

ESTTA Tracking number: **ESTTA662790**

Filing date: **03/24/2015**

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

Proceeding	91219959
Party	Plaintiff Universal Protein Supplements Corporation dba Universal Nutrition
Correspondence Address	MAUREEN BEACOM GORMAN MARSHALL GERSTEIN & BORUN LLP 6300 WILLIS TOWER, 233 S WACKER DR CHICAGO, IL 60606 UNITED STATES mgorman@marshallip.com, kking@marshallip.com, cbeaker@marshallip.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Craig A. Beaker
Filer's e-mail	mgorman@marshallip.com, kking@marshallip.com, cbeaker@marshallip.com
Signature	/Craig Beaker/
Date	03/24/2015
Attachments	150324 Motion for Leave to Amend Notice of Opposition.pdf(1263898 bytes)

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

Universal Protein Supplements Corporation,

Opposer,

v.

Fitness Publications, Inc.,

Applicant.

Serial No. 86/026,728

Opposition No. 91219959



Mark:

MOTION FOR LEAVE TO AMEND NOTICE OF OPPOSITION

Pursuant to Fed. R. Civ. P. 15(a), 37 C.F.R. § 2.107, and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 507, Universal Protein Supplements Corporation (“Universal”), through its counsel, Marshall, Gerstein & Borun LLP, hereby moves the Board for an order permitting it to file an Amended Notice of Opposition to include additional registrations owned by Universal, which amplify the allegations already asserted in the Notice of Opposition. In support, Universal states as follows:

I. BACKGROUND

On December 29, 2014, Universal initiated Opposition No. 91219959 by filing a Notice of Opposition with the Trademark Trial and Appeal Board (“Board”). Universal sought refusal of registration of Application Serial No. 86/026,728 owned by Fitness Publications, Inc. (“Applicant”) for a bodybuilder design for use in connection with “Dietary and nutritional supplements” in International Class 5 (“Opposed Mark”). Universal based its opposition on a likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

Subsequently, on February 6, 2015, Applicant submitted an Answer to the Notice of Opposition along with a Counterclaim to cancel Universal’s U.S. Registration No. 4,483,690 for its bodybuilder design (the “Bodybuilder Design Mark”). Universal’s deadline to file an

answer or otherwise respond to Applicant's Counterclaim is March 26, 2015. Discovery is not set to begin until May 26, 2015.

II. ARGUMENT

a. Legal standard for amendments to pleadings.

As a general policy, leave to amend a pleading must be freely given when justice so requires. *See* 37 C.F.R. § 2.107; TBMP § 507; Fed. R. Civ. P. 15(a). “[T]he Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party.” TBMP § 507.02. Further, an amendment to a pleading can be used to “amplify allegations already included in the moving party’s pleading.” *Id.*

The question of whether an adverse party would be prejudiced by allowance of the amended pleading in a Board case is largely dependent on the timing of the motion to amend. *See* TBMP § 507.02(a). For example, the Board will liberally grant such motions when, as here, the proceedings are still in the pre-trial stage. *See Hurley Int’l LLC v. Volta*, 82 U.S.P.Q.2d 1339 (TTAB 2007) (granting motion to amend where motion was filed prior to start of trial period, and no prejudice to nonmovant was shown); *Universal City Studios, LLLP v. Brost*, Opposition No. 91153683, 2004 WL 1957207 (TTAB Aug. 18, 2004) (granting motion to amend where opposer filed motion before opening of testimony period and promptly after it learned of the basis for the motion).

As discussed below, Universal’s proposed amendment does not violate settled law, it is not prejudicial to Applicant’s rights, and granting leave serves justice in this case.

b. Universal’s proposed amendment does not violate settled law.

Pursuant to TBMP § 507.01, Universal attaches a copy of the proposed First Amended Notice of Opposition as Exhibit A. As shown, Universal updated allegations already included in

its original pleading by adding three federal registrations that include the Bodybuilder Design Mark. The basis for Universal's Amended Notice of Opposition (*i.e.*, likelihood of confusion) remains unchanged. Universal's proposed amendments serve a useful purpose and are not futile because they seek to amplify allegations already included in Universal's Notice of Opposition. This is a valid basis to amend a pleading. *See* TBMP § 507.02 ("A proposed amendment need not set forth a new claim or defense; a proposed amendment may serve simply to amplify allegations already included in the moving party's pleading."); *Avedis Zildjian Co. v. D. H. Baldwin Co.*, 180 U.S.P.Q. 539, 541 (TTAB 1973) ("[A]mendments need not of themselves set forth a cause of action, it being sufficient for the purpose that they may serve to amplify allegations already set forth in the moving party's pleadings."). Accordingly, Universal's proposed amendments do not violate settled law.

c. Universal's motion is not prejudicial to Applicant's rights.

