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Filing date: **01/21/2015**

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

Proceeding	92059235
Party	Plaintiff Nite lze, Inc.
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Submission	Motion for Summary Judgment
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Signature	/RPJ/
Date	01/21/2015
Attachments	SubmissionwithMotionforSummaryJudgement.pdf(88367 bytes) ExhibitF1.pdf(4929390 bytes)

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

In the Matter of Trademark Registration No. 4179235
Mark: NITEYE

_____)	
NITE IZE, INC.,)	
)	
Petitioner,)	Cancellation No. 92059235
)	
v.)	
)	
ZHANGWEI MO,)	
)	
Respondent.)	
_____)	

MISCELLANEOUS LETTER

Petitioner Nite Ize, Inc. ("Petitioner" or "Nite Ize"), through undersigned counsel, submits the following 11 separate submissions as split out below due to the 6MB restriction on filings.

<u>Submission</u>	<u>Contents</u>
1	Motion for Summary Judgement Declaration of Clint Todd Exhibit A through Exhibit E
2.	Exhibit F1
3.	Exhibit F2
4.	Exhibit G through Exhibit M
5.	Exhibit N
6.	Exhibit N1
7.	Exhibit N2
8.	Exhibit O
9.	Exhibit O1
10.	Exhibit O2
11.	Exhibit O3

Dated January 21, 2015

Respectfully submitted,
SQUIRE PATTON BOGGS (US) LLP

By:



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Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that on this 21st day of January 2015, a copy of the foregoing documents listed in submissions 1-11 was served by e-mail and by first class mail to the following:

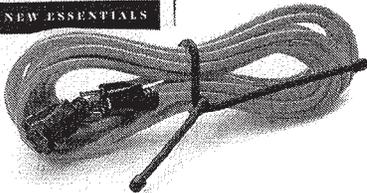
P. Jay Hines
Muncy, Geissler, Olds & Lowe P.C.
4000 Legato Road, Suite 310
Fairfax, Virginia 22033
E-mail: jh@mq-ip.com

/Theresa Cope/

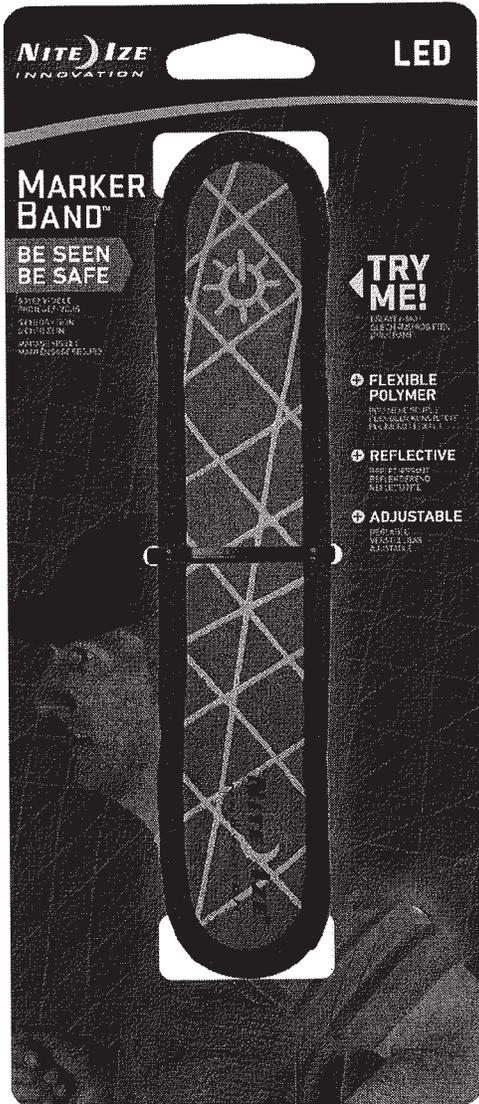
Exhibit F

Men's Journal

THE NEW ESSENTIALS



*** PROBLEM NO. 39**
Forget car keys and more than help
SOLUTION: The Gear Tie is an equipment
brought to life -- a heavy-duty twist tie,
available in a variety of sizes, including an
extra-large version that's 25 inches long. It's
exactly what you need next time you have to
bind an suitcase, cool, create a temporary
hook to hang wet gear, or close up a large
bag of bread. bit.ly/gear-tie



4. NITE IZE LED MARKER BAND

Strap this elastic cuff to your upper arm and its string of LEDs will announce your on-road presence. And don't worry about the band becoming a blinding orange beacon: It has two intensity levels (glow, flash) and standard reflectivity to let you dial in the brightness. \$12; niteize.com

