

ESTTA Tracking number: **ESTTA440684**

Filing date: **11/11/2011**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	The Johns Hopkins University
Granted to Date of previous extension	11/12/2011
Address	3400 North Charles Street 113 Garland Hall Baltimore, MD 21218 UNITED STATES

Attorney information	Donna M.D. Thomas Astrachan Gunst Thomas Rubin, P.C. 217 E. Redwood Street 21st Floor Baltimore, MD 21202 UNITED STATES dthomas@agtlawyers.com Phone:410-783-3522
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**Applicant Information**

Application No	85147345	Publication date	09/13/2011
Opposition Filing Date	11/11/2011	Opposition Period Ends	11/12/2011
Applicant	Native ReVision 2929 Mican Drive Dallas, TX 75212 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 041. All goods and services in the class are opposed, namely: Charitable services, namely, academic mentoring of school age children; charitable services, namely, donating sporting goods to underprivileged children; educational services, namely, sports and athletic instruction services
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**Grounds for Opposition**


False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

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

U.S. Application No.	85408170	Application Date	08/26/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NATIVEVISION		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 041. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 summer camp/day camp services; after school educational programs; providing group coaching and learning forums in the field of leadership development; and counseling services in the field of physical fitness, all of the foregoing services provided to American Indian youth and their families</p> <p>Class 044. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 counseling services in the fields of health, nutrition and lifestyle wellness, provided to American Indian youth and their families</p> <p>Class 045. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 counseling in the field of personal development, namely self improvement, self fulfillment and interpersonal communication; and counseling in the field of developing, strengthening and sustaining well-balanced families and family relationships, all of the foregoing services provided to American Indian youth and their families</p>

U.S. Application No.	85408186	Application Date	08/26/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	NATIVEVISION
Design Mark	
Description of Mark	The mark consists of the word "NATIVEVISION" in stylized letters with the design of a sun above the word "VISION".
Goods/Services	<p>Class 041. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 summer camp/day camp services; after school educational programs; providing group coaching and learning forums in the field of leadership development; and counseling services in the field of physical fitness, all of the foregoing services provided to American Indian youth and their families</p> <p>Class 044. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 counseling services in the fields of health, nutrition and lifestyle wellness, provided to American Indian youth and their families</p> <p>Class 045. First use: First Use: 1997/01/00 First Use In Commerce: 1997/01/00 counseling in the field of personal development, namely self improvement, self fulfillment and interpersonal communication; and counseling in the field of developing, strengthening and sustaining well-balanced families and family relationships, all of the foregoing services provided to American Indian youth and their families</p>

	relationships, all of the foregoing services provided to American Indian youth and their families
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Attachments	85408170#TMSN.jpeg ( 1 page )( bytes ) 85408186#TMSN.jpeg ( 1 page )( bytes ) Native ReVision Opposition.pdf ( 7 pages )(316222 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 Overnight Courier on this date.

Signature	/donna md thomas/
Name	Donna M.D. Thomas
Date	11/11/2011

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

In the matter of trademark application Serial No. 85147345  
For the Mark NATIVE REVISION and design (shown below)



Published in the Official Gazette on September 13, 2011

<p>The Johns Hopkins University</p> <p>Opposer,</p> <p>v.</p> <p>Native ReVision</p> <p>Applicant</p>	<p>Opposition No. _____</p>
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**NOTICE OF OPPOSITION**

The Johns Hopkins University ("Opposer")  
113 Garland Hall  
3400 North Charles Street  
Baltimore, MD 21218

The Johns Hopkins University, a Maryland corporation ("Opposer") having the principal business address shown above, believes it will be damaged by registration of the mark shown in Application Serial No. 85147345, and therefore opposes registration of such mark.

