing Date	February 2, 2010
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	September 7, 2010
Registration Number	3909232
Registration Date	January 18, 2011
Owner	(REGISTRANT) Ultimate Nutrition, Inc. CORPORATION CONNECTICUT 21 Hyde Road Farmington CONNECTICUT 06034
Attorney of Record	William C. Wright

Prior Registrations 1541169;3088065;3377646;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NUTRITION" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark. The mark consists of a medal displaying the house mark "ULTIMATE NUTRITION" and a depiction of a globe.

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)-IN PART

Live/Dead Indicator LIVE

Distinctiveness Limitation Statement as to "ULTIMATE"

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Serial Number: 77925899 Assignment Information Trademark Document Retrieval

Registration Number: 3909232

Mark



(words only): ULTIMATE NUTRITION

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-01-18

Filing Date: 2010-02-02

Transformed into a National Application: No

Registration Date: 2011-01-18

Register: Principal

Law Office Assigned: LAW OFFICE 117

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: 2010-12-16

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

1. Ultimate Nutrition, Inc.

Address:

Ultimate Nutrition, Inc.

21 Hyde Road
Farmington, CT 06034
United States

Legal Entity Type: Corporation
State or Country of Incorporation: Connecticut

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Dietary supplements; nutritional supplements; food supplements; vitamins

Basis: 1(a)

First Use Date: 2010-07-26

First Use in Commerce Date: 2010-07-26

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "NUTRITION"

Description of Mark: The mark consists of a medal displaying the house mark "ULTIMATE NUTRITION" and a depiction of a globe.

Section 2(f), in part, as to "ULTIMATE"

Design Search Code(s):

01.07.01 - Globes with outlines of continents

05.15.02 - Laurel leaves or branches (borders or frames); Wreaths

24.07.01 - Coins; Money (coins)

24.07.04 - Medals

Prior Registration Number(s):

1541169

3088065

3377646

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.

2011-01-18 - Registered - Principal Register

2010-12-17 - Notice Of Acceptance Of Statement Of Use E-Mailed
2010-12-16 - Law Office Registration Review Completed
2010-12-13 - Allowed for Registration - Principal Register (SOU accepted)
2010-12-11 - Statement Of Use Processing Complete
2010-11-22 - Use Amendment Filed
2010-12-11 - Case Assigned To Intent To Use Paralegal
2010-11-22 - TEAS Statement of Use Received
2010-11-22 - TEAS Change Of Correspondence Received
2010-11-02 - NOA E-Mailed - SOU Required From Applicant
2010-09-07 - Notice Of Publication E-Mailed
2010-09-07 - Published for opposition
2010-08-05 - Law Office Publication Review Completed
2010-08-05 - Assigned To LIE
2010-07-22 - Approved For Pub - Principal Register
2010-07-20 - Teas/Email Correspondence Entered
2010-07-20 - Communication received from applicant
2010-07-20 - TEAS Response to Office Action Received
2010-05-10 - Notification Of Non-Final Action E-Mailed
2010-05-10 - Non-final action e-mailed
2010-05-10 - Non-Final Action Written
2010-05-04 - Assigned To Examiner
2010-02-12 - Notice Of Design Search Code Mailed
2010-02-11 - New Application Office Supplied Data Entered In Tram
2010-02-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

William C. Wright

Correspondent

WILLIAM C. WRIGHT

EPSTEIN DRANGEL LLP

60 EAST 42ND STREET, SUITE 2410

NEW YORK, NY 10165

Phone Number: (212) 292-5390

Fax Number: (212) 292-5391



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For Serial Number: 77925899

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