AirForceTimes.com

AirForceTimes

A GANNETT COMPANY

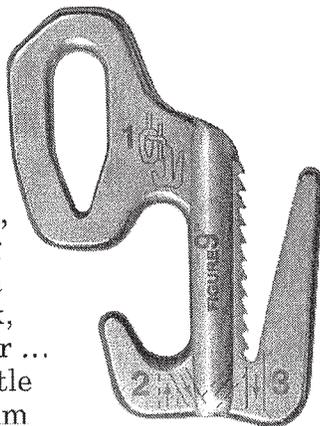
18 AUGUST 2014

OFFduty

ADVENTURE, GEAR, MOVIES & MORE

Nite Ize Figure 9 Small ▼

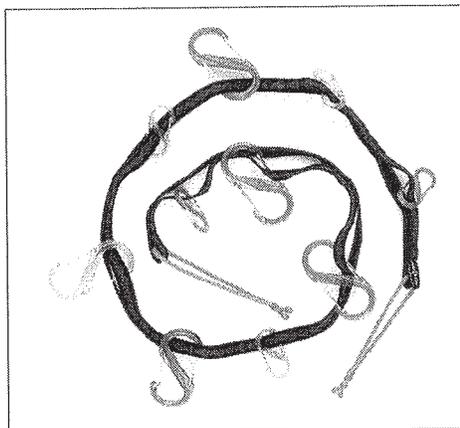
All you need is a handful of knots, and you can secure anything to anything. But if you didn't learn a bunch of knots as a kid, don't kid yourself into thinking you have enough time to learn them now. Guying out a tent in the dark, securing gear to a roof rack, whatever ... these little aluminum parts replace knots in just about any configuration you need one.



Good: Available in a couple of sizes to work with everything from 550 cord to larger ropes. No fighting to untie a knot.

Meh: You won't stop at just one.

Bonus: The instructions are laser engraved on the tool. **\$2.50 each**



▲ Nite-Ize GearLine 4 Organization System

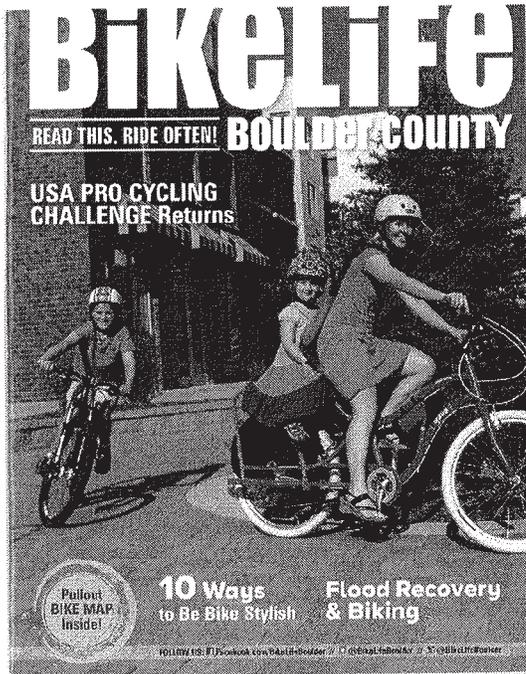
Few places in the world are more pressed for space than a tent. Since you can't push out, push up and use your tent's built-in gear loft hangers to hang a GearLine Organization System. The line has gads of spots to hang the 10 included split carabiners and pair of wire ties to secure everything from damp socks to reading lights.

Good: The webbing line can be used just about anyplace.

Meh: Plastic S-binners may be a gimmick, but they work. **\$20** □

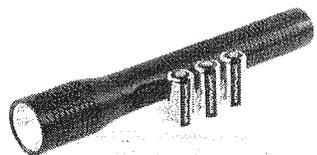
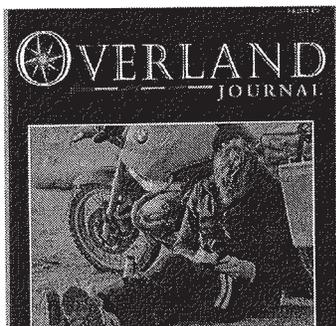
www.airforcetimes.com

[CLICK HERE TO READ ORIGINAL ARTICLE](#)



12 NITE IZE

Back in 1989, Rick Case dropped his mini flashlight in the water while out night fishing—the light fell from his mouth as he was trying to tie on bait. As he watched the light sink, he came up with a product idea: the Headband Mini Flashlight Holder. Now 25 years later, Nite Ize offers a wide array of innovative products to solve everyday problems. NiteIze.com



Nite Ize INOVA T5 \$98

Pros

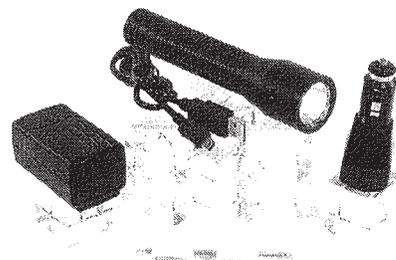
- Quality construction
- Machined-aluminum reflector
- Multiple output levels
- Low cost

