

**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	The North Face Apparel Corp.		
Entity	Corporation	Citizenship	Delaware
Address	3411 Silverside Road Wilmington, DE 19810 UNITED STATES		

Attorney information	Brooks R. Bruneau Porzio, Bromberg & Newman 29 Thanet Road Suite 201 Princeton, NJ 08540 UNITED STATES <a href="mailto:brbruneau@pbnlaw.com">brbruneau@pbnlaw.com</a> , <a href="mailto:dmcculloch@pbnlaw.com">dmcculloch@pbnlaw.com</a> Phone:609 924-8555		
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**Applicant Information**

Application Serial No	79135365	Publication date	08/26/2014
Opposition Filing Date	09/24/20014	Opposition Period Ends	09/25/2014
International Registration No: International	1173567	Registration Date	08/07/2013
Applicant	XI'AN FOCUSLIGHT TECHNOLOGIES CO., LTD.		
Address	F3, Building 10, Guangjisuo 710119 Shaanxi, CHINA		

**Goods/Services Affected by Opposition**

Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Knives for surgical purposes; lasers for medical purposes; artificial skin for surgical purposes; suture materials
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## Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	No bona fide intention to use the mark. Section 1(b)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2897197	Application Date	05/15/2003
Registration Date	10/26/2004		
Word Mark	NEVER STOP EXPLORING		
Goods/Services	Class 018 First Use: 19970100 First Use In Commerce: 19970100 backpacks, luggage, duffel bags, waist packs Class 020 First Use: 19970100 First Use In Commerce: 19970100 Sleeping bags Class 022 First Use: 19970100 First Use In Commerce: 19970100 Tents Class 025 First Use: 19970100 First Use In Commerce: 19970100 Clothing, namely, t-shirts, tops, shorts, sweatshirt, sweaters, pants, jackets, vests, anoraks, ski suits, ski jackets, ski vests, rain jackets, and rain pants, footwear and headwear		

U.S. Registration No.	3630564	Application Date	10/16/2008
Registration Date	06/02/2009		
Word Mark	NEVER STOP EXPLORING		
Design Mark			
Description of Mark			
Goods/Services	Class 035 First Use: 19970101 First Use In Commerce: 19970101 Retail store and on-line retail store services in the field of apparel, camping and outdoor gear, and outdoor sporting goods equipment		

U.S. Registration No.	3454860	Application Date	04/04/2007
Registration Date	06/24/2008		
Word Mark	THE NORTH FACE NEVER STOP EXPLORING SPEAKER SERIES		

Design Mark	THE NORTH FACE NEVER STOP EXPLORING SPEAKER SERIES
Description of Mark	
Goods/Services	Class 041 First Use: 20070426 First Use In Commerce: 20070426 Arranging seminars and lectures in the fields of adventure and endurance sports, namely, skiing, snowboarding, running, climbing, and hiking; conducting seminars and lectures in the fields of adventure and endurance sports, namely, skiing, snowboarding, running, climbing, and hiking
Attachments	77594166#TMSN.png 77148131#TMSN.png NEVER_STOP_EXPLORING_NOTICE_OF_OPP.PDF

#### Certificate of Service

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

Signature	/brooks r. bruneau/
Name	Brooks R. Bruneau
Date	09/19/2014



TRADEMARK	REG. NO.	REG. DATE	GOODS
NEVER STOP EXPLORING	2897197	October 26, 2004	Class 018.: backpacks, luggage, duffel bags, waist packs.  Class 20: Sleeping bags.  Class 22: tents.  Class 25: Clothing, namely, t-shirts, tops, shorts, sweatshirt, sweaters, pants, jackets, vests, anoraks, ski suits, ski jackets, ski vests, rain jackets, and rain pants, footwear and headwear.
NEVER STOP EXPLORING	3630564	June 2, 2009	Class 35: Retail store and on-line retail store services in the field of apparel, camping and outdoor gear, and outdoor sporting goods equipment.
THE NORTH FACE NEVER STOP EXPLORING SPEAKER SERIES	3454860	June 24, 2008	Class 41: Arranging seminars and lectures in the fields of adventure and endurance sports, namely, skiing, snowboarding, running, climbing, and hiking; conducting seminars and lectures in the fields of adventure and endurance sports, namely, skiing, snowboarding, running, climbing, and hiking.

5. The above listed goods and services registered with Opposer's Marks are hereinafter referred to as "Opposer's Products and Related Services."

6. Since at least as early as 1997, Opposer has used its NEVER STOP EXPLORING marks in connection with Opposer's Products and Related Services and in connection with advertising its company.

7. Opposer has made a substantial investment in advertising and promoting Opposer's Products and Related Services, and its company, in connection with its NEVER STOP EXPLORING marks in a wide variety of media.

8. Opposer's marketing efforts, combined with its attention to quality, design and construction of its products, have resulted in substantial sales worldwide.

9. By virtue of a long history of use throughout the world and in the United States, and Opposer's sales and promotional activities, Opposer's Marks have generated valuable goodwill and reputation in connection with Opposer's Products and Related Services and in connection with Opposer itself.

