

ESTTA Tracking number: **ESTTA498884**

Filing date: **10/09/2012**

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	Lifestyle Evolution, Inc.
Granted to Date of previous extension	10/07/2012
Address	520 Second Street Oakmont, PA 15139 UNITED STATES

Attorney information	Andrew J. Cornelius ANDREW J. CORNELIUS, P. C. 305 Mt. Lebanon Blvd.Suite 205 Pittsburgh, PA 15234 UNITED STATES acornelius@ajciplaw.com Phone:412.571.9552
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Applicant Information

Application No	79097908	Publication date	04/10/2012
Opposition Filing Date	10/09/2012	Opposition Period Ends	10/07/2012
International Registration No.	1078742	International Registration Date	12/09/2010
Applicant	Nupo A/S Elektronvej 10 DK-2670 Greve DENMARK		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Food supplements; dietetic foods adapted for medical use
Class 029. All goods and services in the class are opposed, namely: Dairy products, excluding ice cream, ice milk and frozen yogurt; dairy based powders for making low calorie dairy based food, beverages and shakes; meat, fish, poultry; meat, fish and poultry based powders for making low calorie meat, fish and poultry based food, beverages and shakes; conserved, dried and cooked fruits and vegetables; fruit and vegetable based powders for making low calorie fruit and vegetable based food, beverages and shakes; snack bars consisting primarily of processed nuts, fruits and vegetables; and meal replacement bars, mainly consisting of processed fruits, vegetables and nuts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Lack of intent to use upon filing request for extension of protection to the United States.

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2865217	Application Date	07/27/2003
Registration Date	07/20/2004	Foreign Priority Date	NONE
Word Mark	NUGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2001/10/01 First Use In Commerce: 2001/10/01 Protein-based, nutrient-dense snack bars		

U.S. Registration No.	3484270	Application Date	01/08/2008
Registration Date	08/12/2008	Foreign Priority Date	NONE
Word Mark	NUGO DARK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2008/01/04 First Use In Commerce: 2008/01/07 Protein based, nutrient-dense snack bars		

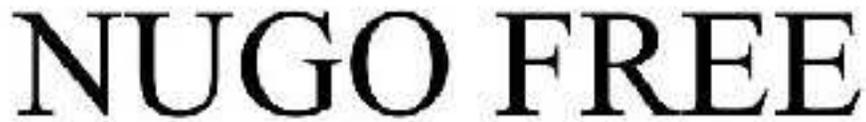
U.S. Registration No.	3759263	Application Date	05/13/2009
Registration Date	03/09/2010	Foreign Priority Date	NONE
Word Mark	NUGO 10		

Design Mark	<h1>NUGO 10</h1>
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2009/09/28 First Use In Commerce: 2009/09/28 Protein based, nutrient dense organic snack bars

U.S. Registration No.	2909172	Application Date	11/01/2002
Registration Date	12/07/2004	Foreign Priority Date	NONE
Word Mark	NUGO NUTRITION TO GO		
Design Mark			
Description of Mark	The mark consists of NuGo Nutrition To Go (Stylized) and Design.		
Goods/Services	Class 029. First use: First Use: 2001/09/30 First Use In Commerce: 2001/09/30 Protein based, nutrient-dense, low fat, and low in sugar snack bars with carbohydrates, vitamins, and minerals		

U.S. Registration No.	3089879	Application Date	04/19/2005
Registration Date	05/09/2006	Foreign Priority Date	NONE
Word Mark	NUGO ORGANIC		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2005/04/01 First Use In Commerce: 2005/09/15 Protein based, nutrient dense organic snack bars

U.S. Registration No.	3655824	Application Date	09/08/2008
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	NUGO FREE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2008/12/31 First Use In Commerce: 2008/12/31 Protein based, nutrient dense organic snack bars		

Attachments	77366296#TMSN.jpeg (1 page)(bytes) 77736117#TMSN.jpeg (1 page)(bytes) 78180852#TMSN.gif (1 page)(bytes) 78611529#TMSN.jpeg (1 page)(bytes) 77564711#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (37 pages)(357384 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	/Andrew J. Cornelius/
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Name	Andrew J. Cornelius
Date	10/09/2012

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

In the Matter of Trademark Application:

Mark: NUPO
Applicant: Nupo A/S
Serial No.: 79/097,908
Filed: December 9, 2010
Published: April 10, 2012

LIFESTYLE EVOLUTION., INC.

