

ESTTA Tracking number: **ESTTA539457**

Filing date: **05/22/2013**

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	Intercast Europe S.r.l.
Granted to Date of previous extension	06/05/2013
Address	Viale Mentana, 43 Parma, 43121 ITALY

Correspondence information	Ralph H. Cathcart Attorney Ladas & Parry LLP 1040 Avenue of the Americas New York, NY 10018-3738 UNITED STATES rcathcart@ladas.com, rroa@ladas.com, mmercado@ladas.com Phone: (212) 708-1920
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Applicant Information

Application No	85718687	Publication date	02/05/2013
Opposition Filing Date	05/22/2013	Opposition Period Ends	06/05/2013
Applicant	T H K Photo Products, Inc. 7642 Woodwind Drive Huntington Beach, CA 92647 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Portable photography equipment, namely optical glass filters, UV filters, protector filters and circular polarizer filters

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2819525	Application Date	10/03/2002
Registration Date	03/02/2004	Foreign Priority Date	NONE
Word Mark	NXT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2002/05/00 First Use In Commerce: 2002/05/00 Lenses for eyeglasses and sunglasses Class 017. First use: First Use: 2002/05/00 First Use In Commerce: 2002/05/00 Plastic in the form of liquid resin, sheets, bars, blocks, pellets, rods and tubes for use in manufacturing

U.S. Registration No.	3056740	Application Date	03/15/2002
Registration Date	02/07/2006	Foreign Priority Date	NONE
Word Mark	NXT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 Lenses for eyeglasses and sunglasses Class 017. First use: First Use: 2002/03/15 First Use In Commerce: 2002/03/15 Sheets, bars, blocks, pellets, rods and tubes, all made of plastic, for use in manufacturing of optical products		

U.S. Registration No.	3335620	Application Date	10/03/2002
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	NXT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2003/02/28 First Use In Commerce: 2003/02/28 Visors for helmets and goggles		

Attachments	Notice of Opposition - THK Photo Products.pdf(384918 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	/Ralph H. Cathcart/
Name	Ralph H. Cathcart
Date	05/22/2013

goodwill associated with such marks (hereinafter individually and collectively referred to as the “NXT Marks”).

2. Opposer adopted and has continuously used its NXT Marks in connection with optical goods, including, *inter alia*, lenses for eyeglasses and sun glasses, visors and goggles, since long prior to the filing date of Applicant’s NXT application.

3. Opposer has extensively advertised, promoted, marketed, and otherwise publicized its optical products such that consumers have come to know and recognize the NXT Marks as identifying goods which originate with, are authorized by, or otherwise identify, Opposer.

4. Applicant’s use of the mark NXT in connection with optical products, namely, “[p]ortable photography equipment, namely optical glass filters, UV filters, protector filters and circular polarizer filters” constitutes use of a mark confusingly similar to Opposer’s NXT Marks. Applicant’s NXT mark wholly incorporates Opposer’s mark, NXT, and is likely to be perceived by purchasers as another of Opposer’s NXT Marks. Moreover, Applicant’s goods are closely related to the optical products marketed and sold by Opposer under its NXT Marks.

5. Applicant’s NXT mark is likely to be confused with Opposer’s NXT Marks insofar as the average purchaser is likely to be confused and deceived into believing that Applicant’s products originate with, are in some way associated with, or are connected, sponsored or authorized by, Opposer.

6. Insofar as some of the recited goods in Applicant’s applied-for NXT mark are arguably not identical to those covered by the NXT Marks, consumers are likely to

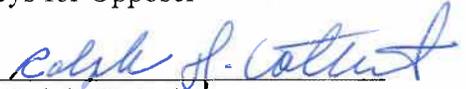
believe that Opposer has “bridged the gap” or expanded to additional related and/or complimentary goods within Opposer’s Natural Zone of Expansion.

WHEREFORE, Opposer requests that the opposition be sustained and that Application No. 85/718,687 be refused registration for all International Class 9 goods recited in the Application.

Respectfully submitted,

LADAS & PARRY LLP
Attorneys for Opposer

Dated: May 22, 2013

By: 
Ralph H. Cathcart
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(Our Ref: C136500025)

CERTIFICATE OF TRANSMISSION

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** has been transmitted electronically to the United States Patent and Trademark Office on the date indicated:

Dated: May 22, 2013


Reinaldo M. Roa

CERTIFICATE OF SERVICE

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served via First Class Mail, on the date indicated below, to the following:

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Dated: May 22, 2013


Reinaldo M. Roa