

ESTTA Tracking number: **ESTTA950919**

Filing date: **01/30/2019**

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	CytoSport, Inc.
Granted to Date of previous extension	01/30/2019
Address	1340 Treat Boulevard, Ste. 350 Walnut Creek, CA 94597 UNITED STATES

Attorney information	J. David Mayberry Kilpatrick Townsend & Stockton LLP 607 14th St, NW, Ste. 900 Washington, DC 20005 UNITED STATES dmayberry@kilpatricktownsend.com, sstadler@kilpatricktownsend.com, kteilh Haber@kilpatricktownsend.com, tadmin@kilpatricktownsend.com 2025085800
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Applicant Information

Application No	87886025	Publication date	10/02/2018
Opposition Filing Date	01/30/2019	Opposition Period Ends	01/30/2019
Applicant	Gordon, Byron 8 Santa Cruz Crescent, Bloubergstrand Cape Town, 7441 SOUTH AFRICA		

Goods/Services Affected by Opposition


Class 005. First Use: 2017/03/01 First Use In Commerce: 2017/05/01 All goods and services in the class are opposed, namely: Dietary supplements; Nutritional supplements; Health products, namely, herbal teas for medicinal purposes
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Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Other	Abandonment within the meaning of Section 45 of the Lanham Act, 15 U.S.C. 1127


Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4360205	Application Date	07/13/2012
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Registration Date	07/02/2013	Foreign Priority Date	NONE
Word Mark	EVOLVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2001/07/31 First Use In Commerce: 2001/07/31 Dietary and Nutritional Supplements		

U.S. Registration No.	5628241	Application Date	03/23/2016
Registration Date	12/11/2018	Foreign Priority Date	NONE
Word Mark	EVOLVE		
Design Mark			
Description of Mark	The mark consists of the word "EVOLVE" in the form of a cross enclosed in a circle. The "O" in the word "EVOLVE" is a dark circle. There is a slash between each of the outer letters.		
Goods/Services	Class 005. First use: First Use: 2016/07/01 First Use In Commerce: 2016/07/01 dietary and nutritional supplements Class 029. First use: First Use: 2016/07/01 First Use In Commerce: 2016/07/01 pre-mixed nutritionally fortified beverages in the nature of vegetable protein-based food beverages; plant protein-based beverages in the nature of vegetable		

protein meal replacement drinks			
U.S. Registration No.	5186699	Application Date	08/21/2012
Registration Date	04/18/2017	Foreign Priority Date	NONE
Word Mark	EVOLVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2016/07/01 First Use In Commerce: 2016/07/01 Plant protein-based meal replacement drinks in the nature of vegetable protein-based food beverages used as a milk substitute		

U.S. Registration No.	5577099	Application Date	09/05/2017
Registration Date	10/02/2018	Foreign Priority Date	NONE
Word Mark	EVOLVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 2017/03/10 First Use In Commerce: 2017/12/11 nutritional and dietary supplements formed and packaged as bars; nutritional supplement energy bars; plant protein-based dietary supplements for human consumption</p> <p>Class 029. First use: First Use: 2017/03/10 First Use In Commerce: 2017/12/11 Vegetable protein-based food bars for use as meal replacement; nut based food bars for use as meal replacement; vegetable protein-based snack bars; nut based snack bars; vegetable protein-based food bars; nut based food bars</p>		

Attachments	85676705#TMSN.png(bytes) 86949724#TMSN.png(bytes) 85708932#TMSN.png(bytes) 87595822#TMSN.png(bytes) 2019.01.30 Notice of Opposition_Exhibit A (PLUS EVOLVE).pdf(299226 bytes)
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Signature	/J. David Mayberry/
Name	J. David Mayberry
Date	01/30/2019

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

CYTOSPORT, INC.,

Opposer,

v.

BYRON GORDON,

Applicant.

Opposition No. _____

Mark: PLUS EVOLVE
(Serial No. 87/886,025)


NOTICE OF OPPOSITION

Opposer CytoSport, Inc., a California corporation having a principal place of business at 1340 Treat Boulevard, Suite 350, Walnut Creek, California 94597 (“CytoSport”) believes it will be damaged by the registration of the mark PLUS EVOLVE, as shown in Application Serial No. 87/886,025 and published in the *Official Gazette* on October 2, 2018. Opposer timely sought an extension of time in which to file this Notice of Opposition, and that extension was granted. As grounds for opposition, Opposer alleges as follows:

1. CytoSport was founded in 1998. Since 2014, CytoSport has been a subsidiary of Hormel Foods Corporation, a Delaware corporation with principal offices in Austin, Minnesota. CytoSport is a leading provider of premium products in the sports nutrition category, selling under, among others, CytoSport’s famous MUSCLE MILK brand.

2. CytoSport manufactures, distributes and sells dietary and nutritional supplements (among other products), including protein powders, shakes and bars, under a collection of EVOLVE marks, including EVOLVE and EVOLVE & Design (collectively the “EVOLVE Marks”).