Opposer,
v.

NUPO A/S

Applicant.

OPPOSITION NO.: _____

NOTICE OF OPPOSITION

LIFESTYLE EVOLUTION, INC., a corporation organized and existing under the laws of Pennsylvania and having a principal place of business at 520 Second Street, Oakmont, Pennsylvania 15139, (hereafter referred to as "Opposer") believes that it will be damaged by the registration of the alleged mark (referred to hereinafter as the "Mark") shown in Application Serial No. 79/097,908 (referred to hereinafter as the "Application"), owned by Nupo A/S, a Denmark public limited company, whose address, as shown in the TSDR record

**CERTIFICATE OF ELECTRONIC FILING AND
STANDBY AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

I hereby certify that this Notice of Opposition is being filed with the Trademark Trial and Appeal Board via ESTTA on the date set forth below, and the \$ 300 per class statutory filing fee paid. Please charge any fee deficiency or any additional fees in connection with this Opposition to PTO Deposit Account No. 03-3280.

Date: October 9, 2012

/Andrew J. Cornelius/
Andrew J. Cornelius

for the Application at the United States Patent and Trademark Office (referred to hereinafter as the “PTO”) is Elektronvej 10, DK-2670 Greve, DENMARK (referred to hereinafter as the “Applicant”) and hereby opposes the Application under the provisions of 15 U.S.C. §1063.

The Application was filed by Applicant on December 9, 2010, and encompasses “Food supplements; dietetic foods adapted for medical use” in International Class 5, and “ Dairy products, excluding ice cream, ice milk and frozen yogurt; dairy based powders for making low calorie dairy based food, beverages and shakes; meat, fish, poultry; meat, fish and poultry based powders for making low calorie meat, fish and poultry based food, beverages and shakes; conserved, dried and cooked fruits and vegetables; fruit and vegetable based powders for making low calorie fruit and vegetable based food, beverages and shakes; snack bars consisting primarily of processed nuts, fruits and vegetables; and meal replacement bars, mainly consisting of processed fruits, vegetables and nuts” in International Class 29 (referred to collectively hereinafter as the “Goods”). The Mark was published in the April 10, 2012, issue of the **Trademark Official Gazette** of the PTO.

As grounds for opposing registration, Opposer alleges as follows:

1. The Application was filed by Applicant on December 9, 2010, for the Mark and encompasses the Goods. The Mark was published in the April 10, 2012, issue of the **Trademark Official Gazette** of the PTO.
2. The Application was filed under 15 U.S.C. § 1141f(a) (Section 66(a)), and remains pending under Section 66(a). Upon information and belief,

Applicant has not made use of the Mark anywhere in the United States or in commerce in connection with any of the Goods, and an allegation of use has not been filed in the Application.

3. Opposer is a food company engaged in the business of producing and selling healthy snacks using all natural ingredients that address a variety of nutritional needs. Opposer makes and sells 8 different kinds of healthy, protein dense snack bars in connection with its “NUGO” mark and variants of the “NUGO” mark.
4. Opposer is the owner of record in the PTO of the following registrations (collectively, the “NUGO Registrations”):
 - a. NUGO: Reg. No. 2,865,217 for “Protein-based, nutrient-dense snack bars” in International Class 029, Registered July 20, 2004
 - b. NUGO DARK: Reg. No. 3,484,270 for “Protein based, nutrient-dense snack bars” in International Class 029, Registered August 12, 2008
 - c. NUGO 10: Reg. No. 3,759,263 for “Protein based, nutrient dense organic snack bars” in International Class 029, Registered March 9, 2010
 - d. NUGO NUTRITION TO GO and Design: Reg. No. 2,909,172 for “Protein based, nutrient-dense, low fat, and low in sugar snack bars with carbohydrates, vitamins, and minerals” in International Class 029, Registered December 7, 2004