Application Serial No. 85147345 (the "Application") for the mark NATIVE REVISION and Design was filed by Native ReVision, a Texas corporation (hereinafter "Applicant") on October 7, 2010. The application is an Intent to Use application covering "charitable services, namely academic mentoring of school age children; charitable services, namely, donating sporting goods to underprivileged children; educational services, namely, sports and athletic instruction

services” in International Class 41. The mark was published for opposition in the Trademark Official Gazette on September 13, 2011. Opposer obtained an Extension of Time to Oppose until November 12, 2011.

The grounds for opposition are as follows:

1. In 1997, the Johns Hopkins Center for American Indian Health, a division of Opposer, founded a national youth development program for American Indian children known as NATIVEVISION.
2. Since at least as early as 1997, Opposer has used and continues to use the mark NATIVEVISION in connection with educational, counseling, coaching, mentoring and camp services for American Indian youth and their families. Since 1997, Opposer has continuously used the NATIVEVISION mark in connection with summer camp and day camp services, after school educational programs, group coaching and learning forums for leadership development, and counseling services in the fields of physical fitness, health, nutrition, lifestyle wellness, and personal development.
3. For the past 15 years, Opposer has conducted an annual sports and life skills camp under the NATIVEVISION mark which draws American Indian youth from across the country. This annual camp includes educational workshops, leadership workshops, educational scholarships and sports clinics. The sports clinics are taught by professional and collegiate athletes from the NFL, NBA, soccer, volleyball, track and field and lacrosse, who coach, mentor and educate Native American youth in sports, fitness, empowerment, discipline, teamwork, and the importance of education. Opposer’s NATIVEVISION program also provides year-round after school programs in various American Indian communities.
4. Opposer’s NATIVEVISION mark is inherently distinctive. Opposer has and continues to prominently and extensively use and promote its NATIVEVISION mark and

program through advertising materials, fundraising events and activities, and its website at [www.nativevision.org](http://www.nativevision.org), all of which prominently feature Opposer's NATIVEVISION mark. As a result of Opposer's continuous and substantial use of its NATIVEVISION mark over the past 15 years, such mark has become well known and enjoys extensive recognition throughout the United States by consumers as identifying educational, coaching, counseling, mentoring and youth development services which have their source, origin and sponsorship with Opposer.

5. Opposer's NATIVEVISION program has received national attention and acclaim and has been called "one of the best initiatives for disadvantaged youth in the country" by Retired General and former U.S. Secretary of State Colin Powell. In addition to Colin Powell, national advocates for Opposer's NATIVEVISION program have included Retired U.S. Secretary of Commerce Donald L. Evans, actor Robert Redford and talk show host Oprah Winfrey. Since its inception, Opposer's NATIVEVISION program has served more than 26,000 Native American youth and community members, and the program has been the subject of numerous articles in local, regional and national publications.

6. Opposer is the applicant under (a) pending Trademark Application Serial No. 85408170 filed on August 26, 2011 with the United States Patent and Trademark Office ("PTO") covering the mark NATIVEVISION and (b) pending Trademark Application Serial No. 85408186 filed on August 26, 2011 with the PTO covering the mark NATIVEVISION in stylized letters with the design of a sun above the word "vision". These applications cover the following services:

"Summer camp/day camp services; after school educational programs; providing group coaching and learning forums in the field of leadership development; and counseling services in the field of physical fitness, all of the foregoing services provided to American Indian youth and their families" in International Class 41.

"Counseling services in the fields of health, nutrition and lifestyle wellness, provided to American Indian youth and their families" in International Class 44.

"Counseling in the field of personal development, namely self improvement, self fulfillment and interpersonal communication; and counseling in the field of developing,

strengthening and sustaining well-balanced families and family relationships, all of the forgoing services provided to American Indian youth and their families" in International Class 45.

7. Opposer's use of its NATIVEVISION mark substantially pre-dates, by nearly 14 years, the filing date of the opposed Intent to Use Application.

8. Upon information and belief, Applicant, Native ReVision, is a Texas corporation formed on August 24, 2010 with a principal place of business at 2929 Mican Drive, Dallas, Texas 75212.

