

ESTTA Tracking number: **ESTTA955391**

Filing date: **02/20/2019**

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	Costa Del Mar, Inc.
Granted to Date of previous extension	02/20/2019
Address	2361 Mason Avenue Suite 100 Daytona Beach, FL 32117 UNITED STATES
Attorney information	John C. Malloy, III Malloy & Malloy, P.L. 2800 SW 3rd Avenue Miami, FL 33129 UNITED STATES JCMalloy@malloylaw.com, JohnEagan@malloylaw.com, CdelaNuez@malloylaw.com, litigation@malloylaw.com, filing@malloylaw.com 3058588000

Applicant Information

Application No	87934296	Publication date	10/23/2018
Opposition Filing Date	02/20/2019	Opposition Period Ends	02/20/2019
Applicant	WENZHOU MIKE OPTICAL CO.,LTD. Room 1502,NO.1 DongTai Building, HuiQiaoPuBian,LuCheng District, WenZhou, 325000 CHINA		

Goods/Services Affected by Opposition


Class 009. First Use: 2015/03/13 First Use In Commerce: 2015/05/10
All goods and services in the class are opposed, namely: Cases for spectacles and sunglasses; Contact lens cases; Contact lenses; Eyeglass frames; Eyeglasses; Goggles for sports; Optical frames; Pince-nez; Scientific and technical apparatus, namely, optical mirrors; Spectacle lenses; Sports eye-wear; Sunglasses

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.	2235338	Application Date	08/25/1997
Registration Date	03/23/1999	Foreign Priority Date	NONE
Word Mark	NATIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/07/31 First Use In Commerce: 1998/07/31 sunglasses and related accessories, namely, sunglasses cases, retention cords, replacement parts, and temple-bar release devices		

U.S. Registration No.	3581846	Application Date	09/08/2006
Registration Date	02/24/2009	Foreign Priority Date	NONE
Word Mark	NATIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2007/12/12 First Use In Commerce: 2008/11/05 eyewear, namely, sports goggles for snow sports and motorsports		

U.S. Registration No.	4767151	Application Date	05/12/2014
Registration Date	07/07/2015	Foreign Priority Date	NONE
Word Mark	NATIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2007/12/00 First Use In Commerce: 2008/11/00		

	Online retail store services, featuring sunglasses and related accessories, namely, sunglass lenses, frames, nose pads, temple boots, and cases
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Attachments	78969828#TMSN.png(bytes) 86278114#TMSN.png(bytes) 2019-02-20 Notice of Opposition NATWVE.PDF(230237 bytes) Ex A.PDF(26883 bytes) Ex B.PDF(34474 bytes) Ex C.PDF(18623 bytes)
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Signature	/John Cyril Malloy, III/
Name	John Cyril Malloy, III
Date	02/20/2019

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

In the matter of application Serial No. 87/934,296
For the mark "NATWVE&CO"
Published in the Official Gazette on October 23, 2018

COSTA DEL MAR, INC.)	
a Florida Corporation,)	
)	
Opposer,)	
)	
vs.)	Opposition No.
)	
WENZHOU MIKE OPTICAL CO., LTD.,)	
a Chinese Limited Liability)	
Company,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

COMES NOW the Opposer, Costa Del Mar, Inc. d/b/a Native Eyewear ("Opposer"), a Florida corporation with principal offices at 2361 Mason Avenue, Suite 100, Daytona Beach, Florida 32117, and opposes Application Serial No. 87/934,296, owned by Wenzhou Mike Optical Co., Ltd. ("Applicant"), a Chinese limited liability company company having an address of Room 1502, NO.1 DongTai Building, HuiQiaoPuBian, LuCheng District, WenZhou, China 325000. Opposer believes that it is or will be damaged by Serial No. 87/934,296, and alleges the following in opposition of registration of the same:

1. The alleged trademark sought to be opposed is Serial No. 87/934,296, for the alleged mark "NATWVE&CO" (the "'NATWVE&CO' Application"), the drawing for which is depicted below.

Natwve&Co

2. Applicant's "NATWVE&CO" Application was filed for use in connection with "cases for spectacles and sunglasses, contact lens cases, contact lenses, eyeglass frames, eyeglasses, goggles for sports, optical frames, pince-nez, scientific and technical apparatus, namely, optical mirrors, spectacle lenses, sports eyewear, sunglasses" in International Class 9. Applicant's "NATWVE&CO" Application was filed on May 24, 2018, under Section 1(a) of the Lanham Act, 15 U.S.C. §1051(a) on a use in commerce basis.

3. Long prior to Applicant's filing date of May 24, 2018, or any other date upon which Applicant may rely, Opposer adopted and used in commerce the trademarks "NATIVE," and "NATIVE EYEWEAR" for use in connection with eyewear, sunglasses, goggles, eyewear components, eyewear accessories, (such as cases, cleaning cloths, and retention cords) and "NATIVE" for use in connection with online retail store services featuring Opposer's Goods ("Opposer's Goods").