3. The EVOLVE mark has been in use since at least as early as 2001.
4. CytoSport distributes its EVOLVE® dietary and nutritional products in thousands of retail outlets in high-traffic locations throughout the United States and through its own and other online stores.
5. CytoSport has invested substantial sums in developing its EVOLVE brand and advertising and promoting the sale of products and services that it offers under its EVOLVE Marks.
6. CytoSport has registered its EVOLVE Marks on the Principal Register of the United States Patent and Trademark Office (“USPTO”) and is the owner of the registrations recited below for the goods recited below (the “EVOLVE Registrations”):

Mark	Reg. No. / Ser. No.	Filing Date	Reg. Date	Goods
EVOLVE	4,360,205	Jul. 13, 2012	Jul. 2, 2013	“Dietary and Nutritional Supplements” in Class 5.
	5,628,241	Mar. 23, 2016	Dec. 11, 2018	“Dietary and nutritional supplements” in Class 5.
EVOLVE	5,186,699	Aug. 21, 2012	Apr. 18, 2017	“Plant protein-based meal replacement drinks in the nature of vegetable protein-based food beverages used as a milk substitute” in Class 29.

Mark	Reg. No. / Ser. No.	Filing Date	Reg. Date	Goods
EVOLVE	5,577,099	Sep. 5, 2017	Oct. 2, 2018	“Nutritional and dietary supplements formed and packaged as bars; nutritional supplement energy bars; plant protein-based dietary supplements for human consumption” in Class 5; and “Vegetable protein-based food bars for use as meal replacement; nut based food bars for use as meal replacement; vegetable protein-based snack bars; nut based snack bars; vegetable protein-based food bars; nut based food bars” in Class 29.

Pursuant to 37 C.F.R. § 2.122(d), printouts from the USPTO’s electronic TSDR database showing the current status and title for the EVOLVE Registrations are attached hereto as **Exhibit A**.

7. CytoSport’s EVOLVE Marks are inherently distinctive. Further, as a result of CytoSport’s long and extensive use of the EVOLVE Marks in connection with the sale of its products and promotions, and as a result of CytoSport’s extensive advertising and promotion of those products using CytoSport’s EVOLVE Marks, the consuming public and the trade have come to recognize the EVOLVE Marks as belonging to CytoSport, and associate and identify the products and promotions offered under the EVOLVE Marks exclusively with CytoSport. CytoSport consequently derives invaluable goodwill and value from this recognition, association, and identification by the consuming public and the trade.

8. CytoSport’s use of its EVOLVE Marks has been and continues to be substantially exclusive in relation to general retail channels of trade.

9. Notwithstanding the validity and existence of the EVOLVE Registrations and despite CytoSport's long-prior use of the EVOLVE Marks, on April 20, 2018, Applicant Byron Gordon ("Applicant") filed an application under Section 1(a), 15 U.S.C. § 1051(a), to register the mark PLUS EVOLVE ("Applicant's Mark") for use in connection with "Dietary supplements; Nutritional supplements; Health products, namely, herbal teas for medicinal purposes" in Class 5 ("Applicant's Goods"), citing March 1, 2017 as his date of first use and May 1, 2017 as his date of first use in commerce.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

10. CytoSport incorporates by reference Paragraphs 1 through 9 inclusive, as if fully set forth herein.

11. Applicant's Mark is confusingly similar in appearance, sound, meaning, and commercial impression to CytoSport's EVOLVE Marks. The dominant portion of Applicant's Mark ("EVOLVE") is identical to CytoSport's EVOLVE mark and merely adds the laudatory and descriptive term "PLUS." This addition does not dispel the confusing similarity between the marks.

12. CytoSport's EVOLVE® products and Applicant's Goods also are identical. CytoSport has registered its EVOLVE Marks in connection with dietary and nutritional supplements. Its Registration Nos. 4,360,205, 5,577,099 and 5,628,241 recite goods including "Dietary and Nutritional Supplements," "Nutritional and dietary supplements formed and packaged as bars," "nutritional supplement energy bars," and "plant protein-based dietary supplements for human consumption," all in Class 5. Applicant, for its part, has applied to register its mark PLUS EVOLVE for both "Dietary supplements" and "Nutritional supplements" in Class 5.

13. CytoSport will be damaged by registration of Applicant's Mark because Applicant's Mark so resembles CytoSport's EVOLVE Marks as to be likely to cause confusion, mistake and deception. Persons familiar with CytoSport's EVOLVE Marks and the products offered thereunder would be likely to believe, erroneously, that Applicant's Goods bearing Applicant's Mark are either CytoSport's products or are authorized, endorsed, sponsored, approved, or licensed by CytoSport. Thus, registration of Applicant's Mark on the Principal Register would be inconsistent with CytoSport's prior rights in its EVOLVE Marks under Sections 2(d) and 13 of the Lanham Act, 15 U.S.C. §§ 1052(d) and 1063.

SECOND GROUND FOR OPPOSITION:
ABANDONMENT

14. CytoSport incorporates by reference Paragraphs 1 through 13 inclusive, as if fully set forth herein.

15. As of the date of this Notice of Opposition, Applicant's online shop at <http://plusevolve.com/> is unavailable, and Applicant does not appear to be associated with any commercial activities under the PLUS EVOLVE mark.

16. On information and belief, Applicant has permanently ceased offering for sale, distributing, and selling "Dietary supplements; Nutritional supplements; Health products, namely, herbal teas for medicinal purposes" under the PLUS EVOLVE mark in the United States.

17. On information and belief, Applicant has discontinued use of the PLUS EVOLVE mark in connection with Applicant's Goods with an intent not to resume such use.

18. Registration of Applicant's Mark will damage CytoSport because Applicant's Mark has been abandoned within the meaning of Section 45 of the Lanham Act, 15 U.S.C.