Cons

- Limited range
- Flickered after one hour
- Lockout did not function

I found out about the INOVA T5 via the Outdoor Retailer show in Salt Lake City and it arrived just in time for the test. Considering its size and small-diameter bezel (just 1.4 inches), you could say this newcomer was the underdog in this review. However, it's powered by the same CR123 Li-ion batteries as SureFire's M3LT-S and is about the same length, so here we go. The T5 body is billet aerospace-grade aluminum, hard anodized, and the handle is deeply knurled along its length. The reflector is also crafted from CNC-machined aluminum, a nice feature that not only transmits light better than plastic, but also acts as a heat sink for the LED. Protecting the reflector and LED is a glass window with double-sided anti-reflective coating and a Teflon seal to prevent moisture intrusion. Activation is via a body-mounted push-button switch. Press once for high, twice for medium intensity, and so on. Two quick clicks fires up the strobe. Per the instructions, lockout is achieved by twisting the tail cap a half-turn counterclockwise. I fiddled with this feature to no avail. Ultimately, 2.5 turns achieved the goal, but at that point, moisture ingress might be compromised.

In our lab and field testing the T5 ran in the middle of the group. Output in the integrating sphere was 303 lumens and remained steady for one hour. However, at 1.5 hours it began to flicker considerably. Considering this a failure, we shut it down. This was quite surprising, as the head temperature was very low (90°F). Range testing was disappointing as well, the T5 falling short of all others. Water, which appeared to come in through the switch, collected within the battery area during the sprinkler test. Made in China. niteize.com, 800-678-6483



Nite Ize INOVA T3R \$95

Pros

- Machined aluminum reflector
- Quality construction
- Multiple charging options

Cons

- Awkward strobe function
- Short battery life
- Non-adjustable beam

Nite Ize, parent company of INOVA, was the brainchild of Rick Case while he was a sophomore in college. He was inspired by watching his flashlight—which he was spilling in his mouth while on a night fishing trip—fall into a lake and sink to the bottom (still lit). His first product was, as you might guess, a flashlight headband, and his company now produces numerous lighting tools and outdoor accessories. The T3R body is machined from aerospace-grade billet aluminum and hard anodized for maximum corrosion resistance, and knurling along the length of the handle provides a firm grip surface. The reflector is also CNC-machined aluminum, which assists with heat dissipation during extended use. Protecting the reflector and LED is a mineral glass optical window with double-sided anti-reflective coating and a Teflon seal prevent moisture intrusion. It is powered by a 3.7-volt, 2200-mAh ion battery and can be charged via USB (accessed by rotating the tail cap), 110-volt AC, or 12-volt DC. The push-button tail cap, which features a lockout mode to prevent accidental activation, engages the high and low settings easily enough, but the strobe feature is difficult to find.

In the lab, results were middle of the pack. Maximum output on the integrating sphere was 234 lumens and it ran strong for two hours (100 lumen minimum). The T3R's advertised runtime of 2.75 hours is a spot-on, as it quickly fell off the charts at 2.5 hours—upgrading to a 2400- or 2600-mAh battery would probably help here. Range tests were recording only 46 lux at the 50-foot marker but providing a beam of light up to 400 feet. Made in China. niteize.com, 800-678-6483