4. Opposer is the owner, *inter alia*, of the following valid and subsisting U.S. trademark registrations:

- U.S. Registration No. 2,235,338 for "NATIVE" for sunglasses and related accessories, namely, sunglasses cases, retention cords, replacement parts, and temple-bar release devices

in International Class 09 with a date of first use in commerce at least as early July 31, 1998;

- U.S. Registration No. 3,581,846 for "NATIVE" for eyewear, namely, sports goggles for snow sports and motorsports in International Class 9, with a date of first use in commerce at least as early as November 5, 2008;

- U.S. Registration No. 4,767,151 for "NATIVE" for online retail store services, featuring sunglasses and related accessories, namely, sunglass lenses, frames, nose pads, temple boots, and cases in International Class 35, with a date of first use in commerce at least as early as November 1, 2008; (collectively, and together with the common law trademarks identified in paragraph 4, "Opposer's 'NATIVE' Marks").

5. U.S. Registration Nos. 2,235,338 and 3,581,846 are incontestable in accordance with §§15 and 33(b) of the Lanham Act, 15 U.S.C. §§1065 and 1115(b). Current printouts of information from the electronic database records of the USPTO that show the current status and title for each of the above-referenced registrations are attached hereto as Exhibits A, B, and C.

6. Since its adoption of the "NATIVE" Marks, Opposer has continuously used its "NATIVE" Marks for and in connection with Opposer's Goods and has not abandoned these marks.

7. Virtually, every pair of sunglasses and eyeglasses produced by Opposer includes Opposer's "NATIVE" Mark on the temple

bar.

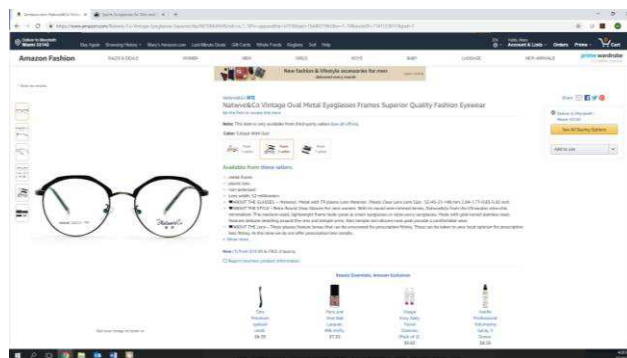
8. Opposer has expended considerable time, money, and effort in promoting Opposer's Goods under Opposer's Marks. The strength of Opposer's Marks have continuously grown, such that Opposer has established exceedingly valuable goodwill.

9. The goods identified in U.S. Application Serial No. 87/934,296 ("Applicant's Goods") are identical to some of Opposer's goods, particularly Opposer's sunglasses, and highly related to the remainder of Opposer's Goods, namely Opposer's sports eyewear and eyewear accessories, including cases.

10. Applicant's Goods would be sold to the same consumers as Opposer's Goods.

11. Applicant's identification of goods and services does not place any restrictions on likely trade channels and, therefore, Applicant's Goods may be sold through the same or similar trade channels as Opposer's Goods.

12. Moreover, at least some of Applicant's sunglass frames bear its "NATWVE&CO" mark on the lens itself, which in its cursive appearance, looks confusingly similar to the word "native."



13. Accordingly, there is a likelihood of confusion between Applicant's "NATWVE&CO" mark for Applicant's Goods as set forth in Applicant's "NATWVE&CO" Application and Opposer's Marks as used on Opposer's Goods, including as reflected in Opposer's registrations.

14. If Applicant is permitted to obtain a registration for the "NATWVE&CO" mark for Applicant's Goods, it will damage Opposer by creating a presumption of ownership by Applicant of a mark for which there will be a continued likelihood of confusion, mistake, and deception among the consuming public and the trade, all in violation of §2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that this Opposition be granted and that the aforesaid Application Serial No. 87/934,296 be denied registration. The fee required in § 2.6(a)(17) is enclosed herewith.

Dated: February 20, 2019

Respectfully submitted,

/W. John Eagan/
John Cyril Malloy, III
Florida Bar No. 964,220
jcmalloy@malloylaw.com
W. John Eagan
Florida Bar No. 105,101
johneagan@malloylaw.com
MALLOY & MALLOY, P.L.
2800 S.W. Third Avenue
Miami, Florida 33129
Telephone: (305) 858-8000
Facsimile: (305) 858-0008

Attorneys for Opposer

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing Notice of Opposition was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board's ESTTA electronic filing system, on February 20, 2019.

/W. John Eagan/
W. John Eagan

CERTIFICATE OF SERVICE

In connection with its Notice of Institution, the U.S. Trademark Trial and Appeal Board will serve a true and complete copy of the foregoing Notice of Opposition on the representative of record identified in TSDR, shown below:

Lisa Zhang
764 Route 24A Ste 5,
East Setauket, New York
United States 11733

/W. John Eagan/
W. John Eagan

Generated on: This page was generated by TSDR on 2019-02-20 13:01:33 EST

Mark: NATIVE

US Serial Number: 75345936

Application Filing Date: Aug. 25, 1997

US Registration Number: 2235338

Registration Date: Mar. 23, 1999

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Apr. 03, 2009

Publication Date: Jul. 28, 1998

Notice of Allowance Date: Oct. 20, 1998

Mark Information

Mark Literal Elements: NATIVE

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

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: sunglasses and related accessories, namely, sunglasses cases, retention cords, replacement parts, and temple-bar release devices

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 31, 1998

Use in Commerce: Jul. 31, 1998

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: COSTA DEL MAR, INC.