Neither Universal's motion for leave nor the amendments sought herein to add Universal's three federal registrations are prejudicial to the rights of Applicant. Universal only recently filed its Notice of Opposition on December 29, 2014, and the parties have not yet held their discovery conference or initiated discovery in this proceeding. Applicant will therefore have a full opportunity to conduct discovery regarding Universal's federal registrations. In addition, the federal registrations do not create any new issues or theories in the case. Last, Universal notes that the Board has liberally granted motions to amend where, as here, the proceeding is still in the pre-trial phase. *See Hurley Int'l LLC*, 82 U.S.P.Q.2d 1339; *Universal City Studios, LLLP*, Opposition No. 91153683, 2004 WL 1957207; *U.S. Olympic Committee v. O-M Bread Inc.*, 26 U.S.P.Q.2d 1221 (TTAB 1993) (holding that "applicant would not be prejudiced because the proceeding is still in the pre-trial phase...").

d. Universal's motion should be granted to serve justice.

Universal's motion should be granted to serve justice in this case. In particular, Universal's proposed amendments only amplify allegations already included in its original pleading, which is a valid basis to amend a pleading. *See* TBMP § 507.02. Further, Universal has promptly moved to amend within three months of filing its Notice of Opposition. As a result, there is a valid basis for Universal to bring this claim, and justice requires that Universal's motion be granted in this case.

III. CONCLUSION

For the reasons set forth above, Universal respectfully requests that the Board grant Universal's Motion for Leave to Amend Notice of Opposition and accept and enter the First Amended Notice of Opposition attached hereto as Exhibit A. Universal also requests that the Board suspend the proceedings pending consideration of Universal's present motion, and reset the deadlines for filing an answer or otherwise responding to Applicant's Counterclaim and all subsequent dates.

Respectfully submitted,

Universal Protein Supplements Corporation

Dated: March 24, 2015

/Craig Beaker/

Maureen Beacom Gorman

Craig A. Beaker

MARSHALL, GERSTEIN & BORUN LLP

6300 Willis Tower

233 South Wacker Drive

Chicago, Illinois 60606

(312) 474-6300

Attorneys for Universal Protein Supplements
Corporation

CERTIFICATE OF SERVICE

I certify that OPPOSER'S MOTION FOR LEAVE TO AMEND NOTICE OF OPPOSITION was served on Fitness Publications, Inc. by mailing a copy by first class mail, postage prepaid, to its attorney of record, David W. Grace, Loeb & Loeb LLP, 10100 Santa Monica Boulevard, Suite 2200, Los Angeles, California 90067-4120.

Dated: March 24, 2015

/Craig Beaker/
Craig A. Beaker

EXHIBIT A

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

Universal Protein Supplements Corporation,

Opposer,

v.

Fitness Publications, Inc.,

Applicant.

Serial No. 86/026,728

Opposition No. _____



Mark:

FIRST AMENDED NOTICE OF OPPOSITION

Universal Protein Supplements Corporation (“Universal”), a New Jersey corporation with a primary place of business located at 3 Terminal Road, New Brunswick, New Jersey 08901, believes that it will be damaged by the registration of the above-referenced design shown in Application Serial No. 86/026,728 in connection with “Dietary and nutritional supplements” in Class 5 (the “Opposed Mark”), applied for by Fitness Publications, Inc. (“Applicant”), a California corporation with a place of business at 3110 Main Street, Suite 300, Santa Monica, California 90405.

Universal hereby opposes registration of the Opposed Mark, as shown in Application Serial No. 86/026,728, on the basis of a likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

In support of its Opposition, Universal states as follows:

Universal’s Prior Rights in the Bodybuilder Design Mark

1. Universal first used the bodybuilder design shown below in connection with nutritional supplements at least as early 1998. Since that time, Universal has adopted and continuously used the bodybuilder design in connection with nutritional supplements and related food products,

apparel, headwear, and online retail services featuring health and diet-related products (hereinafter the “Bodybuilder Common Law Marks”).



2. Universal also owns federal trademark registrations incorporating the bodybuilder design on the Principal Register of the United States Patent and Trademark Office (“USPTO”), the details of which are included below:

Mark	Goods/Services	First Use In Commerce Date	Reg. No.	Status
	Cl. 5: Nutritional supplements for human consumption Cl. 25: Clothing, namely, hats, caps, bottoms, tops, shorts, pants, shirts, sweat shirts, sweat pants, sweat shorts, sweat jackets Cl. 35: On-line retail store services featuring health and diet-related products	1998	4,483,690	Registered
	Cl. 5: Supplements, namely, dietary food supplements, dietary supplements, food supplements, herbal supplements, meal replacement and dietary supplement drink mixes, mineral nutritional supplements, mineral supplements, nutritional supplements, powdered nutritional supplement drink mix, vitamin and mineral supplements, vitamin supplements, meal replacement bars	1980	3,555,885	Incontestable
	Cl. 5: Supplements, namely, dietary food supplements, dietary supplements, food supplements, herbal supplements, meal replacement and dietary supplement drink mixes, mineral nutritional supplements, mineral supplements, nutritional supplements, powdered	1980	3,568,919	Incontestable

Mark	Goods/Services	First Use In Commerce Date	Reg. No.	Status
	nutritional supplement drink mix, vitamin and mineral supplements, vitamin supplements, meal replacement bars			
	Cl. 25: Athletic pants; Athletic shorts; Bottoms; Caps; Hats; Jackets; Pants; Shirts; Shorts; Sweatpants; Sweatshirts; Tops	1993	4,617,301	Registered

The registration certificates and TSDR pages for the federal registrations referenced above are attached hereto as Exhibit A (hereinafter the “Bodybuilder Design Registrations”). Universal’s foregoing trademark registrations and common law rights are hereinafter collectively referred to as the “Bodybuilder Design Mark.”