§ 1127, for goods that are identical or highly related to the goods specified in CytoSport's EVOLVE Registrations, and Applicant's Mark is not entitled to registration.

19. CytoSport therefore requests that the Board sustain this proceeding in CytoSport's favor by refusing registration to the mark underlying Application Serial No. 87/886,025.

The required opposition fee is being electronically processed in connection with this Notice of Opposition.

This 30th day of January, 2019.

Respectfully submitted,

/J. David Mayberry/

J. David Mayberry
KILPATRICK TOWNSEND & STOCKTON LLP
607 14th Street, NW, Suite 900
Washington, DC 20005
(202) 508-5800

Sara K. Stadler
KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street, NE, Suite 1100
Atlanta, Georgia 30309
(404) 815-6500

Attorneys for Opposer

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** is being filed electronically with the TTAB via ESTTA on this, the 30th day of January, 2019.

/Kris Teilhaber/

Kris Teilhaber

EXHIBIT A

Generated on: This page was generated by TSDR on 2019-01-29 19:26:47 EST

Mark: EVOLVE

EVOLVE

US Serial Number: 85676705

Application Filing Date: Jul. 13, 2012

US Registration Number: 4360205

Registration Date: Jul. 02, 2013

Register: Principal

Mark Type: Trademark

Status: A Section 8 declaration has been accepted.

Status Date: Sep. 14, 2018

Publication Date: Apr. 16, 2013

Mark Information

Mark Literal Elements: EVOLVE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

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: Dietary and Nutritional Supplements

International Class(es): 005 - Primary Class

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

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 31, 2001

Use in Commerce: Jul. 31, 2001

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: CYTOSPORT, INC.

Owner Address: 1340 Treat Boulevard, Suite 350
Walnut Creek, CALIFORNIA 94597
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Steven B. Toeniskoetter

Attorney Primary Email Address: sbtoeniskoetter@hormel.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Steven B. Toeniskoetter
Hormel Foods Corporation
1 Hormel Place
Law Department
Austin, MINNESOTA 55912
UNITED STATES

Correspondent e-mail: sbtoeniskoetter@hormel.com krmallory@hormel.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Sep. 14, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 - E-MAILED	
Sep. 14, 2018	REGISTERED - SEC. 8 (6-YR) ACCEPTED	71378
Sep. 08, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	71378
Sep. 05, 2018	TEAS SECTION 8 RECEIVED	
Jul. 02, 2018	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Jun. 01, 2016	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jun. 01, 2016	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
May 31, 2016	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
May 31, 2016	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Sep. 19, 2014	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Sep. 19, 2014	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 02, 2013	REGISTERED-PRINCIPAL REGISTER	
Apr. 16, 2013	PUBLISHED FOR OPPOSITION	
Mar. 27, 2013	NOTICE OF PUBLICATION	
Mar. 09, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Mar. 07, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 07, 2013	LIE CHECKED SUSP - TO ATTY FOR ACTION	68123
Feb. 22, 2013	ASSIGNED TO LIE	68123
Aug. 22, 2012	LETTER OF SUSPENSION MAILED	
Aug. 22, 2012	SUSPENSION LETTER WRITTEN	82430
Aug. 20, 2012	ASSIGNED TO EXAMINER	82430
Aug. 01, 2012	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 26, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 20, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 17, 2012	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jul. 17, 2012	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 17, 2012	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 109

Date in Location: Sep. 14, 2018

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: CYTOSPORT, INC.

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4822/0046](#)

Pages: 4

Date Recorded: Jul. 16, 2012

Supporting Documents: [assignment-tm-4822-0046.pdf](#)

Assignor

Name: [BODY EVOLUTION INC, THE](#)

Execution Date: Jul. 13, 2012

Legal Entity Type: CORPORATION

State or Country Where Organized: NEVADA

Assignee

Name: [CYTOSPORT, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Address: 4795 INDUSTRIAL WAY
BENICIA, CALIFORNIA 94510

Correspondent

Correspondent Name: THORPE NORTH AND WESTERN, LLP

Correspondent Address: 8180 SOUTH 700 EAST STE 350
SANDY, UT 84070

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 3

Type of Proceeding: Opposition

Proceeding Number: [91245311](#)

Filing Date: Dec 14, 2018

Status: Pending

Status Date: Dec 14, 2018

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Revved, LLC

Correspondent Address: REVVED, LLC
2504 W ORANGE AVE 9
ANAHEIM CA , 92804

Correspondent e-mail: tonewbeginnings17@gmail.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
E-VOLV MALE ENHANCEMENT	Opposition Pending	87768537	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: J. David Mayberry
Kilpatrick Townsend & Stockton LLP
607 14th St, NW, Ste. 900
Washington DC , 20005
UNITED STATES

Correspondent e-mail: dmayberry@ktslaw.com , sstadler@ktslaw.com , kteilhaber@ktslaw.com , tmadmin@ktslaw.com

Mark	Application Status	Serial Number	Registration Number
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EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	85708932	5186699
EVOLVE	Registered	87595822	5577099

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 14, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 14, 2018	Jan 23, 2019
3	PENDING, INSTITUTED	Dec 14, 2018	
4	D MOT FOR EXT W/ CONSENT	Jan 23, 2019	
5	EXTENSION OF TIME GRANTED	Jan 23, 2019	

Type of Proceeding: Opposition

Proceeding Number: [91238680](#) Filing Date: Jan 02, 2018

Status: Terminated Status Date: Aug 20, 2018

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Unavoo Food Technologies Ltd.

