

ESTTA Tracking number: **ESTTA694802**

Filing date: **09/09/2015**

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	NSE Products, Inc.
Granted to Date of previous extension	09/09/2015
Address	75 West Center Street Provo, UT 84601 UNITED STATES

Attorney information	Hope Hamilton Holland & Hart LLP P.O. Box 8749 Denver, CO 80201 UNITED STATES doCKET@hollandhart.com, hihamilton@hollandhart.com, mhorlach-er@hollandhart.com, mamooore@hollandhart.com, baadams@hollandhart.com
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**Applicant Information**

Application No	86470935	Publication date	05/12/2015
Opposition Filing Date	09/09/2015	Opposition Period Ends	09/09/2015
Applicant	Inspira, LLC 1418 S. Colt Dr. Gilbert, AZ 85296 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Non-medicated skin care preparations; hair care preparations; cosmetics; Lotions and creams for face and body care; fragrances; cosmetic preparations; lip balm; Skin care products, namely, non-medicated skin and hair serums; shampoos and hair conditioners; Bath soaps; Soaps for personal use
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1542160	Application Date	05/20/1987
Registration Date	06/06/1989	Foreign Priority	NONE

		Date	
Word Mark	NU SKIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1984/06/25 First Use In Commerce: 1984/06/25 COSMETICS, NAMELY, HAND AND BODY LOTIONS, SHAMPOO, FACIAL SCRUBS AND MOISTURIZERS		

U.S. Registration No.	4268340	Application Date	07/19/2012
Registration Date	01/01/2013	Foreign Priority Date	NONE

Word Mark	NU SKIN		
Design Mark			
Description of Mark	The mark comprises the wording "NU SKIN" and a stylized representation of a fountain within a circle above the wording.		
Goods/Services	Class 003. First use: First Use: 2009/10/01 First Use In Commerce: 2009/10/01 Cosmetic creams for skin care; Cosmetichand creams; Cosmetic nourishing creams; Cosmetic preparations for skin care; Cosmetic preparations, namely, firming creams; Cosmetics; Cosmetics and cosmetic preparations; Face creams for cosmetic use; Lotions for cosmetic purposes; Skin conditioning creams for cosmetic purposes Class 005. First use: First Use: 2010/09/08 First Use In Commerce: 2010/09/08		

	<p>Dietary and nutritional supplements; Dietary and nutritional supplements used for weight loss; Dietary supplemental drinks; Dietary supplements; Dietary supplements in the nature of weight loss powders; Mineral supplements; Nutritional supplement shakes; Nutritional supplements; Powdered nutritional supplement drink mix; Vitamin supplements; Weight management supplements</p> <p>Class 032. First use: First Use: 2010/09/08 First Use In Commerce: 2010/09/08</p> <p>Beauty beverages, namely, fruit juices and energy drinks containing nutritional supplements</p>
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U.S. Registration No.	1551560	Application Date	10/06/1988
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Registration Date	08/15/1989	Foreign Priority Date	NONE
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Word Mark	NU SKIN
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 003. First use: First Use: 1987/09/15 First Use In Commerce: 1987/10/10</p> <p>COSMETICS AND PERFUMERY PRODUCTS, NAMELY, PREPARATIONS AND LOTIONS FOR THE CARE OF THE SKIN AND OF THE HAIR, SKIN CLEANSING LOTIONS, FACIAL SCRUBS, SKIN REVITALIZING CLAYS AND COMPOSITIONS, SKIN TONERS, SKIN MOISTURIZERS, SKIN REJUVINATING CREAMS, FACIAL LIFT COMPOSITIONS, [ BODY CLEANSING GELS, EXFOLIATORS, HAND LOTIONS, ] BODY LOTIONS, SHAVING LUBRICANTS, AFTER SHAVE LOTIONS, SUN PROTECTANTS FOR THE SKIN, SHAMPOOS AND HAIR CONDITIONERS</p>
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U.S. Registration No.	1433479	Application Date	06/10/1985
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Registration Date	03/24/1987	Foreign Priority Date	NONE
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Word Mark	NU SKIN
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1984/06/25 First Use In Commerce: 1984/06/25 COSMETICS, NAMELY, HAND AND BODY LOTIONS, SHAMPOO, FACIAL SCRUBS AND MOISTURIZERS		

U.S. Registration No.	2394310	Application Date	04/14/1999
Registration Date	10/10/2000	Foreign Priority Date	NONE
Word Mark	NU SKIN 180		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1999/10/00 First Use In Commerce: 1999/10/00 Cosmetics, preparations and lotions for the care of the skin, namely, skin cleansing lotions, skin cleansing soaps, facial scrubs, mask packs of mud and/or clay, skin toner, skin moisturizers, body cleansing gels, exfoliators, hand lotions, body lotions, shaving lubricants, after shave lotions and sun screen for the skin		