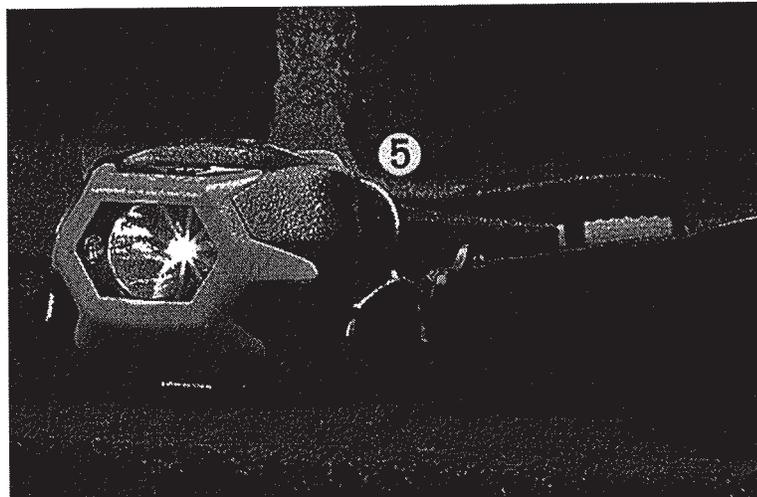
NITE IZE
DISCOVER YOUR SOLUTION™

THE **OUT FITTER**

Some Light

DAVID DRAPER

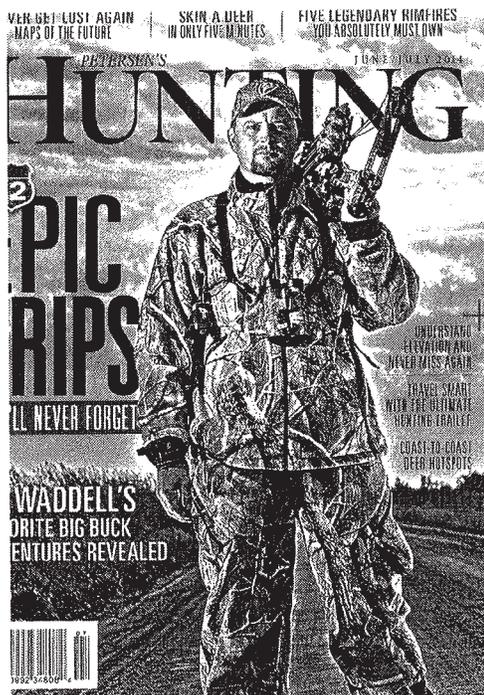
We shut off the lights to find the best headlamps for hunters.



5 NITE IZE INOVA

One of the most frustrating issues with a lot of headlamps is fumbling for the function button. Most are too small to find or not tactile enough to operate with gloves. Enter the Inova, with what the company calls Swipe-to-Shine (STS) technology that adjusts lamp brightness or switches from white to red illumination with just a swipe of the finger. Slide your finger left across the top for the white LED or to the right for red. Multiple swipes in either direction adjust between low, medium, and high output. It's surprisingly easy and works even with gloves. For a three AAA battery powerhouse, the Inova cranks out the light, projecting 143 lumens and delivering a more-than-adequate runtime on the high setting. The polycarbonate housing is rated waterproof to 1 meter.

BOTTOM LINE: Fantastic controls, good white light output. Runtime of 4+ hours on high is satisfactory. \$35; niteize.com





4. NITE IZE INOVA STS

Are your customers tired of fumbling with hard headlamp buttons? Are they draining batteries when the light accidentally turns on in their pack or pocket? Check out the Inova STS, which simply requires a swipe of the finger to shine and adjust settings. It'll work with all those new touch-capable gloves, too.

#11000 (MSRP \$35) www.niteize.com

sia

DAY 1

SNOWSHOW DAILY

OFFICIAL PUBLICATION OF THE 2014 SIA SNOW SHOW

PUBLISHED BY ACTIVE INTEREST MEDIA
THURSDAY, JANUARY 30, 2014

TOP TRENDS | HIGH TECH

Go Go Gadgets

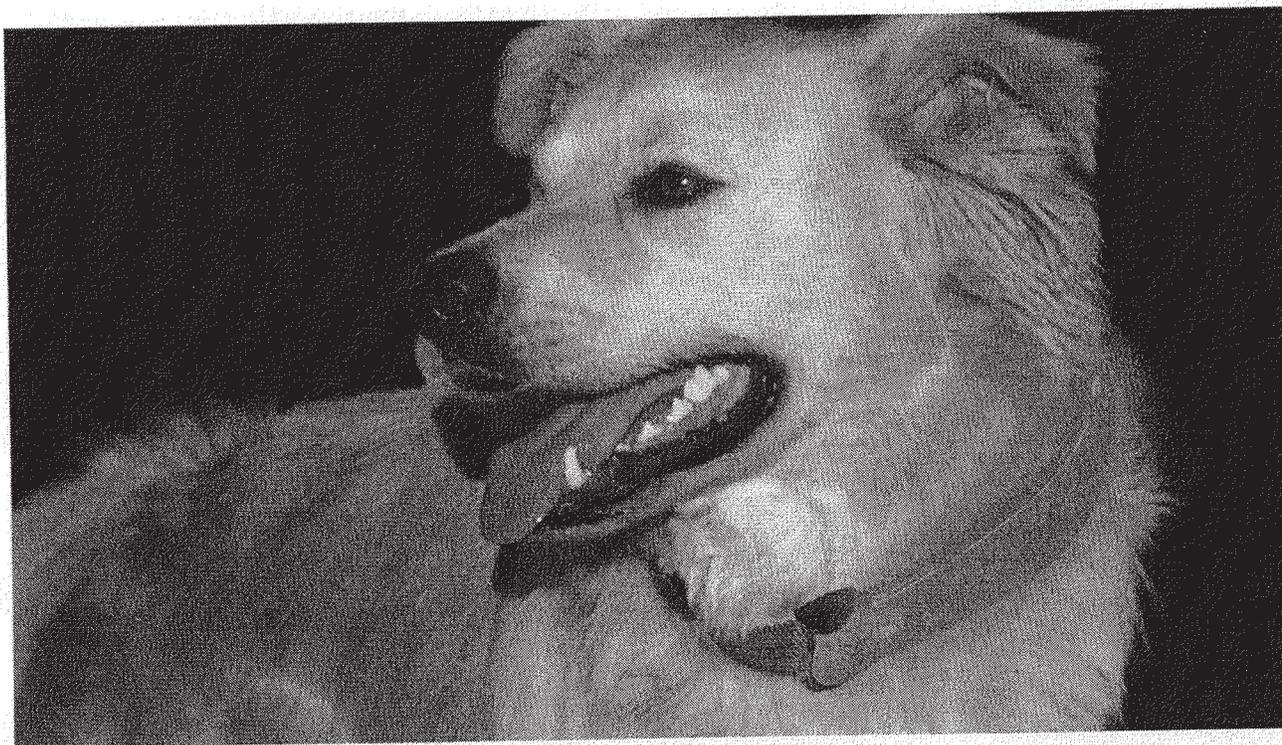
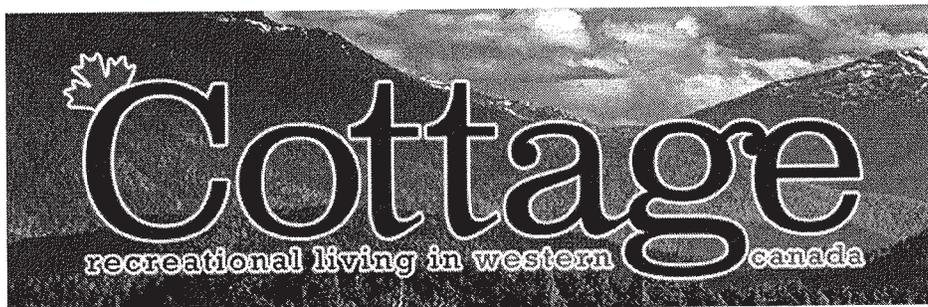
INNOVATIVE HIGH-TECH PRODUCTS DEBUT AT THE SIA SHOW TODAY