3. Universal has expended substantial sums of money in marketing, advertising, and promoting its Bodybuilder Design Mark and, through such sales and advertising, has generated substantial goodwill and customer recognition in its Bodybuilder Design Mark. As a result, the public has come to associate the Bodybuilder Design Mark exclusively with Universal.

4. Universal has derived substantial revenues from the sale of its products and services under the Bodybuilder Design Mark.

5. Universal’s extensive use and advertising of the Bodybuilder Design Mark has resulted in consumer recognition that the Bodybuilder Design Mark identifies Universal as the source of products and services of high quality, including nutritional supplements. The Bodybuilder Design Mark is distinctive of Universal’s products and services and are well-known, and valuable goodwill has been generated in the Bodybuilder Design Mark. Such goodwill was generated long before Applicant’s filing date and alleged first use of the Opposed Mark on October 2, 2013.

Count I: Likelihood of Confusion
15 U.S.C. § 1052(d)

6. Opposer reasserts and incorporates Paragraphs 1 through 5 above as if fully set forth herein.

7. On August 1, 2013, long after Universal commenced use of the Bodybuilder Design Mark in association with Universal's products and services, Applicant filed Application Serial No. 86/026,728 in connection with "Dietary and nutritional supplements" in International Class 5, alleging first use dating back to October 2, 2013.

8. Applicant's Opposed Mark, when used on or in connection with the goods listed in Application Serial No. 86/026,728, is likely to cause confusion, mistake, or deception that Applicant's goods are those of Universal or are otherwise endorsed, sponsored, or approved by Universal, or cause confusion, mistake, or deception as to the affiliation, connection, or association between Applicant and Universal.

9. Universal believes that it would be damaged by the registration sought herein by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's Opposed Mark, and would give color of exclusive statutory rights to Applicant in violation and derogation of the prior superior rights of Universal.

10. Accordingly, Applicant's application to register the Opposed Mark must be refused registration under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), as amended.

PRAYER FOR RELIEF

WHEREFORE, Universal prays that the Opposed Mark shown in Application Serial No. 86/026,728 be refused registration, and that this Notice of Opposition be sustained in favor of Universal.

Respectfully submitted,

Universal Protein Supplements Corporation

Dated: March 24, 2015

/mbgorman/

Maureen Beacom Gorman

Craig A. Beaker

MARSHALL, GERSTEIN & BORUN LLP

6300 Willis Tower

233 South Wacker Drive

Chicago, Illinois 60606

(312) 474-6300

CERTIFICATE OF SERVICE

I certify that this FIRST AMENDED NOTICE OF OPPOSITION was served on Fitness Publications, Inc. by mailing a copy by first class mail, postage prepaid, to its attorney of record, David W. Grace, Loeb & Loeb LLP, 10100 Santa Monica Boulevard, Los Angeles, California 90067-4120.

Dated: March 24, 2015

/mbgorman/
Maureen Beacom Gorman

EXHIBIT A

Generated on: This page was generated by TSDR on 2015-03-20 15:25:58 EDT

Mark:



US Serial Number: 85817659
US Registration Number: 4483690
Register: Principal
Mark Type: Trademark, Service Mark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Feb. 18, 2014
Publication Date: Dec. 03, 2013

Application Filing Date: Jan. 08, 2013
Registration Date: Feb. 18, 2014

Mark Information

Mark Literal Elements: None
Standard Character Claim: No
Mark Drawing Type: 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)
Description of Mark: The mark consists of a human figure.
Color(s) Claimed: Color is not claimed as a feature of the mark.
Design Search Code(s): 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
02.01.19 - Men, athletes, strongmen; Golfer; Strongmen; Athletes (men)

Related Properties Information

Claimed Ownership of US Registrations: 3555885, 3568919

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: Nutritional supplements for human consumption
International Class(es): 005 - Primary Class
U.S Class(es): 006, 018, 044, 046, 051, 052
Class Status: ACTIVE
Basis: 1(a)
First Use: 1998
Use in Commerce: 1998

For: Clothing, namely, hats, caps, bottoms, tops, shorts, pants, shirts, sweat shirts, sweat pants, sweat shorts, sweat jackets
International Class(es): 025 - Primary Class
U.S Class(es): 022, 039
Class Status: ACTIVE
Basis: 1(a)
First Use: 1998
Use in Commerce: 1998

For: On-line retail store services featuring health and diet-related products
International Class(es): 035 - Primary Class
U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: 1998

