

ESTTA Tracking number: **ESTTA550784**

Filing date: **07/26/2013**

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	Natural Thoughts, Inc.
Granted to Date of previous extension	08/03/2013
Address	4757 Old Cliff Road San Diego, CA 92120 UNITED STATES
Correspondence information	Lawrence A. Maxham Attorney for Opposer THE MAXHAM FIRM 9330 Scranton Road, Suite 350 San Diego, CA 92121 UNITED STATES lmaxham@maxhamfirm.com

**Applicant Information**

Application No	79122530	Publication date	06/04/2013
Opposition Filing Date	07/26/2013	Opposition Period Ends	08/03/2013
International Registration No.	1141297	International Registration Date	06/13/2012
Applicant	SHANGHAI XINJIA PERFUME CO., LTD. No.2076 Waiqian Road Waigang, Jiading; Shanghai, CHINA		

**Goods/Services Affected by Opposition**

Class 003. All goods and services in the class are opposed, namely: Perfumery, namely, menthol crystals, peppermint oil, synthetic rosin and musk ambrette
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3906366	Application Date	11/06/2009
Registration Date	01/18/2011	Foreign Priority Date	NONE

Word Mark	POLAR LOTION COOLING PAIN RELIEF
Design Mark	
Description of Mark	The mark consists of a bear with "COOLING PAIN RELIEF" and "POLAR LOTION".
Goods/Services	Class 005. First use: First Use: 2007/11/01 First Use In Commerce: 2007/11/01 Preparation for the relief of pain; Sports cream for relief of pain

U.S. Registration No.	2142853	Application Date	05/08/1997
Registration Date	03/10/1998	Foreign Priority Date	NONE
Word Mark	POLAR LOTION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1996/05/29 First Use In Commerce: 1996/05/29 massage preparations, namely, [ oils, ] lotions, [ creams, non-medicated balms; ] skin preparations, namely, [ essential oils for personal use, lotions, creams and ] non-medicated balms		

U.S. Registration No.	2920801	Application Date	01/09/2004
Registration Date	01/25/2005	Foreign Priority Date	NONE
Word Mark	POLAR LOTION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1997/04/01 First Use In Commerce: 1997/04/01 Analgesic lotions, balms, cremes and gels		

Attachments	2745-70OPP_Notice_Opposition.pdf(1683867 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	/Lawrence A. Maxham/
Name	Lawrence A. Maxham
Date	07/26/2013

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

In the Matter of Trademark Serial No.: 79/122,530  
For the mark: POLAR BEAR and Polar Bear and Iceberg Design  
Filed: 13 June 2012

NATURAL THOUGHTS, INC.	)
	)
Opposer	)
	)
v.	)
	)
SHANGHAI XINJIA PERFUME CO., LTD.	)
	)
Applicant	)
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Commissioner for Trademarks  
P. O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

1. Opposer, Natural Thoughts, Inc., a corporation of the State of California, having a business address at 4757 Old Cliffs Road, San Diego, California 92120, believes that there will be a likelihood of confusion and that it will be damaged should Application Serial No. 79/122,530 be registered and hereby opposes the same, in accordance with 15 U.S.C. 1063 and 37 CFR 2.101(b).

2. To the best of Opposer's knowledge, the name and address of the applicant for Application Serial No. 79/122,530 is SHANGHAI XINJIA PERFUME CO., LTD., a corporation of China, with a mailing address of No. 2076 Waiqian Road, Waigang, Jiading; Shanghai, China. This is the most recent information as to Applicant from the USPTO TSDR system. There is no domestic representative of record for Applicant.

3. Applicant's Serial No. 79/122,530, was filed on 13 June 2012 under 15 U.S.C. 1141f (Section 66(a) of the Act) for the mark POLAR BEAR and Polar Bear and Iceberg Design, in Class 3 for "perfumery, namely, menthol crystals, peppermint oil,

synthetic rosin and musk ambrette.” On information and belief, Applicant’s mark has not been used in commerce, as defined by 15 U.S.C. 1127 (Section 45 of the Act).

4. Opposer owns valid and subsisting Registration No. 3,906,366 , registered 18 January 2011, for the mark POLAR LOTION COOLING PAIN RELIEF with Polar Bear and Iceberg Design, for “preparation for the relief of pain; sports cream for relief of pain,” in Class 5. Opposer has been using the mark in commerce at least since 1 November 2007 and is currently using the mark in commerce. A copy is attached as Exhibit A.

5. Opposer owns valid and subsisting Registration No. 2,142,853, registered 10 March 1998, for the mark POLAR LOTION for “massage preparations, namely, lotions; skin preparations, namely, non-medicated balms,” in Class 3. Opposer has been using the mark at least since 29 May 1996 and is currently using the mark in commerce. A copy is attached as Exhibit B.