▼ NITE IZE INOVA STS
HEADLAMP



Also check out new exhibitor Nite Ize, which introduces Swipe-to-Shine tech in the Inova STS Headlamp, a multi-mode, dual color LED lamp that allows users to adjust illumination with a swipe of the finger.

—Megan Michelson



NIGHT LIGHTS

Although freedom from city lights is an alluring aspect of cottage life, it can pose a problem when evening walk time rolls around. To prevent losing sight of Gigi after sundown, you can always leash her up. Better yet, why not light her up with battery-powered LEDs? Nite Ize Pet products offer a few bright ways to do it. She'll be styling while wearing the functional clip-on collar light, or aglow in her illuminated Dawg Collar when sporting the flashing beacon-like SpotLit choker. www.niteize.com

Big shops lend a hand

BY SARAH FORD

DENVER BUSINESS JOURNAL

It can be difficult for entrepreneurs to get their new products on store shelves.

So it's especially helpful when stores such as the well-known McGuckin's Hardware in Boulder is willing to place such items on its shelves, giving startup business owners a chance to test the acceptability of their products.

After 57 years of business in Boulder, McGuckin's remains one of few retail stores to offer shelf space to start-up products, giving entrepreneurs their first chance to market their product to the public.

"It's almost a neighborly thing," said Barry Hight, owner of McGuckin's, which has been around for 57 years. "We help companies along, and then it comes back to us. We are a great seed planter."

"It's an opportunity for a local to say, 'All my stuff is McGuckin's.' We see it as an opportunity to be the first company in the world with this stuff."

McGuckin's offers space only to Boulder-area entrepreneurs, and works with them on pricing, product development and marketing. McGuckin's has been the first home of several businesses that eventually started selling nationwide.

Rick Case started Boulder-based Nite Ize Inc., which sells a variety of LED items nationally, and McGuckin's was the first to stock the product.

McGuckin's was one of the first to stock the products of Steele Inc., which sells magnet-and-ball bearings for iPods, computers and other electronics. Partners Rich Garcia, Frank Vogel, Paul Turner and Andy Emanuel own Steele Inc.

McGuckin's advises the entrepreneurs about how to improve their products. Hight will offer them feedback based on what he has seen from sales and heard from customers, or advise on how to change their product to improve function or price.

Another business owner who's willing to stock products from startups is Lady Fuller, owner of Blue Jeans bar, which has stores in Denver and San Francisco. The Blue Jeans Bar regularly features four to five startup artists who create clothing and jewelry.

"We try to check in with them and let them know what their product is retailing [in sales]," Fuller said. "Having our store as a testing ground is really helpful to see what the public's reactions to their products are."

The benefits of these relationships go both ways, Fuller and Hight say. The retail space gives entrepreneurs a chance to test their product without the fees of marketing research, and also provides good business for the stores.

"It's something unique that really drives people to shop with us," Hight said.

It also allows successful brands to publicize McGuckin's name.

"People usually keep their relationship with us as they begin to grow," Hight said. "When a product goes nationwide, we have the satisfaction of knowing they got their start from us. There is pride on both sides."