Correspondent Address: LOUIS S EDERER
ARNOLD & PORTER KAYE SCHOLER LLP
250 WEST 55TH STREET
NEW YORK NY , 10019-9710
UNITED STATES

Correspondent e-mail: trademarkdocketing@apks.com , louis.ederer@apks.com , elisabeth.richards@apks.com , palak.mayani@apks.com

Mark	Application Status	Serial Number	Registration Number
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EVOLVE	Abandoned - After Inter-Partes Decision	86953352	
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Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: JAMES R STEFFEN
FAEGRE BAKER DANIELS LLP
90 SOUTH SEVENTH STREET, 2200 WELLS FARGO CENTER
MINNEAPOLIS MN , 55402
UNITED STATES

Correspondent e-mail: tmmppls@faegrebd.com , james.steffen@faegrebd.com

Mark	Application Status	Serial Number	Registration Number
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EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	85708932	5186699
DRINK.EVOLVE.	Cancelled - Section 8	77767496	4158149
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	87595822	5577099

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 02, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 02, 2018	Feb 11, 2018
3	PENDING, INSTITUTED	Jan 02, 2018	
4	D MOT FOR EXT W/ CONSENT	Feb 09, 2018	

5	EXTENSION OF TIME GRANTED	Feb 12, 2018
6	D MOT FOR EXT W/ CONSENT	Mar 09, 2018
7	EXTENSION OF TIME GRANTED	Mar 12, 2018
8	D MOT FOR EXT W/ CONSENT	Apr 10, 2018
9	EXTENSION OF TIME GRANTED	Apr 11, 2018
10	D MOT FOR EXT W/ CONSENT	May 11, 2018
11	EXTENSION OF TIME GRANTED	May 16, 2018
12	ANSWER	May 29, 2018
13	W/DRAW OF APPLICATION	Aug 17, 2018
14	BD DECISION: OPP DISMISSED W/O PREJ	Aug 20, 2018
15	TERMINATED	Aug 20, 2018

Type of Proceeding: Cancellation

Proceeding Number: [92057462](#) **Filing Date:** Jun 28, 2013
Status: Terminated **Status Date:** Dec 28, 2015
Interlocutory Attorney: GEOFFREY MCNUTT

Defendant

Name: Evolv Health, LLC
Correspondent Address: CHARLES G ZUG
 NELSON MULLINS RILEY & SCARBOROUGH LLP
 1320 MAIN STREET 17TH FLOOR
 COLUMBIA SC , 29201
 UNITED STATES
Correspondent e-mail: geordie.zug@nelsonmullins.com, ip@nelsonmullins.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVO2LV	Cancelled - Section 8	77678973	3842462

Plaintiff(s)

Name: CytoSport, Inc.
Correspondent Address: ERIC E WESTERBERG
 THORPE NORTH & WESTERN LLP
 8180 SOUTH 700 EAST SUITE 350
 SANDY UT , 84070
 UNITED STATES
Correspondent e-mail: Eric.westerberg@tnw.com , kelly.warner@tnw.com , docket@tnw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	85708932	5186699

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 28, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 02, 2013	Aug 11, 2013
3	PENDING, INSTITUTED	Jul 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Aug 08, 2013	
5	D MOT FOR EXT W/ CONSENT	Aug 08, 2013	
6	EXTENSION OF TIME GRANTED	Aug 08, 2013	
7	STIP FOR EXT	Oct 08, 2013	
8	EXTENSION OF TIME GRANTED	Oct 08, 2013	
9	STIP FOR EXT	Dec 09, 2013	
10	EXTENSION OF TIME GRANTED	Dec 09, 2013	
11	D MOT FOR EXT W/ CONSENT	Jan 07, 2014	
12	EXTENSION OF TIME GRANTED	Jan 07, 2014	

13	D MOT FOR EXT W/ CONSENT	Mar 10, 2014
14	EXTENSION OF TIME GRANTED	Mar 10, 2014
15	D MOT FOR EXT W/ CONSENT	May 08, 2014
16	EXTENSION OF TIME GRANTED	May 08, 2014
17	D MOT FOR EXT W/ CONSENT	Jul 07, 2014
18	EXTENSION OF TIME GRANTED	Jul 19, 2014
19	ANSWER	Sep 08, 2014
20	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Nov 05, 2014
21	SUSPENDED	Nov 14, 2014
22	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Jan 05, 2015
23	SUSPENDED	Jan 15, 2015
24	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Mar 05, 2015
25	SUSPENDED	Mar 16, 2015
26	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	May 05, 2015
27	SUSPENDED	May 07, 2015
28	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Jul 01, 2015
29	SUSPENDED	Jul 14, 2015
30	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Sep 01, 2015
31	SUSPENDED	Sep 04, 2015
32	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Nov 02, 2015
33	SUSPENDED	Nov 04, 2015
34	W/DRAW OF PET FOR CANCELLATION	Dec 09, 2015
35	BD DECISION: DISMISSED W/ PREJ	Dec 28, 2015
36	TERMINATED	Dec 28, 2015

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Mark: EVOLVE



US Serial Number: 86949724

Application Filing Date: Mar. 23, 2016

US Registration Number: 5628241

Registration Date: Dec. 11, 2018

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Dec. 11, 2018

Publication Date: Jun. 26, 2018

Notice of Allowance Date: Aug. 21, 2018

Mark Information

Mark Literal Elements: EVOLVE

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 "EVOLVE" in the form of a cross enclosed in a circle. The "O" in the word "EVOLVE" is a dark circle. There is a slash between each of the outer letters.