- e. NUGO ORGANIC: Reg. No. 3,089,879 for “Protein based, nutrient dense organic snack bars” in International Class 029, Registered May 9, 2006
 - f. NUGO FREE: Reg. No. 3,655,824 for “Protein based, nutrient dense organic snack bars” in International Class 029, Registered July 14, 2009
5. The following registrations are incontestable:
- a. NUGO Reg. No. 2,865,217
 - b. NUGO NUTRITION TO GO and Design Reg. No. 2,909,172
 - c. NUGO ORGANIC Reg. No. 3,089,879
6. A copy of the current TSDR record for each of the Nugo Registrations showing current status and title is attached hereto as Exhibits A through F.
7. Opposer has used the following marks (collectively, the “NUGO Marks”) continuously in commerce from at least as early as the corresponding dates identified below to the present, in connection with the goods corresponding to each mark as identified in Paragraph No. 4 hereinabove, all of which dates are prior to the priority date for the Application:
- a. NUGO – October 1, 2001 (both anywhere and in commerce)
 - b. NUGO DARK – January 7, 2008 (anywhere – January 4, 2008)
 - c. NUGO 10 – September 28, 2009 (both anywhere and in commerce)
 - d. NUGO NUTRITION TO GO and Design – September 30, 2001 (both anywhere and in commerce)

- e. NUGO ORGANIC – September 15, 2005 (anywhere – April 1, 2005)
 - f. NUGO FREE – December 31, 2008 (both anywhere and in commerce)
8. By reason of the long use by Opposer of the NUGO Marks, Opposer has developed valuable goodwill in and consumer recognition of the NUGO Marks as symbols for its products indicating a single source of origin, namely Opposer. Opposer continuously has derived substantial revenue from the promotion and sale in the United States of its products under or in association with the NUGO Marks.
 9. The Mark so resembles each of the NUGO Marks as to be likely, when used with the Goods, to cause confusion, or to cause mistake, or to deceive.
 10. The registration of the Mark by Applicant on the Principal Register of the United States Patent and Trademark Office would be inconsistent with Opposer's rights, and would be damaging to Opposer. Consequently, Opposer has standing to oppose the Application.
 11. The NUGO Marks are widely recognized by the general consuming public of the United States, and have been famous since prior to the priority date for the Application. If Applicant's application is allowed to issue as a registration, this affirmative association will be harmed and the product identification and association will be blurred between Opposer and each of

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

In the Matter of Trademark Application:

Mark: NUPO
Applicant: Nupo A/S
Serial No.: 79/097,908
Filed: December 9, 2010
Published: April 10, 2012

LIFESTYLE EVOLUTION., INC.

Opposer,
v.

NUPO A/S

Applicant.

OPPOSITION NO.: _____

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2012, a true and correct copy of the foregoing "**NOTICE OF OPPOSITION**" was served on Applicant in the proceeding captioned above by depositing the same in the United States Mail, first class postage prepaid, in an envelope addressed to the correspondent of record for Applicant at the address provided on the TSDR website, as follows:

Lynn A. Sullivan, Esquire
Leydig Voit & Mayer, Ltd.
Two Prudential Plaza, 180 N. Stetson
Suite 4900
Chicago, ILLINOIS 60601
UNITED STATES

/Andrew J. Cornelius/

Andrew J. Cornelius, Esquire
Reg. No. 29,142

ANDREW J. CORNELIUS, P. C.
305 Mt. Lebanon Boulevard, Suite 205
Pittsburgh, Pennsylvania 15234

Attorney for Opposer

EXHIBIT A

TSDR Record of Registration No. 2,865,217
(NUGO)
Showing Current Status and Title

Generated on: This page was generated by TSDR on 2012-10-08 16:26:50 EST

Mark: NUGO

US Serial Number: 78279388

Application Filing Date: Jul. 27, 2003

US Registration Number: 2865217

Registration Date: Jul. 20, 2004

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Sep. 01, 2009

Publication Date: Apr. 27, 2004

Mark Information

Mark Literal Elements: NUGO

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Related Properties Information

International Registration Number: [1005046](#)

International Application(s)/Registration(s) Based on this Property: [A0016175/1005046](#)

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and

- Asterisks *..* identify additional (new) wording in the goods/services.