John McCaskill understands the entrepreneur's struggle to find a place to sell their product. Before starting his current business, he sold Derailed Inc. T-shirts,



Rick Case, (left) CEO and founder of Nite Ize Innovation, stands next to his product display in McGuckin's Hardware with Barry Hight, president of McGuckin's.

KATHLEEN LAVINE | BUSINESS JOURNAL

which he designed as alternative sports apparel, outside of sports venues. He said the difficulty of finding a place to test his product led him to start MegaFauna, a store selling only local startup products, in 2011. MegaFauna displays items for 50 Denver area start-up artists and features a variety in products ranging from posters to jewelry and fine art.

"The biggest challenge artists or designers will have is they have this product but need to find their customers," he said. "What this space can do is help people find what those demographics are."

McCaskill said startup artists may face a lot of pressure they're not prepared to handle as they enter the market.

"There is lots of logistical stuff. Lots of pressure to incorporate and do heavy administrative things," he said. "It's a big

learning curve we hope we can step in and alleviate to some degree."

All three owners must seek to balance their regular stock with items from startups.

"Ending relationships happens frequently," said McCaskill, who markets products in premier spaces to gauge public interest before signing with artists. "Sometimes a product isn't right for the shop."

Hight said he also works with each entrepreneur to determine a fair product price that will work for both parties.

Even with the challenges and risk, all three owners said they are motivated to work with startups to benefit the local economy.

SARAHFORD@bizjournals.com | 303-605-9235

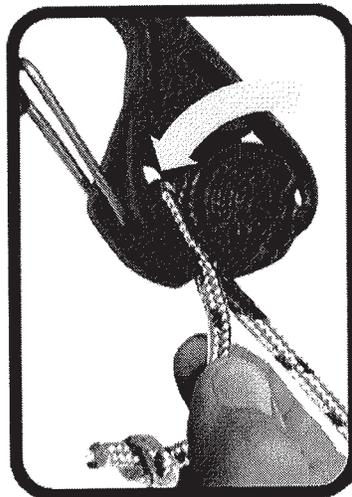
Keep the Tension Where You Need it with Nite Ize's CamJam Tightener!

Whether you're setting up equipment or bundling and attaching extra gear to your bag, Nite Ize's new CamJam and CamJam Small Cord Tighteners will make any tightening a stress-free task. Compact and lightweight, this innovative new product is designed to lock light loads securely into place with a simple pull of a cord. Simple in structure and versatile in use, this CamJam Cord Tightener will be any outdoor enthusiast's new best friend!

The CamJam Cord Tightener is an easy, knot-free way to tighten, tension, and secure cords. It may be small in size, but it offers big functionality where you need to apply some sort of tension. It features no moving parts to break or wear out, and it's easy for anyone to use, making it the perfect knot-free solution to securing lighter loads of all types.

Made of sturdy, durable plastic, the CamJam Cord Tightener offers two versatile systems of use and can be used and reused hundreds of times. Clipped to rings and hooks, it's excellent for hanging and securing banners, lanterns, tarps, tents, and other gear. Or, create a loop by clipping it to one end of the cord and pulling the other end through—perfect for bundling light gear, extension cords, cut brush or even groceries to a bike basket.

For those smaller loads, Nite Ize designed the CamJam Small to thread a narrower cord (from 1.8mm to 3mm in

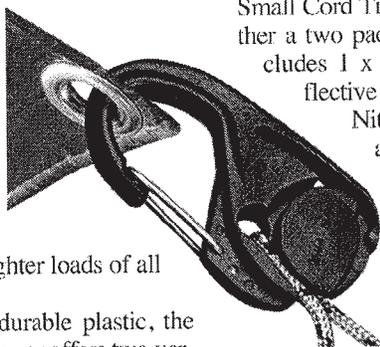


diameter). With a stainless steel gated carabiner on one end and a rotating, ridged cam mechanism on the other, the CamJam Small can be anchored to any hook, D-ring, or loop. The new CamJam Small Cord Tightener is available in either a two pack or a two pack that includes 1 x 12' section of highly reflective cord.

Nite Ize was founded by creativity and has continued to commit to innovation throughout 24 years of business. Nite Ize products and brands strive to exemplify problem/solution based products with quality and performance at the core.

Nite Ize takes pride in the way they conduct their business and do what they say they will do. Nite Ize team members are passionate about their products, customer satisfaction, their partners and the environment.

Nite Ize operates from its corporate offices in Boulder, Colorado, and offers over 400 innovative products & accessories in five unique categories: Mobile, Hardware, LED, Flashlight, and Tool. Its products are sold in over 60 countries by the world's most recognized retailers.