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

Design Search Code(s): 26.01.20 - Circles within a circle
26.01.21 - Circles that are totally or partially shaded.
26.17.06 - Diagonal line(s), band(s) or bar(s); Bars, diagonal; Lines, diagonal; Bands, diagonal

Related Properties Information

Claimed Ownership of US Registrations: 4158149, 4360205

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: pre-mixed nutritionally fortified beverages in the nature of vegetable protein-based food beverages; plant protein-based beverages in the nature of vegetable protein meal replacement drinks

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2016

Use in Commerce: Jul. 01, 2016

For: dietary and nutritional supplements

International Class(es): 005 - Primary Class

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

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2016

Use in Commerce: Jul. 01, 2016

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	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: CytoSport, Inc.

Owner Address: 1340 Treat Boulevard, Suite 350
Walnut Creek, CALIFORNIA 94597
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Steven B. Toeniskoetter

Attorney Primary Email Address: sbtoeniskoetter@hormel.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Steven B. Toeniskoetter
Hormel Foods Corporation
1 Hormel Place
Law Department
Austin, MINNESOTA 55912
UNITED STATES

Correspondent e-mail: sbtoeniskoetter@hormel.com krmallory@hormel.com om

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Dec. 11, 2018	REGISTERED-PRINCIPAL REGISTER	
Nov. 08, 2018	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Nov. 07, 2018	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 02, 2018	STATEMENT OF USE PROCESSING COMPLETE	74055
Oct. 09, 2018	USE AMENDMENT FILED	74055
Nov. 02, 2018	CASE ASSIGNED TO INTENT TO USE PARALEGAL	74055
Oct. 09, 2018	TEAS STATEMENT OF USE RECEIVED	
Oct. 08, 2018	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Oct. 08, 2018	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Aug. 21, 2018	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Jun. 26, 2018	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jun. 26, 2018	PUBLISHED FOR OPPOSITION	

Jun. 06, 2018	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
May 15, 2018	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 15, 2018	EXAMINER'S AMENDMENT ENTERED	88888
May 15, 2018	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	
May 15, 2018	EXAMINERS AMENDMENT E-MAILED	
May 15, 2018	EXAMINERS AMENDMENT -WRITTEN	76507
Nov. 15, 2017	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
May 15, 2017	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Nov. 09, 2016	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Nov. 09, 2016	LETTER OF SUSPENSION E-MAILED	6332
Nov. 09, 2016	SUSPENSION LETTER WRITTEN	76507
Oct. 20, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 19, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 19, 2016	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 19, 2016	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Oct. 19, 2016	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Apr. 19, 2016	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 19, 2016	NON-FINAL ACTION E-MAILED	6325
Apr. 19, 2016	NON-FINAL ACTION WRITTEN	76507
Apr. 15, 2016	ASSIGNED TO EXAMINER	76507
Mar. 29, 2016	NOTICE OF DESIGN SEARCH CODE E-MAILED	
Mar. 28, 2016	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 26, 2016	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: Nov. 07, 2018

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91245311](#)

Filing Date: Dec 14, 2018

Status: Pending

Status Date: Dec 14, 2018

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Revved, LLC

Correspondent Address: REVVED, LLC
2504 W ORANGE AVE 9
ANAHEIM CA , 92804

Correspondent e-mail: tonewbeginnings17@gmail.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
E-VOLV MALE ENHANCEMENT	Opposition Pending	87768537	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: J. David Mayberry
Kilpatrick Townsend & Stockton LLP
607 14th St, NW, Ste. 900

Washington DC , 20005
UNITED STATES

Correspondent e-mail: dmayberry@ktslaw.com , sstadler@ktslaw.com , kteilhaber@ktslaw.com , tmadmin@ktslaw.com

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	85708932	5186699
EVOLVE	Registered	87595822	5577099

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 14, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 14, 2018	Jan 23, 2019
3	PENDING, INSTITUTED	Dec 14, 2018	
4	D MOT FOR EXT W/ CONSENT	Jan 23, 2019	
5	EXTENSION OF TIME GRANTED	Jan 23, 2019	

Type of Proceeding: Opposition

Proceeding Number: [91238680](#)

Filing Date: Jan 02, 2018

Status: Terminated

Status Date: Aug 20, 2018

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Unavoo Food Technologies Ltd.

Correspondent Address: LOUIS S EDERER
ARNOLD & PORTER KAYE SCHOLER LLP
250 WEST 55TH STREET
NEW YORK NY , 10019-9710
UNITED STATES

Correspondent e-mail: trademarkdocketing@apks.com , louis.ederer@apks.com , elisabeth.richards@apks.com , palak.mayani@apks.com

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Abandoned - After Inter-Partes Decision	86953352	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: JAMES R STEFFEN
FAEGRE BAKER DANIELS LLP
90 SOUTH SEVENTH STREET, 2200 WELLS FARGO CENTER
MINNEAPOLIS MN , 55402
UNITED STATES

Correspondent e-mail: tmmpls@faegrebd.com , james.steffen@faegrebd.com

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	85708932	5186699
DRINK.EVOLVE.	Cancelled - Section 8	77767496	4158149
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	87595822	5577099

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 02, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 02, 2018	Feb 11, 2018