Use in Commerce: 1998

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: Universal Protein Supplements Corporation
DBA, AKA, Formerly: DBA Universal Nutrition
Owner Address: 3 Terminal Road
New Brunswick, NEW JERSEY 08901
UNITED STATES
Legal Entity Type: CORPORATION
State or Country Where Organized: NEW JERSEY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: MAUREEN BEACOM GORMAN
Docket Number: 31742/60001
Attorney Primary Email Address: docket@marshallip.com
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: MAUREEN BEACOM GORMAN
MARSHALL, GERSTEIN & BORUN LLP
233 S WACKER DR STE 6300
CHICAGO, ILLINOIS 60606-6471
UNITED STATES
Phone: 312.474.6643
Fax: 312.474.0448
Correspondent e-mail: docket@marshallip.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 24, 2015	COUNTERCLAIM OPP. NO. 999999	219959
Feb. 18, 2014	REGISTERED-PRINCIPAL REGISTER	
Dec. 03, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 03, 2013	PUBLISHED FOR OPPOSITION	
Nov. 13, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Oct. 30, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	70884
Oct. 29, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 03, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	70884
Oct. 03, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	70884
Oct. 03, 2013	ASSIGNED TO LIE	70884
Oct. 02, 2013	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Jun. 27, 2013	NOTIFICATION OF FINAL REFUSAL EMAILED	
Jun. 27, 2013	FINAL REFUSAL E-MAILED	
Jun. 27, 2013	FINAL REFUSAL WRITTEN	83695
May 23, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 23, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889

May 23, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 13, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 13, 2013	NON-FINAL ACTION E-MAILED	6325
Mar. 13, 2013	NON-FINAL ACTION WRITTEN	83695
Mar. 13, 2013	ASSIGNED TO EXAMINER	83695
Jan. 17, 2013	NOTICE OF DESIGN SEARCH CODE MAILED	
Jan. 16, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 11, 2013	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. 18, 2014

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91219959](#)

Filing Date: Dec 29, 2014

Status: Pending

Status Date: Dec 29, 2014

Interlocutory Attorney: MARY CATHERINE FAINT

Defendant

Name: Fitness Publications, Inc.

Correspondent Address: DAVID W GRACE
LOEB & LOEB LLP
10100 SANTA MONICA BLVD, STE 2200
LOS ANGELES CA , 90067-4120
UNITED STATES

Correspondent e-mail: efilings@loeb.com , mhoward@loeb.com , dgrace@loeb.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Opposition Pending	86026728	

Plaintiff(s)

Name: Universal Protein Supplements Corporation dba Universal Nutrition

Correspondent Address: MAUREEN BEACOM GORMAN
MARSHALL GERSTEIN & BORUN LLP
6300 WILLIS TOWER, 233 S WACKER DR
CHICAGO IL , 60606
UNITED STATES

Correspondent e-mail: mgorman@marshallip.com , kking@marshallip.com , cbeaker@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Registered	85817659	4483690

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 29, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 30, 2014	Feb 08, 2015
3	PENDING, INSTITUTED	Dec 30, 2014	
4	ANSWER AND COUNTERCLAIM (FEE)	Feb 06, 2015	
5	TRIAL DATES SET	Feb 24, 2015	

United States of America

United States Patent and Trademark Office



Reg. No. 4,483,690

Registered Feb. 18, 2014

Int. Cls.: 5, 25 and 35

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

UNIVERSAL PROTEIN SUPPLEMENTS CORPORATION (NEW JERSEY CORPORATION),
DBA UNIVERSAL NUTRITION
3 TERMINAL ROAD
NEW BRUNSWICK, NJ 08901

FOR: NUTRITIONAL SUPPLEMENTS FOR HUMAN CONSUMPTION , IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

FOR: CLOTHING, NAMELY, HATS, CAPS, BOTTOMS, TOPS, SHORTS, PANTS, SHIRTS, SWEAT SHIRTS, SWEAT PANTS, SWEAT SHORTS, SWEAT JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

FOR: ON-LINE RETAIL STORE SERVICES FEATURING HEALTH AND DIET-RELATED PRODUCTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 0-0-1998; IN COMMERCE 0-0-1998.

OWNER OF U.S. REG. NOS. 3,555,885 AND 3,568,919.

THE MARK CONSISTS OF A HUMAN FIGURE.

SER. NO. 85-817,659, FILED 1-8-2013.

ANGELA DUONG, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

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Mark: UNIVERSAL



US Serial Number: 77165046

Application Filing Date: Apr. 25, 2007

US Registration Number: 3555885

Registration Date: Jan. 06, 2009

Register: Principal

Mark Type: Trademark

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

Status Date: Mar. 21, 2014

Publication Date: Oct. 21, 2008

Mark Information

Mark Literal Elements: UNIVERSAL

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 the word "UNIVERSAL" wherein the "I" is comprised of a human figure.