SPECIAL OPERATIONS • FIREARMS • ELITE UNITS • FOREIGN FORCES • MILITARIA

WWW.COMBATANDSURVIVAL.COM FEB 2012

combat

KIT & CAMO
New UK Forces
Brown Boots
Reviewed

Volume 14 Issue 11 113-135

9 770955 984113

8: Cam Jam in use keeping a poorly designed tent flap open - it proved invaluable for a variety of uses.

9: Cam Jam from Nite Ize twin pack with cord - indispensable!

10: Princeton Tec Byte as displayed in the shop

11: The Aquasure Survivor 4 military style filter water bottle

12: The Byte goes directly to red LED light at first press so is always safe

13: The Byte provides a very useful 50 lumens white light for general purpose use

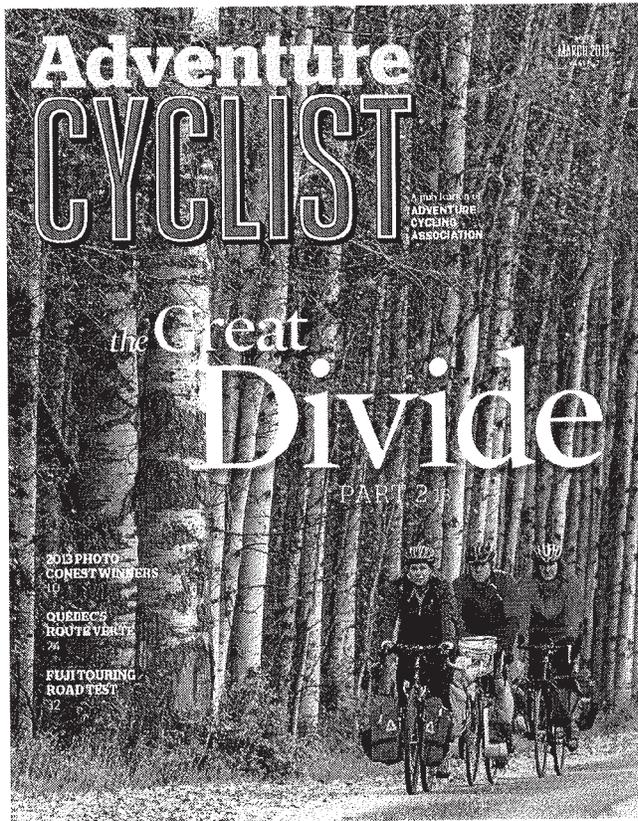
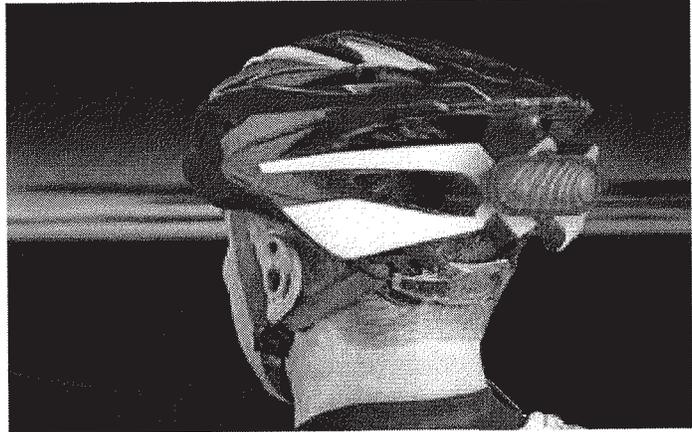
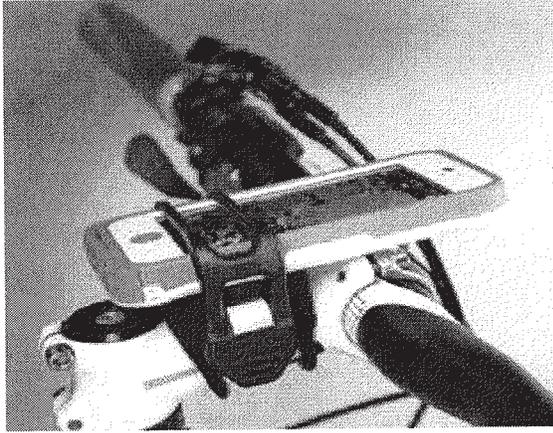
Images © Mike Gornley

Another one of those 'indispensable' items from Nite Ize. The Cam Jam is one of those things you should always have to hand, be it in your Bergen, car or shed as it has a load of uses; a few I have discovered are for a washing line, holding a tent guy line and as a 'door stop' on a poorly designed tent I was feeling that had no way of keeping the tent door flap open!

The Cam Jam, which is essentially a carabiner-style lighter for cords with diameters between 2mm and 5mm, can be used to secure loads on a Bergen or roof rack to hang things or tie things... and the list goes on. My view? Get a pair and you will never regret it.