10. Through prolonged and continuous usage, Opposer's Marks have come to be known among the consuming public as a symbol of ultimate quality and reliability emanating from Opposer.

11. Upon information and belief, Applicant, XI'AN FOCUSLIGHT TECHNOLOGIES, CO., LTD. is a corporation existing under the laws of the China, having a business address of F3, Building 10, Guangjisuo, No.17 Xinxu Road, Xi'An High-Tech Zone, 710119 XI'AN, SHAANXI, China.

12. Applicant filed Application serial No. 79135365 based upon intent to use under Trademark Act Section 66 for the mark NEVER STOP EXPLORING, claiming stylized lettering, in connection with the following goods:

Knives for surgical purposes; lasers for medical purposes; artificial skin for surgical purposes; suture materials

(Hereinafter referred to as "Applicant's Mark").

**COUNT 1**

**FALSE SUGGESTION OF A CONNECTION – LIKELIHOOD OF CONFUSION**  
**Trademark Act Section 2(a) & 2(d)**

13. Opposer repeats and realleges the statements and allegations set forth above as if fully set forth in this Count.

14. Opposer's Marks are famous in the United States and throughout the world.

15. Applicant's Mark is identical to Opposer's U.S. Registration No.'s 2897197 and 3630564 and strongly similar to Opposer's U.S. Registration No. 3454860.

16. The commercial impression created by Applicant's Mark is identical to that of Opposer's Marks.

17. Registration of Applicant's Mark is likely to cause confusion, mistake or deception among consumers as to the source of Applicant's goods and is likely to falsely suggest a common association, affiliation, sponsorship or origin of said goods between Applicant and Opposer, causing damage to Opposer. Moreover, any fault, disappointments, complaints or other dissatisfaction a consumer might experience with the goods of Applicant under the NEVER STOP EXPLORING mark would inure to the detriment of Opposer. As such, Applicant is not entitled to registration pursuant to 15 U.S.C. §§1052(a) & (d).

18. Additionally, the lack of any differences between Applicant's NEVER STOP EXPLORING mark and Opposer's Marks it is likely to cause confusion or to cause mistake and deception in the industry and among wholesale purchasers and potential purchasers of Opposer's Products and Related Services, resulting in damage to Opposer by creating a false suggestion of association or sponsorship, or likelihood of confusion pursuant to 15 U.S.C. §§1052(a).

**COUNT 2**

**DILUTION**

**Trademark Act Section 43(c)**

19 Opposer repeats and realleges the statements and allegations set forth above as if fully set forth in this Count.

20 Through Opposer's extensive advertisement and promotion and substantial sales, Opposer's Marks have become famous.

21. Upon information and belief, any use by Applicant of Applicant's Mark has or will occur after Opposer's Marks became famous.

22. Applicant's Mark is likely to blur and or tarnish the positive association of Opposer's Marks.

23. Thus, if Applicant is permitted to register and use Applicant's mark, it is likely to cause dilution of the distinctive quality of Opposer's Marks under Trademark Act 43(c).

**COUNT 3**

**NO BONA FIDE INTENTION**

**Trademark Act Section 1(b)**

24. Opposer repeats and realleges the statements and allegations set forth above as if fully set forth in this Count.

25. Opposer asserts that in violation of Trademark Act Section 1(b) Applicant did not have a bona fide intention to use its NEVER STOP EXPLORING mark in U.S. commerce in connection with all the goods listed in U.S. Application Serial No. 79135365 at the time of filing that application.

26. Due to the failure of Applicant to have a genuine bona fide intention to use the NEVER STOP EXPLORING trademark with all the goods listed in Application Serial No. 79135365 that application is void.

WHEREFORE, Opposer prays that the Board sustain the Opposition and refuse the registration of Applicant's Mark.

Respectfully submitted:

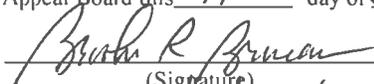
**THE NORTH FACE APPAREL CORP.**

Dated: 9/29/2014

By:   
Brooks R. Bruneau  
Attorney for Opposer  
PORZIO, BROMBERG & NEWMAN, PC  
29 Thanet Road, Suite 201  
Princeton, NJ 08540  
Tel: 609-924-8555

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify this Notice of Opposition was electronically filed with the Trademark Trial and Appeal Board this 19<sup>th</sup> day of Sept., 2014.

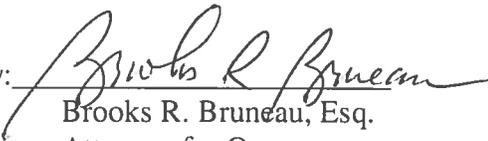
  
(Signature)  
9/19/2014  
(Date of Signature)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the combined Notice of Opposition was served upon Applicant listed below [per the Change of Correspondence Address], via Air Mail, Postage Prepaid, on this 17<sup>th</sup> day of September, 2014, addressed as follows:

XI'AN TRADEMARK OFFICE CO., LTD.  
NO. 298 YOUYI EAST ROAD  
XI'AN  
SHAANXI  
CHINA

Dated: 9/19/2014

By: 

Brooks R. Bruneau, Esq.  
Attorney for Opposer  
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