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

Design Search Code(s): 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
02.01.19 - Men, athletes, strongmen; Golfer; Athletes (men); Strongmen
02.01.31 - Men, stylized, including men depicted in caricature form
02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
27.03.02 - Humans forming letters or numerals; Humans forming punctuation

Related Properties Information

Claimed Ownership of US Registrations: 3020559, 3020563

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: Supplements, namely, dietary food supplements, dietary supplements, food supplements, herbal supplements, meal replacement and dietary supplement drink mixes, mineral nutritional supplements, mineral supplements, nutritional supplements, powdered nutritional supplement drink mix, vitamin and mineral supplements, vitamin supplements, meal replacement bars

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: 1980

Use in Commerce: 1980

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: Universal Protein Supplements Corporation

DBA, AKA, Formerly: DBA Universal Nutrition

Owner Address: 3 Terminal Road
New Brunswick, NEW JERSEY 08901
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW JERSEY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Maureen Beacom Gorman Docket Number: 31742/10753/
Attorney Primary Email Address: docket@marshallip.com Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Maureen Beacom Gorman
Marshall, Gerstein & Borun LLP
233 South Wacker Drive
6300 Willis Tower
Chicago, ILLINOIS 60606-6357
UNITED STATES
Phone: 312.474.6643 Fax: 312.474.0448
Correspondent e-mail: docket@marshallip.com Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 21, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Mar. 21, 2014	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	66607
Mar. 03, 2014	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	66607
Mar. 21, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	66607
Mar. 03, 2014	TEAS SECTION 8 & 15 RECEIVED	
Jan. 13, 2011	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jan. 05, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 05, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 06, 2009	REGISTERED-PRINCIPAL REGISTER	
Oct. 21, 2008	PUBLISHED FOR OPPOSITION	
Oct. 01, 2008	NOTICE OF PUBLICATION	
Sep. 15, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	67215
Sep. 09, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 06, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Sep. 05, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Sep. 05, 2008	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Aug. 29, 2008	LIE CHECKED SUSP - TO ATTY FOR ACTION	67215
Feb. 29, 2008	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 29, 2008	LETTER OF SUSPENSION E-MAILED	6332
Feb. 29, 2008	SUSPENSION LETTER WRITTEN	82421
Feb. 11, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Feb. 11, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Feb. 11, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 10, 2007	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Aug. 10, 2007	NON-FINAL ACTION E-MAILED	6325
Aug. 10, 2007	NON-FINAL ACTION WRITTEN	82421
Aug. 08, 2007	ASSIGNED TO EXAMINER	82421
Jul. 25, 2007	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	67215
Jul. 05, 2007	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	67215

Jul. 23, 2007 ASSIGNED TO LIE
 Jul. 17, 2007 TEAS CHANGE OF CORRESPONDENCE RECEIVED
 Jul. 05, 2007 TEAS VOLUNTARY AMENDMENT RECEIVED
 May 01, 2007 NOTICE OF DESIGN SEARCH CODE MAILED
 Apr. 30, 2007 NEW APPLICATION ENTERED IN TRAM

67215

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 114

Date in Location: Mar. 21, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Cancellation

Proceeding Number: [92054606](#)

Filing Date: Oct 05, 2011

Status: Terminated

Status Date: May 16, 2012

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Genaro Zea Oros

Correspondent Address: JULIE B SEYLER
 ABELMAN FRAYNE & SCHWAB
 666 THIRD AVENUE
 NEW YORK NY , 10017
 UNITED STATES

Correspondent e-mail: JBSeyler@lawabel.com , Rdahl@lawabel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77195994	3487170

Plaintiff(s)

Name: Universal Protein Supplements Corporation d/b/a Universal Nutrition

Correspondent Address: MAUREEN BEACOM GORMAN
 MARSHALL GERSTEIN & BORUN LLP
 233 SOUTH WACKER, 6300 WILLIS TOWER
 CHICAGO IL , 60654
 UNITED STATES

Correspondent e-mail: tgehrke@marshallip.com , mgorman@marshallip.com , kking@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
UNIVERSAL NUTRITION	Renewed	78492932	3020562
UNIVERSAL NUTRITION	Renewed	78492925	3020559
UNIVERSAL NUTRITION	Renewed	78492927	3020560
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	78492935	3020563
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165046	3555885
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165041	3568919

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 05, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 06, 2011	Nov 15, 2011
3	PENDING, INSTITUTED	Oct 06, 2011	
4	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Nov 04, 2011	
5	SUSPENDED	Nov 04, 2011	
6	CHANGE OF CORRESPONDENCE ADDRESS	Nov 09, 2011	
7	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Feb 07, 2012	
8	SUSPENDED	Feb 07, 2012	
9	WITHDRAWAL OF PETITION FOR CANCELLATION	May 10, 2012	
10	BOARD'S DECISION: DISMISSED W/O PREJ	May 16, 2012	
11	TERMINATED	May 16, 2012	

Type of Proceeding: Opposition

Proceeding Number: [91189664](#)

Filing Date: Apr 08, 2009

Status: Terminated

Status Date: Feb 04, 2010

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: LIN, JIN-SHOW

Correspondent Address: JIN-SHOW LIN
4771 SWEETWATER BLVD # 298
SUGAR LAND TX , 77479-3121
UNITED STATES

Correspondent e-mail: uniherbusa@yahoo.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
UNIVERSAL HERB USA	Abandoned - After Inter-Partes Decision	77303449	

Plaintiff(s)

Name: Universal Protein Supplements Corporation d/b/a Universal Nutrition

Correspondent Address: Maureen Beacom Gorman
Davis McGrath LLC
125 S. Wacker Drive, Suite 1700
Chicago IL , 60606
UNITED STATES