**NITE IZE
CAM JAM**

DA '12 | POLISH ELITE IN ACTION
TIGRE II | FRENCH AND SAUDI SF



NITE IZE HANDLEBAND (\$20, niteize.com/page/Handleband-Nite-Ize.asp, 800-678-6483)

Nite Ize is the source of many gizmos a traveling cyclist will find useful. One of these is the HandleBand, a universal mount that will secure just about any smartphone to your handlebar or stem. It's so simple to use that describing the process is almost silly. Suffice it to say, it wouldn't take a chimp very long to

figure it out. The expandable silicone HandleBand works with both a naked smartphone or one in a protective case and it will secure your device to a variety of objects. At 3 oz., it comes in black or clear and is more than a one-trick pony; it's also got a built-in bottle opener.

Another handy and useful item from Nite Ize is the HelmetMarker Plus (\$12, niteize.com/product/Helmet-Marker-Plus.asp). Most bicycle commuters probably already have a semi-permanent tail light attached to their bicycle so the HelmetMarker might only act as a backup, but for the bicycle traveler, it's a great fit. Most of us would rather not be on the road or trail after dark, but sometimes you get caught out at night. Packing the .67-oz. HelmetMarker along is a no brainer. Using its flexible hook-and-loop twist-

Basecamp

Gear: Tablet upgrades

Accessories

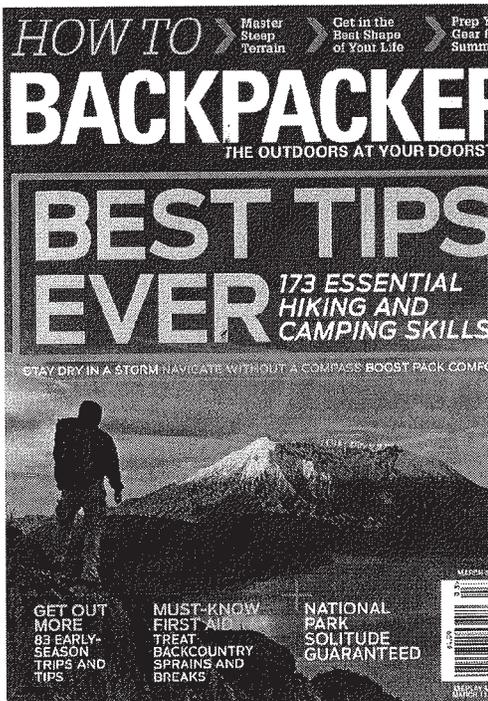
Upgrade any tablet with these smart gadgets.



2 [Cable maintenance]

Nite Ize Cable Organizers

Gadgets mean cords, and cords mean tangles. These rubber-coated, bendable wires help corral stray cables and accessories and keep them from knotting while in your pack's toplid. Testers found the 3-inch ties best for headphones, the 6-inch ties worked well with tablet chargers and GPS cables, and the 12-inch ties were ideal for laptop cords. 3" \$5 for pack of 4 (.07 oz. each); 6" \$5 for pack of 2 (.11 oz. each); 12" \$5 for pack of 2 (.42 oz. each); niteize.com



Inova T3R 234 Lumen Torch

This is quite a torch for its size. It has a fierce output at 234 Lumens and to cope with this it is a rechargeable, not a conventional replaceable battery powered device. The special Lithium Ion battery is, however, replaceable if necessary and one could carry a second one if away from a charging source on long duration ops.

Quoted figures give it a full power operating duration of 2.75 hours, extending to 40 hours on low power. Full power is said to have a 152 metre range. The beam can be varied to suit needs by adjusting the body of the torch.

Made from aircraft quality anodised aluminium it has a very professional feel to it, with aggressive knurling to give a positive grip. It is water resistant, with O-ring seals where appropriate. The torch comes complete with its recharging items including mains, USB and car. To recharge, you simply unscrew the front body to expose the recharge socket. There is an LED to show when charging is in progress (red) and complete (green). A full charge can take up to four hours from zero but it can be topped up as and when. The single LED light is switched at the rear of the T3R with a rubberised push button. This does take a little getting used to, but in principal the first press gives full power, the second low and either of these can be made to stay on by pressing the button further in. Off is a full press. If it is important not to show light, a small turn of the rear body will prevent the light coming on by an inadvertent button push. The torch can be operated by turning the end cap if preferred by first pressing the on button and from then on by turning the end cap and this will also alternate between high and low. There is a fearsome strobe which is activated by two rapid button presses in the high power mode. This I must say does take a little practice to get right but is certainly enough to attract attention or confuse a possible assailant. This is definitely for the serious user and is made to last in hard use environments and applications. For outright performance, it will walk all over many much larger torches.

1: The Inova T3R as it appears on the shelf - do not be misled by its relatively small size

2: Charging is simple - here from a 13-amp mains socket into the normally obscured USB port in the torch

3: It is difficult to show with any realism the true power of this torch but this shot does perhaps give an idea of size and ability