3	PENDING, INSTITUTED	Jan 02, 2018
4	D MOT FOR EXT W/ CONSENT	Feb 09, 2018
5	EXTENSION OF TIME GRANTED	Feb 12, 2018
6	D MOT FOR EXT W/ CONSENT	Mar 09, 2018
7	EXTENSION OF TIME GRANTED	Mar 12, 2018
8	D MOT FOR EXT W/ CONSENT	Apr 10, 2018
9	EXTENSION OF TIME GRANTED	Apr 11, 2018
10	D MOT FOR EXT W/ CONSENT	May 11, 2018
11	EXTENSION OF TIME GRANTED	May 16, 2018
12	ANSWER	May 29, 2018
13	W/DRAW OF APPLICATION	Aug 17, 2018
14	BD DECISION: OPP DISMISSED W/O PREJ	Aug 20, 2018
15	TERMINATED	Aug 20, 2018

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Mark: EVOLVE

EVOLVE

US Serial Number: 85708932

Application Filing Date: Aug. 21, 2012

US Registration Number: 5186699

Registration Date: Apr. 18, 2017

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Apr. 18, 2017

Publication Date: May 17, 2016

Notice of Allowance Date: Jul. 12, 2016

Mark Information

Mark Literal Elements: EVOLVE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

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: Plant protein-based meal replacement drinks in the nature of vegetable protein-based food beverages used as a milk substitute

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2016

Use in Commerce: Jul. 01, 2016

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

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: Cytosport, Inc.

Owner Address: 1340 Treat Boulevard, Suite 350
Walnut Creek, CALIFORNIA 94597
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Steven B. Toeniskoetter

Attorney Primary Email Address: sbtoeniskoetter@hormel.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Steven B. Toeniskoetter
Hormel Foods Corporation
1 Hormel Place
Law Department
Austin, MINNESOTA 55912
UNITED STATES

Correspondent e-mail: sbtoeniskoetter@hormel.com [krmallory@hormel.c](mailto:krmallory@hormel.com)
om

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Apr. 18, 2017	REGISTERED-PRINCIPAL REGISTER	
Mar. 11, 2017	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Mar. 10, 2017	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Mar. 06, 2017	STATEMENT OF USE PROCESSING COMPLETE	69302
Feb. 14, 2017	USE AMENDMENT FILED	69302
Mar. 01, 2017	CASE ASSIGNED TO INTENT TO USE PARALEGAL	69302
Feb. 14, 2017	TEAS STATEMENT OF USE RECEIVED	
Jan. 14, 2017	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jan. 12, 2017	EXTENSION 1 GRANTED	98765
Jan. 12, 2017	EXTENSION 1 FILED	98765
Jan. 12, 2017	TEAS EXTENSION RECEIVED	
Dec. 12, 2016	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Dec. 12, 2016	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Nov. 16, 2016	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Nov. 16, 2016	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 12, 2016	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
May 17, 2016	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 17, 2016	PUBLISHED FOR OPPOSITION	
Apr. 27, 2016	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 14, 2016	LAW OFFICE PUBLICATION REVIEW COMPLETED	66121
Apr. 14, 2016	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 12, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 12, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 12, 2016	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Mar. 30, 2016	NOTIFICATION FOR REQ FOR RECON DENIED NO APPEAL FILED	
Mar. 30, 2016	ACTION FOR REQ FOR RECON DENIED NO APPEAL FILED E-MAILED	
Mar. 30, 2016	ACTION REQ FOR RECON DENIED NO APPEAL FILED COUNTED NOT MAILED	77979
Mar. 09, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 08, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 08, 2016	TEAS REQUEST FOR RECONSIDERATION RECEIVED	
Mar. 08, 2016	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Feb. 13, 2016	NOTIFICATION OF FINAL REFUSAL EMAILED	
Feb. 13, 2016	FINAL REFUSAL E-MAILED	
Feb. 13, 2016	FINAL REFUSAL WRITTEN	77979
Feb. 04, 2016	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Feb. 04, 2016	APPROVED FOR PUB - PRINCIPAL REGISTER	

Feb. 04, 2016	EXAMINER'S AMENDMENT ENTERED	88888
Feb. 04, 2016	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Feb. 04, 2016	EXAMINERS AMENDMENT E-MAILED	6328
Feb. 04, 2016	EXAMINERS AMENDMENT -WRITTEN	77979
Feb. 01, 2016	LIE CHECKED SUSP - TO ATTY FOR ACTION	66121
Dec. 22, 2015	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Dec. 22, 2015	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Aug. 01, 2015	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Jan. 28, 2015	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Jan. 28, 2015	ASSIGNED TO LIE	66121
Sep. 19, 2014	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Sep. 19, 2014	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 28, 2014	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Jan. 27, 2014	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Aug. 20, 2013	PETITION TO DIRECTOR - DISMISSED	80807
Aug. 07, 2013	ASSIGNED TO PETITION STAFF	80807
Jul. 26, 2013	LETTER OF SUSPENSION MAILED	
Jul. 26, 2013	SUSPENSION LETTER WRITTEN	77979
Jun. 28, 2013	TEAS PETITION TO DIRECTOR RECEIVED	1111
Dec. 28, 2012	NON-FINAL ACTION MAILED	
Dec. 28, 2012	NON-FINAL ACTION WRITTEN	77979
Dec. 14, 2012	ASSIGNED TO EXAMINER	77979
Aug. 30, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 24, 2012	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: Mar. 10, 2017