U.S. Registration No.	3037497	Application Date	04/15/2003
Registration Date	01/03/2006	Foreign Priority Date	NONE
Word Mark	NU SKIN CLEAR ACTION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2002/05/30 First Use In Commerce: 2002/05/30 Skin toners, facial creams, facial lotions		

U.S. Application No.	86503747	Application Date	01/14/2015
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NU SKIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1984/06/01 First Use In Commerce: 1984/06/01  Body and beauty care cosmetics; Cleansing creams; Cosmetic creams; Cosmetic creams for skin care; Cosmetic hand creams; Cosmetic nourishing creams; Cosmetic preparations against sunburn; Cosmetic preparations for bath and shower; Cosmetic preparations for protecting the skin from the sun's rays; Cosmetic preparations for skin care; Cosmetic preparations for the care of mouth and teeth; Cosmetic preparations for the hair and scalp; Cosmetic preparations, namely, firming creams; Cosmetic preparations, namely, firming lotions; Cosmetic soaps; Cosmetic sun-protecting preparations; Cosmetic sunscreen preparations; Cosmetics; Cosmetics and cosmetic preparations; Essential oils; Essential oils for aromatherapy use; Face creams for cosmetic use; Foams containing cosmetics and sunscreens; Lotions for cosmetic purposes; Non-medicated hair treatment preparations for cosmetic purposes; Skin conditioning creams for cosmetic purposes; Wrinkle-minimizing cosmetic preparations for topical facial use</p> <p>Class 010. First use: First Use: 2006/03/10 First Use In Commerce: 2006/03/10  Cosmetic apparatus using ultrasound for performing aesthetic skin treatment procedures; Facial toning machines for cosmetic use; Medical devices for non-surgical cosmetic treatments</p>		

Attachments	73661858#TMSN.png( bytes ) 85681553#TMSN.png( bytes ) 73756273#TMSN.png( bytes ) 73542128#TMSN.png( bytes ) 75682625#TMSN.png( bytes ) 86503747#TMSN.png( bytes ) Notice of Opposition NU-VITA SKIN SCIENCE.pdf(54520 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	/Hope Hamilton/
Name	Hope Hamilton
Date	09/09/2015

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

NSE PRODUCTS, INC.,  Opposer,  v.  INSPIRA, LLC  Applicant.	Opposition No.:  Trademark: NU-VITA SKIN SCIENCE  Serial No.: 86/470935
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**NOTICE OF OPPOSITION**

NSE Products, Inc. (“Opposer”), a Delaware corporation, believes that it will be damaged by the registration of the trademark NU-VITA SKIN SCIENCE shown in Application Serial No. 86/470935, for “Non-medicated skin care preparations; hair care preparations; cosmetics; Lotions and creams for face and body care; fragrances; cosmetic preparations; lip balm; Skin care products, namely, non-medicated skin and hair serums; shampoos and hair conditioners; Bath soaps; Soaps for personal use” in International Class 3 (the “Application”) and hereby opposes registration in Class 3. As grounds for its opposition, Opposer alleges that, upon actual knowledge with respect to itself and its own actions, and upon information and belief as to other matters:

1. Over the past thirty years, Opposer has established itself as a premier anti-aging company associated with innovation and high quality personal care, nutrition, and technology products.

2. Among Opposer’s many leading products are its skin and hair care products, including moisturizers, cleansers, cosmetics, sun protection, shampoos, conditioners, cosmetic

and non-medicated hair treatments, and styling products. As a result of Opposer’s success, and its extensive promotional efforts, the NU SKIN trademark has become famous.

3. Since at least as early as 1984, and well prior to the filing date of the Application, Opposer has established a family of NU SKIN marks used in connection with skin and hair care products.

4. Opposer’s NU SKIN marks are the subject of the following federal trademark registrations (the word “SKIN” is disclaimed in all):

<b><u>TRADEMARK</u></b>	<b><u>REG. NO.</u></b>	<b><u>REG./FILE DATE</u></b>	<b><u>GOODS</u></b>
	1542160	June 6, 1989	Cosmetics, namely, hand and body lotions, shampoo, facial scrubs and moisturizers
	4268340	Jan. 1, 2013	Cosmetic creams for skin care; cosmetic hand creams; cosmetic nourishing creams; cosmetic preparations for skin care; cosmetic preparations, namely, firming creams; cosmetics; cosmetics and cosmetic preparations; face creams for cosmetic use; lotions for cosmetic purposes; skin conditioning creams for cosmetic purposes
	1551560	Aug. 15, 1989	Cosmetic and perfumery products, namely preparations and lotions for the care of the skin and of the hair, skin cleansing lotions, facial scrubs, skin revitalizing clays and compositions, skin toners, skin moisturizers, skin rejuvenating creams, facial

			lift compositions, body lotions, shaving lubricants, after shave lotions, sun protectants for the skin, shampoos and hair conditioners
	1433479	Mar. 24, 1987	Cosmetics, namely, hand and body lotions, shampoo, facial scrubs and moisturizers
NU SKIN 180	2394310	Oct. 10, 2000	Cosmetics, preparations and lotions for the care of the skin, namely, skin cleansing lotions, skin cleansing soaps, facial scrubs, mask packs of mud and/or clay, skin toner, skin moisturizers, body cleansing gels, exfoliators, hand lotions, body lotions, shaving lubricants, after shave lotions and sun screen for the skin
NU SKIN CLEAR ACTION	3037497	Jan. 3, 2006	Skin toners, facial creams, facial lotions

5. The registrations for each of the marks set forth above are valid and subsisting and therefore constitute *prima facie* evidence of the validity of the marks and registrations, and of Opposer's exclusive rights to use the marks in connection with the goods set forth in these registrations.