For: Protein-based, nutrient-dense snack bars
International Class: 029 - Primary Class **U.S Class:** 046
Class Status: ACTIVE
Basis: 1(a)
First Use: Oct. 01, 2001 **Use in Commerce:** Oct. 01, 2001

Basis Information (Case Level)

Filed Use:	Yes	Currently Use:	Yes	Amended Use:	No
Filed ITU:	No	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Lifestyle Evolution, Inc.
 520 Second Street
Owner Address: Oakmont, PENNSYLVANIA 15139
 UNITED STATES

Legal Entity Type:	CORPORATION	State or Country Where Organized:	PENNSYLVANIA
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Attorney/Correspondence Information

Attorney of Record

Attorney Name: Andrew J. Cornelius

Correspondent

Correspondent Name/Address: Andrew J. Cornelius
 Andrew J. Cornelius, P.C.
 305 Mt. Lebanon Boulevard
 Suite 205

Pittsburgh, PENNSYLVANIA 15234
UNITED STATES

Phone: (412) 571-9552

Fax: (412) 571-9553

Correspondent e-mail: tperles@ajciplaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 26, 2011	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 26, 2011	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Sep. 01, 2009	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67603
Jul. 29, 2009	ASSIGNED TO PARALEGAL	67603
Jul. 23, 2009	TEAS SECTION 8 & 15 RECEIVED	
Dec. 16, 2004	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Oct. 09, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 20, 2004	REGISTERED-PRINCIPAL REGISTER	
Apr. 27, 2004	PUBLISHED FOR OPPOSITION	
Apr. 07, 2004	NOTICE OF PUBLICATION	
Feb. 10, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 09, 2004	ASSIGNED TO EXAMINER	67512

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Sep. 01, 2009

EXHIBIT B

**TSDR Record of Registration No. 3,484,270
(NUGO DARK)
Showing Current Status and Title**

Generated on: This page was generated by TSDR on 2012-10-08 16:35:15 EST

Mark: NUGO DARK

NUGO DARK

US Serial Number:	77366296	Application Filing Date:	Jan. 08, 2008
US Registration Number:	3484270	Registration Date:	Aug. 12, 2008
Filed as TEAS Plus:	Yes	Currently TEAS Plus:	Yes
Register:	Principal		
Mark Type:	Trademark		
Status:	Registered. The registration date is used to determine when post-registration maintenance documents are due.		
Status Date:	Aug. 12, 2008		
Publication Date:	May 27, 2008		

Mark Information

Mark Literal Elements:	NUGO DARK
Standard Character Claim:	Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type:	4 - STANDARD CHARACTER MARK
Disclaimer:	"DARK"

Related Properties Information

Claimed Ownership of US Registrations: [2865217,2909172,3089879](#)

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Protein based, nutrient-dense snack bars

International Class: 029 - Primary Class **U.S Class:** 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 04, 2008 **Use in Commerce:** Jan. 07, 2008

Basis Information (Case Level)

Filed Use:	Yes	Currently Use:	Yes	Amended Use:	No
Filed ITU:	No	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Lifestyle Evolution, Inc.
520 Second Street

Owner Address: Oakmont, PENNSYLVANIA 15139
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** PENNSYLVANIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Andrew J. Cornelius

Correspondent

**Correspondent
Name/Address:**

ANDREW J. CORNELIUS
ANDREW J. CORNELIUS, P.C.
305 MOUNT LEBANON BLVD STE 205
PITTSBURGH, PENNSYLVANIA 15234-1511
UNITED STATES

Phone: (412) 571-9552

Fax: (412) 571-9553

Correspondent e-mail: tperles@ajciplaw.com

Correspondent e-mail Authorized: No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 26, 2011	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 26, 2011	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Aug. 12, 2008	REGISTERED-PRINCIPAL REGISTER	
May 27, 2008	PUBLISHED FOR OPPOSITION	
May 07, 2008	NOTICE OF PUBLICATION	
Apr. 22, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	78145
Apr. 22, 2008	ASSIGNED TO LIE	78145
Apr. 18, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 14, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 14, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 14, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 10, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 10, 2008	NON-FINAL ACTION E-MAILED	6325
Apr. 10, 2008	NON-FINAL ACTION WRITTEN	76734
Apr. 10, 2008	ASSIGNED TO EXAMINER	76734
Jan. 11, 2008	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE
SECTION

Date in Location: Aug. 12, 2008

EXHIBIT C

TSDR Record of Registration No. 3,759,263
(NUGO 10)
Showing Current Status and Title

Generated on: This page was generated by TSDR on 2012-10-08 16:32:02 EST

Mark: NUGO 10

NUGO 10

US Serial Number: 77736117

Application Filing Date: May 13, 2009

US Registration Number: 3759263

Registration Date: Mar. 09, 2010

Register: Principal

Mark Type: Trademark

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

Status Date: Mar. 09, 2010

Publication Date: Sep. 22, 2009

Notice of Allowance Date: Dec. 15, 2009

Mark Information

Mark Literal Elements: NUGO 10

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: [2865217,2909172,3089879,3484270,3655824](#),and others

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit

of incontestability; and

- Asterisks *..* identify additional (new) wording in the goods/services.