Proceedings

Summary

Number of Proceedings: 3

Type of Proceeding: Opposition

Proceeding Number: [91245311](#)

Filing Date: Dec 14, 2018

Status: Pending

Status Date: Dec 14, 2018

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Revved, LLC

Correspondent Address: REVVED, LLC
2504 W ORANGE AVE 9
ANAHEIM CA , 92804

Correspondent e-mail: tonewbeginnings17@gmail.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
E-VOLV MALE ENHANCEMENT	Opposition Pending	87768537	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: J. David Mayberry
Kilpatrick Townsend & Stockton LLP

607 14th St, NW, Ste. 900
Washington DC , 20005
UNITED STATES

Correspondent e-mail: dmayberry@ktslaw.com , sstadler@ktslaw.com , kteilhaber@ktslaw.com , tmadmin@ktslaw.com

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	85708932	5186699
EVOLVE	Registered	87595822	5577099

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 14, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 14, 2018	Jan 23, 2019
3	PENDING, INSTITUTED	Dec 14, 2018	
4	D MOT FOR EXT W/ CONSENT	Jan 23, 2019	
5	EXTENSION OF TIME GRANTED	Jan 23, 2019	

Type of Proceeding: Opposition

Proceeding Number: [91238680](#) Filing Date: Jan 02, 2018
Status: Terminated Status Date: Aug 20, 2018
Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Unavoo Food Technologies Ltd.

Correspondent Address: LOUIS S EDERER
ARNOLD & PORTER KAYE SCHOLER LLP
250 WEST 55TH STREET
NEW YORK NY , 10019-9710
UNITED STATES

Correspondent e-mail: trademarkdocketing@apks.com , louis.ederer@apks.com , elizabeth.richards@apks.com , palak.mayani@apks.com

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Abandoned - After Inter-Partes Decision	86953352	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: JAMES R STEFFEN
FAEGRE BAKER DANIELS LLP
90 SOUTH SEVENTH STREET, 2200 WELLS FARGO CENTER
MINNEAPOLIS MN , 55402
UNITED STATES

Correspondent e-mail: tmmppls@faegrebd.com , james.steffen@faegrebd.com

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	85708932	5186699
DRINK.EVOLVE.	Cancelled - Section 8	77767496	4158149
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	87595822	5577099

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 02, 2018	

2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 02, 2018	Feb 11, 2018
3	PENDING, INSTITUTED	Jan 02, 2018	
4	D MOT FOR EXT W/ CONSENT	Feb 09, 2018	
5	EXTENSION OF TIME GRANTED	Feb 12, 2018	
6	D MOT FOR EXT W/ CONSENT	Mar 09, 2018	
7	EXTENSION OF TIME GRANTED	Mar 12, 2018	
8	D MOT FOR EXT W/ CONSENT	Apr 10, 2018	
9	EXTENSION OF TIME GRANTED	Apr 11, 2018	
10	D MOT FOR EXT W/ CONSENT	May 11, 2018	
11	EXTENSION OF TIME GRANTED	May 16, 2018	
12	ANSWER	May 29, 2018	
13	W/DRAW OF APPLICATION	Aug 17, 2018	
14	BD DECISION: OPP DISMISSED W/O PREJ	Aug 20, 2018	
15	TERMINATED	Aug 20, 2018	

Type of Proceeding: Cancellation

Proceeding Number: [92057462](#) **Filing Date:** Jun 28, 2013
Status: Terminated **Status Date:** Dec 28, 2015
Interlocutory Attorney: GEOFFREY MCNUTT

Defendant

Name: Evolv Health, LLC
Correspondent Address: CHARLES G ZUG
NELSON MULLINS RILEY & SCARBOROUGH LLP
1320 MAIN STREET 17TH FLOOR
COLUMBIA SC , 29201
UNITED STATES
Correspondent e-mail: geordie.zug@nelsonmullins.com, ip@nelsonmullins.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVO2LV	Cancelled - Section 8	77678973	3842462

Plaintiff(s)

Name: CytoSport, Inc.
Correspondent Address: ERIC E WESTERBERG
THORPE NORTH & WESTERN LLP
8180 SOUTH 700 EAST SUITE 350
SANDY UT , 84070
UNITED STATES
Correspondent e-mail: Eric.westerberg@tnw.com , kelly.warner@tnw.com , docket@tnw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	85708932	5186699

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 28, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 02, 2013	Aug 11, 2013
3	PENDING, INSTITUTED	Jul 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Aug 08, 2013	
5	D MOT FOR EXT W/ CONSENT	Aug 08, 2013	
6	EXTENSION OF TIME GRANTED	Aug 08, 2013	
7	STIP FOR EXT	Oct 08, 2013	
8	EXTENSION OF TIME GRANTED	Oct 08, 2013	
9	STIP FOR EXT	Dec 09, 2013	