6. Opposer also owns a pending application for the word mark NU SKIN covering "Body and beauty care cosmetics; Cleansing creams; Cosmetic creams; Cosmetic creams for skin care; Cosmetic hand creams; Cosmetic nourishing creams; Cosmetic preparations against sunburn; Cosmetic preparations for bath and shower; Cosmetic preparations for protecting the skin from the sun's rays; Cosmetic preparations for skin care; Cosmetic preparations for the care

of mouth and teeth; Cosmetic preparations for the hair and scalp; Cosmetic preparations, namely, firming creams; Cosmetic preparations, namely, firming lotions; Cosmetic soaps; Cosmetic sun-protecting preparations; Cosmetic sunscreen preparations; Cosmetics; Cosmetics and cosmetic preparations; Essential oils; Essential oils for aromatherapy use; Face creams for cosmetic use; Foams containing cosmetics and sunscreens; Lotions for cosmetic purposes; Non-medicated hair treatment preparations for cosmetic purposes; Skin conditioning creams for cosmetic purposes; Wrinkle-minimizing cosmetic preparations for topical facial use” in Class 3 and “Cosmetic apparatus using ultrasound for performing aesthetic skin treatment procedures; Facial toning machines for cosmetic use; Medical devices for nonsurgical cosmetic treatments” in Class 10 (Ser. No. 86/503747) (collectively with the above registered marks, the “NU SKIN Marks”).

7. The foregoing registrations and application provide constructive notice of Opposer’s ownership of its NU SKIN Marks.

8. Several of Opposer’s NU SKIN Marks (Reg. Nos. 1433479, 1551560, 1542160, 2394310, 3037497, and 4268340) are also incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

9. Opposer has sold billions of dollars’ worth of products under the NU SKIN Marks, and has spent hundreds of millions of dollars advertising and promoting its products under these trademarks.

10. As a result of Opposer’s extensive marketing and promotion, coupled with the overwhelming commercial success of its products, Opposer’s NU SKIN Marks have become famous and well known.

11. Applicant’s products will compete with Opposer’s products.

12. Applicant filed its Application without Opposer’s consent or permission.

**COUNT I**  
**Likelihood of Confusion**  
**15 U.S.C. § 1052(d)**

13. Opposer realleges and incorporates by reference the preceding allegations of its Notice of Opposition.

14. Since well prior to the filing date of the Application, Opposer has used one or more of the NU SKIN Marks in connection with skin and hair care products, including moisturizers, cleansers, cosmetics, sun protection, shampoos, conditioners, cosmetic and non-medicated hair treatments, and styling products.

15. Applicant's NU-VITA SKIN SCIENCE trademark so resembles Opposer's prior used and registered NU SKIN Marks as to be likely, when used in connection with the goods set forth in the Application, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

**COUNT II**  
**Likelihood of Dilution**  
**15 U.S.C. § 1125(c)**

16. Opposer realleges and incorporates by reference the preceding allegations of its Notice of Opposition.

17. Opposer's NU SKIN Marks are famous and well known and became famous under 15 U.S.C. § 1125(c) well prior to the filing date of the Application and any use of the mark upon which Applicant could rely.

18. Applicant's NU-VITA SKIN SCIENCE trademark so resembles Opposer's prior used and registered NU SKIN Marks as to dilute or to be likely to cause dilution of the distinctive quality of Opposer's trademark by blurring under section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposer believes that it will be damaged by registration of the trademark shown in Application Serial No. 86/470935 and respectfully requests that the opposition be sustained, and that registration to Applicant be refused.

The filing fee in the amount of \$300 is being transmitted electronically with this submission. Any deficiency in the fee should be charged to Deposit Account No. 08-2623.

September 9, 2015

Respectfully submitted,

/Hope Hamilton/  
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**Attorneys for Opposer  
NSE Products, Inc.**

**CERTIFICATE OF SERVICE**

I certify that on September 9, 2015, I served a true and correct copy of the above NOTICE OF OPPOSITION to the following by U.S. Mail, postage prepaid:

Inspira, LLC  
1418 S. Colt Dr.  
Gilbert, Arizona 85296

and

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Mountain View, California 94040

/Barbara A. Adams/  
Barbara A. Adams

Notice of Opposition NU-VITA SKIN SCIENCE