Correspondent e-mail: mbgorman@davismcgrath.com , cschneider@davismcgrath.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
UNIVERSAL NUTRITION	Renewed	78492925	3020559
UNIVERSAL NUTRITION	Renewed	78492927	3020560
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	78492935	3020563
UNIVERSAL NUTRITION	Renewed	78492932	3020562
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	77174397	3447934
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	77171320	3443959
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165046	3555885
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165041	3568919
UNIVERSAL NATURALS	Section 8 and 15 - Accepted and Acknowledged	77613720	3635242

Prosecution History

Entry Number	History Text	Date	Due Date
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1	FILED AND FEE	Apr 08, 2009	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 09, 2009	May 19, 2009
3	PENDING, INSTITUTED	Apr 09, 2009	
4	ANSWER	May 18, 2009	
5	PLS MOT TO STRIKE DEF'S RESPONSE TO OPP	Jun 09, 2009	
6	P'S MTN TO STRIKE GRANTED; ANSWER DUE IN THIRTY DAYS; TRIAL DATES RESET	Aug 14, 2009	
7	DEF'S COMMUNICATION	Sep 14, 2009	
8	P'S MOTION FOR DEFAULT JUDGEMENT	Oct 28, 2009	
9	P'S MTN FOR DEFAULT JUDGMENT GRANTED; OPPOSITION SUSTAINED	Feb 02, 2010	
10	BOARD'S DECISION: SUSTAINED	Feb 02, 2010	
11	TERMINATED	Feb 04, 2010	

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,555,885

United States Patent and Trademark Office

Registered Jan. 6, 2009

**TRADEMARK
PRINCIPAL REGISTER**



UNIVERSAL PROTEIN SUPPLEMENTS CORPORATION (NEW JERSEY CORPORATION),
DBA UNIVERSAL NUTRITION

3 TERMINAL ROAD
NEW BRUNSWICK, NJ 08901

FOR: SUPPLEMENTS, NAMELY, DIETARY FOOD SUPPLEMENTS, DIETARY SUPPLEMENTS, FOOD SUPPLEMENTS, HERBAL SUPPLEMENTS, MEAL REPLACEMENT AND DIETARY SUPPLEMENT DRINK MIXES, MINERAL NUTRITIONAL SUPPLEMENTS, MINERAL SUPPLEMENTS, NUTRITIONAL SUPPLEMENTS, POWDERED NUTRITIONAL SUPPLEMENT DRINK MIX, VITAMIN AND MINERAL SUPPLEMENTS, VITAMIN SUP-

PLEMENTS, MEAL REPLACEMENT BARS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 0-0-1980; IN COMMERCE 0-0-1980.

OWNER OF U.S. REG. NOS. 3,020,559 AND 3,020,563.

THE MARK CONSISTS OF THE WORD "UNIVERSAL" WHEREIN THE "I" IS COMPRISED OF A HUMAN FIGURE.

SER. NO. 77-165,046, FILED 4-25-2007.

SHAILA SETTLES, EXAMINING ATTORNEY

Owner Address: 3 Terminal Road
New Brunswick, NEW JERSEY 08901
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW JERSEY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Maureen Beacom Gorman
Attorney Primary Email Address: doCKET@marshallip.com
Docket Number: 31742/10755/
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Maureen Beacom Gorman
Marshall, Gerstein & Borun LLP
233 South Wacker Drive
6300 Willis Tower
Chicago, ILLINOIS 60606-6357
UNITED STATES
Phone: 312.474.6643
Fax: 312.474.0448
Correspondent e-mail: doCKET@marshallip.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Apr. 25, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Apr. 25, 2014	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	76874
Apr. 11, 2014	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	76874
Apr. 25, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76874
Apr. 11, 2014	TEAS SECTION 8 & 15 RECEIVED	
Jan. 13, 2011	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jan. 05, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 05, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Feb. 03, 2009	REGISTERED-PRINCIPAL REGISTER	
Nov. 18, 2008	PUBLISHED FOR OPPOSITION	
Oct. 29, 2008	NOTICE OF PUBLICATION	
Oct. 14, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	67215
Oct. 08, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 08, 2008	EXAMINER'S AMENDMENT ENTERED	88888
Oct. 08, 2008	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Oct. 08, 2008	EXAMINERS AMENDMENT E-MAILED	6328
Oct. 08, 2008	EXAMINERS AMENDMENT -WRITTEN	82421
Sep. 30, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	67215
Sep. 30, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	67215
Sep. 29, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 09, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 09, 2008	NON-FINAL ACTION E-MAILED	6325
Sep. 09, 2008	NON-FINAL ACTION WRITTEN	82421
Sep. 05, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Sep. 05, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Sep. 05, 2008	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Sep. 03, 2008	LIE CHECKED SUSP - TO ATTY FOR ACTION	67215
Mar. 03, 2008	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Mar. 03, 2008	LETTER OF SUSPENSION E-MAILED	6332