10	EXTENSION OF TIME GRANTED	Dec 09, 2013
11	D MOT FOR EXT W/ CONSENT	Jan 07, 2014
12	EXTENSION OF TIME GRANTED	Jan 07, 2014
13	D MOT FOR EXT W/ CONSENT	Mar 10, 2014
14	EXTENSION OF TIME GRANTED	Mar 10, 2014
15	D MOT FOR EXT W/ CONSENT	May 08, 2014
16	EXTENSION OF TIME GRANTED	May 08, 2014
17	D MOT FOR EXT W/ CONSENT	Jul 07, 2014
18	EXTENSION OF TIME GRANTED	Jul 19, 2014
19	ANSWER	Sep 08, 2014
20	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Nov 05, 2014
21	SUSPENDED	Nov 14, 2014
22	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Jan 05, 2015
23	SUSPENDED	Jan 15, 2015
24	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Mar 05, 2015
25	SUSPENDED	Mar 16, 2015
26	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	May 05, 2015
27	SUSPENDED	May 07, 2015
28	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Jul 01, 2015
29	SUSPENDED	Jul 14, 2015
30	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Sep 01, 2015
31	SUSPENDED	Sep 04, 2015
32	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Nov 02, 2015
33	SUSPENDED	Nov 04, 2015
34	W/DRAW OF PET FOR CANCELLATION	Dec 09, 2015
35	BD DECISION: DISMISSED W/ PREJ	Dec 28, 2015
36	TERMINATED	Dec 28, 2015

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Mark: EVOLVE

EVOLVE

US Serial Number: 87595822

Application Filing Date: Sep. 05, 2017

US Registration Number: 5577099

Registration Date: Oct. 02, 2018

Filed as TEAS RF: Yes

Currently TEAS RF: 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. 02, 2018

Publication Date: Feb. 06, 2018

Notice of Allowance Date: Apr. 03, 2018

Mark Information

Mark Literal Elements: EVOLVE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 4158149, 4360205, 5186699

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: Vegetable protein-based food bars for use as meal replacement; nut based food bars for use as meal replacement; vegetable protein-based snack bars; nut based snack bars; vegetable protein-based food bars; nut based food bars

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 10, 2017

Use in Commerce: Dec. 11, 2017

For: nutritional and dietary supplements formed and packaged as bars; nutritional supplement energy bars; plant protein-based dietary 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: Mar. 10, 2017

Use in Commerce: Dec. 11, 2017

Basis Information (Case Level)

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Aug. 27, 2018

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91245311](#)

Filing Date: Dec 14, 2018

Status: Pending

Status Date: Dec 14, 2018

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Revved, LLC

Correspondent Address: REVVED, LLC
2504 W ORANGE AVE 9
ANAHEIM CA , 92804

Correspondent e-mail: tonewbeginnings17@gmail.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
E-VOLV MALE ENHANCEMENT	Opposition Pending	87768537	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: J. David Mayberry
Kilpatrick Townsend & Stockton LLP
607 14th St, NW, Ste. 900
Washington DC , 20005
UNITED STATES

Correspondent e-mail: dmayberry@ktslaw.com , sstadler@ktslaw.com , kteilhaber@ktslaw.com , tmadmin@ktslaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	85708932	5186699
EVOLVE	Registered	87595822	5577099

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 14, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 14, 2018	Jan 23, 2019
3	PENDING, INSTITUTED	Dec 14, 2018	
4	D MOT FOR EXT W/ CONSENT	Jan 23, 2019	
5	EXTENSION OF TIME GRANTED	Jan 23, 2019	

Type of Proceeding: Opposition

Proceeding Number: [91238680](#)

Filing Date: Jan 02, 2018

Status: Terminated

Status Date: Aug 20, 2018

Interlocutory JENNIFER KRISP
Attorney:

Defendant

Name: Unavoo Food Technologies Ltd.

Correspondent Address: LOUIS S EDERER
ARNOLD & PORTER KAYE SCHOLER LLP
250 WEST 55TH STREET
NEW YORK NY , 10019-9710
UNITED STATES

Correspondent e-mail: trademarkdocketing@apks.com , louis.ederer@apks.com , elisabeth.richards@apks.com , palak.mayani@apks.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Abandoned - After Inter-Partes Decision	86953352	

Plaintiff(s)

Name: CytoSport, Inc.

Correspondent Address: JAMES R STEFFEN
FAEGRE BAKER DANIELS LLP
90 SOUTH SEVENTH STREET, 2200 WELLS FARGO CENTER
MINNEAPOLIS MN , 55402
UNITED STATES

Correspondent e-mail: tmpls@faegrebd.com , james.steffen@faegrebd.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EVOLVE	Section 8 - Accepted	85676705	4360205
EVOLVE	Registered	85708932	5186699
DRINK.EVOLVE.	Cancelled - Section 8	77767496	4158149
EVOLVE	Registered	86949724	5628241
EVOLVE	Registered	87595822	5577099

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 02, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 02, 2018	Feb 11, 2018
3	PENDING, INSTITUTED	Jan 02, 2018	
4	D MOT FOR EXT W/ CONSENT	Feb 09, 2018	
5	EXTENSION OF TIME GRANTED	Feb 12, 2018	
6	D MOT FOR EXT W/ CONSENT	Mar 09, 2018	
7	EXTENSION OF TIME GRANTED	Mar 12, 2018	
8	D MOT FOR EXT W/ CONSENT	Apr 10, 2018	
9	EXTENSION OF TIME GRANTED	Apr 11, 2018	
10	D MOT FOR EXT W/ CONSENT	May 11, 2018	
11	EXTENSION OF TIME GRANTED	May 16, 2018	
12	ANSWER	May 29, 2018	
13	W/DRAW OF APPLICATION	Aug 17, 2018	
14	BD DECISION: OPP DISMISSED W/O PREJ	Aug 20, 2018	
15	TERMINATED	Aug 20, 2018	