9. On October 7, 2010 Applicant filed an Intent to Use application for the mark NATIVE REVISION and design which covers "charitable services, namely, academic mentoring of school age children"; "charitable services, namely, donating sporting goods to underprivileged children"; and "educational services, namely, sports and athletic instruction services", all of the forgoing in International Class 41.

10. Applicant's mark consists of a stylized eagle presented above vertically spaced lines having the words "NATIVE REVISION" positioned therebetween with the "O" in "REVISION" being an eagle's eye. Applicant has not yet filed a Statement of Use or an Amendment to Allege Use identifying a date of first use of the mark.

11. Applicant's NATIVE REVISION mark is substantially similar in sound, appearance and commercial impression to Opposer's NATIVEVISION mark because the literal element of both marks, which is the dominant portion of the marks, is nearly identical.

12. Upon information and belief, the services identified in Applicant's application herein opposed are identical and/or substantially similar to the services provided by Opposer under its NATIVEVISION marks and identified in Opposer's applications for registration of its NATIVEVISION marks.

13. Applicant's and Opposer's services are and/or are likely to be offered, sold and provided through the same or similar trade channels to the same class of purchasers or consumers. Applicant and Opposer both direct their services, under the NATIVE REVISION and NATIVEVISION marks, respectively, to Native American youth and Native American communities.

14. The American Indian communities, donors and prospective donors to Opposer's NATIVEVISION program and other members of the relevant public, upon learning of or hearing of the services offered and provided by Applicant under its NATIVE REVISION mark, would be likely to mistakenly believe that such services originated with Opposer or were provided in association or affiliation with Opposer.

15. If Applicant is permitted to register its NATIVE REVISION mark for the services set forth in the application herein opposed, confusion of the trade and the purchasing public is likely to result, such confusion resulting in damage and injury to Opposer.

16. Moreover, any defect, objection to, or fault found with Applicant's services provided under its NATIVE REVISION mark would necessarily reflect upon and injure the reputation of Opposer in its NATIVEVISION marks.

17. If Applicant is granted registration of the mark herein opposed in connection with the services identified in the application herein opposed, Applicant would thereby obtain at least a *prima facie* exclusive right to use such mark in the United States, which registration would be a source of damage and injury to Opposer. Furthermore, the registration of Applicant's mark may bar registration of Opposer's NATIVEVISION marks under Opposer's Application Serial Nos. 85408170 and 85408186, on the basis of a likelihood of confusion under Section 2(d) of the Trademark Act, thereby causing further harm to Opposer.



WHEREFORE, Opposer prays that Application Serial No. 85147345 for the mark NATIVE REVISION be rejected in connection with the services identified therein, and that registration of the mark therein sought for the services therein specified be denied and refused and that this opposition be sustained.

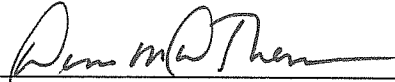
Please recognize Donna M.D. Thomas, and the firm of Astrachan Gunst Thomas Rubin, P.C., members of the Bar of the State of Maryland, 217 East Redwood Street, 21<sup>st</sup> Floor, Baltimore, Maryland 21202 as attorneys for the Opposer, The Johns Hopkins University.

Respectfully submitted,

Date: November 11, 2011

Astrachan Gunst Thomas Rubin, P.C.

By:



Donna M.D. Thomas  
217 E. Redwood Street, 21<sup>st</sup> Floor  
Baltimore, MD 21202  
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Attorneys for Opposer

CERTIFICATE OF SERVICE


The undersigned, a member of the Maryland Bar, hereby certifies that on this 11<sup>th</sup> day of November, 2011, she caused a copy of the foregoing Notice of Opposition to be served by overnight mail on:

Native ReVision  
2929 Mican Drive  
Dallas, TX 75212

and

Scott T. Griggs, Esquire  
Griggs Gergen LLP  
17950 Preston Road, Suite 1000  
Dallas, TX 75252-5662

November 11, 2011



Donna M.D. Thomas