Mar. 03, 2008	SUSPENSION LETTER WRITTEN	82421
Feb. 12, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Feb. 11, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Feb. 11, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 11, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 10, 2007	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Aug. 10, 2007	NON-FINAL ACTION E-MAILED	6325
Aug. 10, 2007	NON-FINAL ACTION WRITTEN	82421
Aug. 08, 2007	ASSIGNED TO EXAMINER	82421
Jul. 25, 2007	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	67215
Jul. 05, 2007	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	67215
Jul. 23, 2007	ASSIGNED TO LIE	67215
Jul. 17, 2007	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 05, 2007	TEAS VOLUNTARY AMENDMENT RECEIVED	
May 01, 2007	NOTICE OF DESIGN SEARCH CODE MAILED	
Apr. 30, 2007	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 114

Date in Location: Apr. 25, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Cancellation

Proceeding Number: [92054606](#)

Filing Date: Oct 05, 2011

Status: Terminated

Status Date: May 16, 2012

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Genaro Zea Oros

Correspondent Address: JULIE B SEYLER
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY , 10017
UNITED STATES

Correspondent e-mail: JBSeyler@lawabel.com , Rdahl@lawabel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77195994	3487170

Plaintiff(s)

Name: Universal Protein Supplements Corporation d/b/a Universal Nutrition

Correspondent Address: MAUREEN BEACOM GORMAN
MARSHALL GERSTEIN & BORUN LLP
233 SOUTH WACKER, 6300 WILLIS TOWER
CHICAGO IL , 60654
UNITED STATES

Correspondent e-mail: tgehrke@marshallip.com , mgorman@marshallip.com , kking@marshallip.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
UNIVERSAL NUTRITION	Renewed	78492932	3020562
UNIVERSAL NUTRITION	Renewed	78492925	3020559
UNIVERSAL NUTRITION	Renewed	78492927	3020560
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	78492935	3020563
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165046	3555885
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165041	3568919

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 05, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 06, 2011	Nov 15, 2011
3	PENDING, INSTITUTED	Oct 06, 2011	
4	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Nov 04, 2011	
5	SUSPENDED	Nov 04, 2011	
6	CHANGE OF CORRESPONDENCE ADDRESS	Nov 09, 2011	
7	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Feb 07, 2012	
8	SUSPENDED	Feb 07, 2012	
9	WITHDRAWAL OF PETITION FOR CANCELLATION	May 10, 2012	
10	BOARD'S DECISION: DISMISSED W/O PREJ	May 16, 2012	
11	TERMINATED	May 16, 2012	

Type of Proceeding: Opposition

Proceeding Number: [91189664](#)

Filing Date: Apr 08, 2009

Status: Terminated

Status Date: Feb 04, 2010

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: LIN, JIN-SHOW

Correspondent Address: JIN-SHOW LIN
4771 SWEETWATER BLVD # 298
SUGAR LAND TX , 77479-3121
UNITED STATES

Correspondent e-mail: uniherbusa@yahoo.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
UNIVERSAL HERB USA	Abandoned - After Inter-Partes Decision	77303449	

Plaintiff(s)

Name: Universal Protein Supplements Corporation d/b/a Universal Nutrition

Correspondent Address: Maureen Beacom Gorman
Davis McGrath LLC
125 S. Wacker Drive, Suite 1700
Chicago IL , 60606
UNITED STATES

Correspondent e-mail: mbgorman@davismcgrath.com , cschneider@davismcgrath.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
UNIVERSAL NUTRITION	Renewed	78492925	3020559
UNIVERSAL NUTRITION	Renewed	78492927	3020560
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	78492935	3020563
UNIVERSAL NUTRITION	Renewed	78492932	3020562

UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	77174397	3447934
UNIVERSAL NUTRITION	Section 8 and 15 - Accepted and Acknowledged	77171320	3443959
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165046	3555885
UNIVERSAL	Section 8 and 15 - Accepted and Acknowledged	77165041	3568919
UNIVERSAL NATURALS	Section 8 and 15 - Accepted and Acknowledged	77613720	3635242

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 08, 2009	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 09, 2009	May 19, 2009
3	PENDING, INSTITUTED	Apr 09, 2009	
4	ANSWER	May 18, 2009	
5	PLS MOT TO STRIKE DEF'S RESPONSE TO OPP	Jun 09, 2009	
6	P'S MTN TO STRIKE GRANTED; ANSWER DUE IN THIRTY DAYS; TRIAL DATES RESET	Aug 14, 2009	
7	DEF'S COMMUNICATION	Sep 14, 2009	
8	P'S MOTION FOR DEFAULT JUDGEMENT	Oct 28, 2009	
9	P'S MTN FOR DEFAULT JUDGMENT GRANTED; OPPOSITION SUSTAINED	Feb 02, 2010	
10	BOARD'S DECISION: SUSTAINED	Feb 02, 2010	
11	TERMINATED	Feb 04, 2010	

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 3,568,919

United States Patent and Trademark Office

Registered Feb. 3, 2009

**TRADEMARK
PRINCIPAL REGISTER**



UNIVERSAL PROTEIN SUPPLEMENTS COR-
PORATION (NEW JERSEY CORPORATION),
DBA UNIVERSAL NUTRITION
3 TERMINAL ROAD
NEW BRUNSWICK, NJ 08901

FOR: SUPPLEMENTS, NAMELY, DIETARY
FOOD SUPPLEMENTS, DIETARY SUPPLEMENTS,
FOOD SUPPLEMENTS, HERBAL SUPPLEMENTS,
MEAL REPLACEMENT AND DIETARY SUPPLE-
MENT DRINK MIXES, MINERAL NUTRITIONAL
SUPPLEMENTS, MINERAL SUPPLEMENTS, NU-
TRITIONAL SUPPLEMENTS, POWDERED NUTRI-
TIONAL SUPPLEMENT DRINK MIX, VITAMIN
AND MINERAL SUPPLEMENTS, VITAMIN SUP-
PLEMENTS, MEAL REPLACEMENT BARS, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 0-0-1980; IN COMMERCE 0-0-1980.