For: Protein based, nutrient dense organic snack bars

International Class: 029 - Primary Class

U.S Class: 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 28, 2009

Use in Commerce: Sep. 28, 2009

Basis Information (Case Level)

Filed Use:	No	Currently Use:	Yes	Amended Use:	No
Filed ITU:	Yes	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Lifestyle Evolution, Inc.

Owner Address: 520 Second Street
Oakmont, PENNSYLVANIA 15139
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Andrew J. Cornelius

Correspondent

Correspondent
ANDREW J. CORNELIUS
ANDREW J. CORNELIUS, P.C.

Name/Address: 305 MOUNT LEBANON BLVD STE 205
PITTSBURGH, PENNSYLVANIA 15234-1511
UNITED STATES

Phone: (412) 571-9552

Fax: (412) 571-9553

Correspondent e-mail: tperles@ajciplaw.com

Correspondent e-mail Authorized: No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 26, 2011	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 26, 2011	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Mar. 09, 2010	REGISTERED-PRINCIPAL REGISTER	
Feb. 01, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	71441
Jan. 29, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 29, 2010	STATEMENT OF USE PROCESSING COMPLETE	66530
Dec. 17, 2009	USE AMENDMENT FILED	66530
Jan. 29, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66530
Dec. 17, 2009	TEAS STATEMENT OF USE RECEIVED	
Dec. 15, 2009	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 22, 2009	PUBLISHED FOR OPPOSITION	
Sep. 02, 2009	NOTICE OF PUBLICATION	
Aug. 20, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	71441
Aug. 19, 2009	ASSIGNED TO LIE	71441
Aug. 13, 2009	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 13, 2009	EXAMINER'S AMENDMENT ENTERED	88888
Aug. 13, 2009	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Aug. 13, 2009	EXAMINERS AMENDMENT E-MAILED	6328
Aug. 13, 2009	EXAMINERS AMENDMENT -WRITTEN	81877
Aug. 11, 2009	ASSIGNED TO EXAMINER	81877

May 19, 2009 NOTICE OF PSEUDO MARK MAILED
May 18, 2009 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED
IN TRAM
May 16, 2009 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION **Date in Location:** Feb. 01, 2010

EXHIBIT D

TSDR Record of Registration No. 2,909,172
(NUGO NUTRITION TO GO and Design)
Showing Current Status and Title

Generated on: This page was generated by TSDR on 2012-10-08 16:30:19 EST

Mark: NUGO NUTRITION TO GO



US Serial Number: 78180852

Application Filing Date: Nov. 01, 2002

US Registration Number: 2909172

Registration Date: Dec. 07, 2004

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Dec. 28, 2009

Publication Date: May 25, 2004

Notice of Allowance Date: Aug. 17, 2004

Mark Information

Mark Literal Elements: NUGO NUTRITION TO GO

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of NuGo Nutrition To Go (Stylized) and Design.

Lining and Stippling Statement: The lining is a feature of the mark and does not indicate color.

Design Search Code(s): 26.11.21 - Rectangles that are completely or partially shaded
26.11.28 - Rectangular shapes (miscellaneous overall shape);Miscellaneous designs with overall rectangular shape

Goods and Services

Note:

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- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Protein based, nutrient-dense, low fat, and low in sugar snack bars with carbohydrates, vitamins, and minerals

International Class: 029 - Primary Class **U.S Class:** 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 30, 2001 **Use in Commerce:** Sep. 30, 2001

Basis Information (Case Level)

Filed Use:	No	Currently Use:	Yes	Amended Use:	No
Filed ITU:	Yes	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Lifestyle Evolution, Inc.