6. Opposer owns valid and subsisting Registration No. 2,920,801, registered 25 January 2005, for the mark POLAR LOTION for “analgesic lotions, balms, cremes and gels,” in Class 5. Opposer has been using this mark in commerce at least since 1 April 1997 and is currently using this mark in commerce. A copy is attached as Exhibit C.

7. As grounds for this Notice, it is alleged that Applicant’s mark, POLAR BEAR and Polar Bear and Iceberg Design, is likely to cause confusion, mistake, or to deceive, under 15 U.S.C. 1052(d), with respect to Opposer’s registered marks as identified in paragraphs 4-6 above, for each of which Opposer claims priority of use and priority of registration. It is respectfully requested that the Board find in Opposer’s favor and deny registration of the opposed mark.

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Respectfully submitted,

NATURAL THOUGHTS, INC.

By:   
Lawrence A. Maxham  
Attorney for Opposer  
Registration No. 24,483


## CERTIFICATE OF SERVICE

I hereby certify that a true and correct courtesy copy of the within Notice of Opposition was served by First Class Mail, postage prepaid, to the following party:

China Trademark & Patent Law Office Co., Ltd.  
14 Yuetan Nanjie, Xichengqu Yuexin Bldg.  
Beijing, 100045, CHINA

and also by e-mail to: [cts@cntrademark.com](mailto:cts@cntrademark.com).

Dated: 26 July 2013

By:   
Lawrence A. Maxham  
THE MAXHAM FIRM  
Attorney for Opposer

# United States of America

United States Patent and Trademark Office



POLAR LOTION

**Reg. No. 3,906,366**  
**Registered Jan. 18, 2011**  
**Int. Cl.: 5**

NATURAL THOUGHTS, INC. (CALIFORNIA CORPORATION), DBA BIOTONE  
4757 OLD CLIFFS ROAD  
SAN DIEGO, CA 92120

FOR: PREPARATION FOR THE RELIEF OF PAIN; SPORT'S CREAM FOR RELIEF OF PAIN,  
IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

**TRADEMARK**

FIRST USE 11-1-2007; IN COMMERCE 11-1-2007.

**PRINCIPAL REGISTER**

OWNER OF U.S. REG. NOS. 2,142,853 AND 2,920,801.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COOLING PAIN RELIEF" AND  
"LOTION", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A BEAR WITH "COOLING PAIN RELIEF" AND "POLAR LOTION".

SER. NO. 77-867,452, FILED 11-6-2009.

STEPHANIE ALI, EXAMINING ATTORNEY



*David J. Kyffas*

Director of the United States Patent and Trademark Office

EXHIBIT A

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

Reg. No. 2,142,853

**United States Patent and Trademark Office**

Registered Mar. 10, 1998

**TRADEMARK  
PRINCIPAL REGISTER**

**POLAR LOTION**

NATURAL THOUGHTS, INC. (CALIFORNIA  
CORPORATION)  
4564 ALVARADO CANYON ROAD STE. 1  
SAN DIEGO, CA 92120

FOR: MASSAGE PREPARATIONS, NAMELY,  
OILS, LOTIONS, CREAMS, NON-MEDICATED  
BALMS; SKIN PREPARATIONS, NAMELY, ES-  
SENTIAL OILS FOR PERSONAL USE, LO-  
TIONS, CREAMS AND NON-MEDICATED  
BALMS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51  
AND 52).

FIRST USE 5-29-1996; IN COMMERCE  
5-29-1996.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "LOTION", APART FROM THE  
MARK AS SHOWN.

SER. NO. 75-288,527, FILED 5-8-1997.

TRICIA SONNEBORN, EXAMINING ATTOR-  
NEY

**EXHIBIT B**

Int. Cl.: 5

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

**United States Patent and Trademark Office**

Reg. No. 2,920,801

Registered Jan. 25, 2005

**TRADEMARK  
PRINCIPAL REGISTER**

**POLAR LOTION**

NATURAL THOUGHTS, INC. (CALIFORNIA  
CORPORATION)  
4757 OLD CLIFFS ROAD  
SAN DIEGO, CA 92120

OWNER OF U.S. REG. NO. 2,142,853.

FOR: ANALGESIC LOTIONS, BALMS, CREMES  
AND GELS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51  
AND 52).

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE LOTION, APART FROM THE  
MARK AS SHOWN.

FIRST USE 4-1-1997; IN COMMERCE 4-1-1997.

SER. NO. 78-350,181, FILED 1-9-2004.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

WON TEAK OH, EXAMINING ATTORNEY

**EXHIBIT C**