OWNER OF U.S. REG. NOS. 3,020,559 AND
3,020,563.

THE COLOR(S) RED AND BLACK IS/ARE
CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE WORD "UNI-
VERSAL" IN BLACK LETTERS, WHEREIN THE "I"
IS COMPRISED OF A RED HUMAN FIGURE.

SER. NO. 77-165,041, FILED 4-25-2007.

SHAILA SETTLES, EXAMINING ATTORNEY

Generated on: This page was generated by TSDR on 2015-03-20 15:26:28 EDT

Mark: UNIVERSAL



US Serial Number: 86216560
Application Filing Date: Mar. 10, 2014
US Registration Number: 4617301
Registration Date: Oct. 07, 2014
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: Oct. 07, 2014
Publication Date: Jul. 22, 2014

Mark Information

Mark Literal Elements: UNIVERSAL
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 the word "UNIVERSAL" wherein the "I" is comprised of a human figure.
Color(s) Claimed: Color is not claimed as a feature of the mark.
Design Search Code(s): 02.01.31 - Men, stylized, including men depicted in caricature form
27.03.02 - Humans forming punctuation; Humans forming letters or numerals

Related Properties Information

Claimed Ownership of US Registrations: 3555885, 3568919

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: Athletic pants; Athletic shorts; Bottoms; Caps; Hats; Jackets; Pants; Shirts; Shorts; Sweatpants; Sweatshirts; Tops

International Class(es): 025 - Primary Class
U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 1993
Use in Commerce: Dec. 31, 1993

Used Anywhere in Another Form: The mark was first used anywhere in a different form other than that sought to be registered at least as early as 00/00/1981.
Used in Commerce in Another Form: The mark was first used in commerce in a different form other than that sought to be registered at least as early as 00/00/1981.

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: Universal Protein Supplements Corporation
DBA, AKA, Formerly: DBA Universal Nutrition
Owner Address: 3 Terminal Road

New Brunswick, NEW JERSEY 08901
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW JERSEY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Maureen Beacom Gorman **Docket Number:** 31742/60218/
Attorney Primary Email Address: docket@marshallip.com **Attorney Email Authorized:** Yes

Correspondent

Correspondent Name/Address: MAUREEN BEACOM GORMAN
MARSHALL, GERSTEIN & BORUN LLP
233 S WACKER DR STE 6300
CHICAGO, ILLINOIS 60606-6471
UNITED STATES
Phone: 312.474.6300 **Fax:** 312.474.0448
Correspondent e-mail: docket@marshallip.com **Correspondent e-mail Authorized:** Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 07, 2014	REGISTERED-PRINCIPAL REGISTER	
Jul. 22, 2014	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jul. 22, 2014	PUBLISHED FOR OPPOSITION	
Jul. 02, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jun. 14, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 13, 2014	ASSIGNED TO EXAMINER	82087
Mar. 25, 2014	NOTICE OF DESIGN SEARCH CODE E-MAILED	
Mar. 22, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 13, 2014	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: Oct. 07, 2014

United States of America
United States Patent and Trademark Office



Reg. No. 4,617,301

Registered Oct. 7, 2014

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

UNIVERSAL PROTEIN SUPPLEMENTS CORPORATION (NEW JERSEY CORPORATION),
DBA UNIVERSAL NUTRITION
3 TERMINAL ROAD
NEW BRUNSWICK, NJ 08901

FOR: ATHLETIC PANTS; ATHLETIC SHORTS; BOTTOMS; CAPS; HATS; JACKETS; PANTS;
SHIRTS; SHORTS; SWEATPANTS; SWEATSHIRTS; TOPS, IN CLASS 25 (U.S. CLS. 22 AND
39).

FIRST USE 12-31-1993, THE MARK WAS FIRST USED ANYWHERE IN A DIFFERENT
FORM OTHER THAN THAT SOUGHT TO BE REGISTERED AT LEAST AS EARLY AS
00/00/1981.; IN COMMERCE 12-31-1993, THE MARK WAS FIRST USED IN COMMERCE
IN A DIFFERENT FORM OTHER THAN THAT SOUGHT TO BE REGISTERED AT LEAST
AS EARLY AS 00/00/1981..

OWNER OF U.S. REG. NOS. 3,555,885 AND 3,568,919.

THE MARK CONSISTS OF THE WORD "UNIVERSAL" WHEREIN THE "I" IS COMPRISED
OF A HUMAN FIGURE.

SER. NO. 86-216,560, FILED 3-10-2014.

NAKIA HENRY, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.