520 Second Street

Owner Address: Oakmont, PENNSYLVANIA 15139
UNITED STATES

Legal Entity Type:	CORPORATION	State or Country Where Organized:	PENNSYLVANIA
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Attorney/Correspondence Information

Attorney of Record

Attorney Name: ANDREW J CORNELIUS

Correspondent

Correspondent Name/Address: ANDREW J CORNELIUS
ANDREW J. CORNELIUS, P.C.
305 MT. LEBANON BOULEVARD
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PITTSBURGH, PENNSYLVANIA 15234
UNITED STATES

Phone: (412) 571-9552 **Fax:** (412) 571-9553

Correspondent e-mail: tperles@ajciplaw.com **Correspondent e-mail Authorized:** Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 26, 2011	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 26, 2011	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Dec. 28, 2009	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	70619
Dec. 28, 2009	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70619
Dec. 17, 2009	TEAS SECTION 8 & 15 RECEIVED	
Dec. 16, 2004	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Dec. 07, 2004	REGISTERED-PRINCIPAL REGISTER	
Oct. 04, 2004	LAW OFFICE REGISTRATION REVIEW COMPLETED	76568
Oct. 18, 2004	AMENDMENT FROM APPLICANT ENTERED	76523
Oct. 09, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	76523
Oct. 14, 2004	ASSIGNED TO LIE	76523
Oct. 09, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Oct. 01, 2004	ASSIGNED TO LIE	76568
Sep. 27, 2004	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Sep. 24, 2004	ASSIGNED TO EXAMINER	76933
Sep. 22, 2004	STATEMENT OF USE PROCESSING COMPLETE	
Aug. 30, 2004	USE AMENDMENT FILED	
Sep. 01, 2004	PAPER RECEIVED	

Aug. 26, 2004 PAPER RECEIVED
Aug. 24, 2004 TEAS CHANGE OF CORRESPONDENCE RECEIVED
Aug. 17, 2004 NOA MAILED - SOU REQUIRED FROM APPLICANT
May 25, 2004 PUBLISHED FOR OPPOSITION
May 05, 2004 NOTICE OF PUBLICATION
Feb. 14, 2004 APPROVED FOR PUB - PRINCIPAL REGISTER
Feb. 09, 2004 EXAMINERS AMENDMENT E-MAILED
Nov. 21, 2003 CORRESPONDENCE RECEIVED IN LAW OFFICE
Nov. 21, 2003 TEAS RESPONSE TO OFFICE ACTION RECEIVED
May 21, 2003 NON-FINAL ACTION E-MAILED
May 06, 2003 NON-FINAL ACTION E-MAILED
May 06, 2003 ASSIGNED TO EXAMINER 76933

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 106 **Date in Location:** Dec. 28, 2009

EXHIBIT E

TSDR Record of Registration No. 3,089,879
(NUGO ORGANIC)
Showing Current Status and Title

Generated on: This page was generated by TSDR on 2012-10-08 16:24:43 EST

Mark: NUGO ORGANIC

NUGO ORGANIC

US Serial Number: 78611529

Application Filing Date: Apr. 19, 2005

US Registration Number: 3089879

Registration Date: May 09, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jun. 09, 2011

Publication Date: Feb. 14, 2006

Mark Information

Mark Literal Elements: NUGO ORGANIC

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "Organic"

Related Properties Information

Claimed Ownership of US Registrations: [2865217,2909172](#)

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;

- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Protein based, nutrient dense organic snack bars

International Class: 029 - Primary Class **U.S Class:** 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 01, 2005 **Use in Commerce:** Sep. 15, 2005

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Lifestyle Evolution, Inc.
520 Second Street

Owner Address: Oakmont, PENNSYLVANIA 15139
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** PENNSYLVANIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Andrew J. Cornelius

Correspondent

ANDREW J CORNELIUS
ANDREW J CORNELIUS PC

Correspondent Name/Address: 305 MOUNT LEBANON BLVD STE 205
PITTSBURGH, PENNSYLVANIA 15234-1511
UNITED STATES

Phone: (412) 571-9552

Fax: (412) 571-9553

Correspondent e-mail: tperles@ajciplaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jun. 09, 2011	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	70132
Jun. 09, 2011	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70132
May 09, 2011	TEAS SECTION 8 & 15 RECEIVED	
Jan. 26, 2011	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 26, 2011	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
May 09, 2006	REGISTERED-PRINCIPAL REGISTER	
Feb. 14, 2006	PUBLISHED FOR OPPOSITION	
Jan. 25, 2006	NOTICE OF PUBLICATION	
Jan. 04, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	74189
Jan. 04, 2006	ASSIGNED TO LIE	74189
Dec. 21, 2005	TEAS/EMAIL CORRESPONDENCE ENTERED	66121
Nov. 17, 2005	CORRESPONDENCE RECEIVED IN LAW OFFICE	66121
Dec. 18, 2005	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 15, 2005	TEAS/EMAIL CORRESPONDENCE ENTERED	78413
Dec. 03, 2005	CORRESPONDENCE RECEIVED IN LAW OFFICE	78413
Dec. 03, 2005	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 01, 2005	USE AMENDMENT ACCEPTED	81092
Dec. 01, 2005	AMENDMENT TO USE PROCESSING COMPLETE	66121
Nov. 17, 2005	USE AMENDMENT FILED	66121
Nov. 29, 2005	NON-FINAL ACTION E-MAILED	6325

Nov. 29, 2005	NON-FINAL ACTION WRITTEN	81092
Nov. 17, 2005	TEAS AMENDMENT OF USE RECEIVED	
Nov. 17, 2005	ASSIGNED TO EXAMINER	81092
Apr. 26, 2005	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 112

Date in Location: Jun. 09, 2011

EXHIBIT F

TSDR Record of Registration No. 3,655,824
(NUGO FREE)
Showing Current Status and Title

Generated on: This page was generated by TSDR on 2012-10-08 16:33:52 EST

Mark: NUGO FREE

NUGO FREE

US Serial Number: 77564711

Application Filing Date: Sep. 08, 2008

US Registration Number: 3655824

Registration Date: Jul. 14, 2009

Register: Principal

Mark Type: Trademark

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

Status Date: Jul. 14, 2009

Publication Date: Feb. 10, 2009

Notice of Allowance Date: May 05, 2009

Mark Information

Mark Literal Elements: NUGO FREE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: [2865217,2909172,3089879](#),and others

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit

of incontestability; and

- Asterisks *..* identify additional (new) wording in the goods/services.

For: Protein based, nutrient dense organic snack bars

International Class: 029 - Primary Class

U.S Class: 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 2008

Use in Commerce: Dec. 31, 2008

Basis Information (Case Level)

Filed Use:	No	Currently Use:	Yes	Amended Use:	No
Filed ITU:	Yes	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Lifestyle Evolution, Inc.

Owner Address: 520 Second Street
Oakmont, PENNSYLVANIA 15139
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Andrew J. Cornelius

Correspondent

Correspondent
ANDREW J. CORNELIUS
ANDREW J. CORNELIUS, P.C.

Name/Address: 305 MOUNT LEBANON BLVD STE 205
PITTSBURGH, PENNSYLVANIA 15234-1511
UNITED STATES

Phone: (412) 571-9552

Fax: (412) 571-9553

Correspondent e-mail: tperles@ajciplaw.com

Correspondent e-mail Authorized: No

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 26, 2011	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jan. 26, 2011	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jul. 14, 2009	REGISTERED-PRINCIPAL REGISTER	
Jun. 05, 2009	LAW OFFICE REGISTRATION REVIEW COMPLETED	70138
Jun. 05, 2009	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 01, 2009	STATEMENT OF USE PROCESSING COMPLETE	66530
May 12, 2009	USE AMENDMENT FILED	66530
Jun. 01, 2009	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66530
May 12, 2009	TEAS STATEMENT OF USE RECEIVED	
May 05, 2009	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 10, 2009	PUBLISHED FOR OPPOSITION	
Jan. 21, 2009	NOTICE OF PUBLICATION	
Jan. 03, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	70138
Jan. 03, 2009	ASSIGNED TO LIE	70138
Dec. 18, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 16, 2008	EXAMINER'S AMENDMENT ENTERED	88888
Dec. 16, 2008	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Dec. 16, 2008	EXAMINERS AMENDMENT E-MAILED	6328
Dec. 16, 2008	EXAMINERS AMENDMENT -WRITTEN	83174
Dec. 11, 2008	ASSIGNED TO EXAMINER	83174

Sep. 11, 2008 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION **Date in Location:** Jun. 05, 2009