Owner Address: 2361 MASON AVENUE
SUITE 100
DAYTONA BEACH, FLORIDA 32117
UNITED STATES

Legal Entity Type: CORPORATION

State or Country FLORIDA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: John Cyril Malloy, III (a member of the Bar of the State of Florida) **Docket Number:** 8.437.09

Correspondent

Correspondent Name/Address: John Cyril Malloy, III (a member of the Bar of the Malloy & Malloy, P.A.
2800 S.W. 3rd Avenue
Miami, FLORIDA 33129
UNITED STATES

Phone: 305-858-8000

Fax: 305-858-0008

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 25, 2015	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
May 30, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Jun. 30, 2010	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Apr. 03, 2009	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67603
Apr. 03, 2009	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Mar. 26, 2009	ASSIGNED TO PARALEGAL	67603
Mar. 23, 2009	TEAS SECTION 8 & 9 RECEIVED	
Mar. 23, 2009	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Mar. 23, 2009	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Apr. 23, 2008	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Mar. 26, 2008	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Jul. 18, 2007	CASE FILE IN TICRS	
May 27, 2004	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Apr. 16, 2004	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 03, 2003	PAPER RECEIVED	
Mar. 23, 1999	REGISTERED-PRINCIPAL REGISTER	
Jan. 12, 1999	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 06, 1999	ASSIGNED TO EXAMINER	74783
Jan. 05, 1999	ASSIGNED TO EXAMINER	74783
Dec. 22, 1998	STATEMENT OF USE PROCESSING COMPLETE	
Nov. 24, 1998	USE AMENDMENT FILED	
Oct. 20, 1998	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Jul. 28, 1998	PUBLISHED FOR OPPOSITION	
Jun. 26, 1998	NOTICE OF PUBLICATION	
May 04, 1998	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 21, 1998	EXAMINER'S AMENDMENT MAILED	
Apr. 06, 1998	ASSIGNED TO EXAMINER	74783

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Mar. 23, 2009

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Apr. 03, 2009

Assignment Abstract Of Title Information

Summary

Total Assignments: 9

Registrant: J.W. Envisions, Inc.

Assignment 1 of 9

Conveyance: MERGER

Reel/Frame: [2006/0454](#)

Pages: 9

Date Recorded: Dec. 15, 1999

Supporting Documents: [assignment-tm-2006-0454.pdf](#)

Assignor

Name: [J.W. ENVISIONS, INC.](#)

Execution Date: Dec. 10, 1999

Legal Entity Type: CORPORATION

State or Country Where Organized: No Place Where Organized Found

Assignee

Name: [NATIVE EYEWEAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: No Place Where Organized Found

Address: SUITE 110
2381 PHILMONT AVENUE
HUNTINGDON VALLEY, PENNSYLVANIA 19006

Correspondent

Correspondent Name: GREGORY J. GORE, ESQUIRE

Correspondent Address: 70 WEST OAKLAND AVENUE
SUITE 316
DOYLESTOWN, PA 18901

Domestic Representative - Not Found

Assignment 2 of 9

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [2269/0917](#)

Pages: 4

Date Recorded: Apr. 02, 2001

Supporting Documents: [assignment-tm-2269-0917.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC.](#)

Execution Date: Mar. 23, 2001

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Assignee

Name: [FTL CORP.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Address: 802 WEST STREET
WILMINGTON, DELAWARE 19801

Correspondent

Correspondent Name: SCHNADER HARRISON SEGAL & LEWIS LLP

Correspondent Address: JAMES R. MEYER
1600 MARKET STREET

SUITE 3600
PHILADELPHIA, PA 19103

Domestic Representative - Not Found

Assignment 3 of 9

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [2744/0059](#)

Pages: 6

Date Recorded: Jun. 03, 2003

Supporting Documents: [assignment-tm-2744-0059.pdf](#)

Assignor

Name: [FTL CORP.](#)

Execution Date: May 08, 2003

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Assignee

Name: [NATIVE EYEWEAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Address: 2381 PHILMONT AVE., SUITE 110
HUNTINGTON VALLEY, PENNSYLVANIA 19006

Correspondent

Correspondent Name: NATIVE EYEWEAR, INC.

Correspondent Address: CHARLES W. ORMSBY, JR., ESQ.
2381 PHILMONT AVE., SUITE 110
HUNTINGTON VALLEY, PA 19006

Domestic Representative - Not Found

Assignment 4 of 9

Conveyance: MERGER EFFECTIVE 03242008

Reel/Frame: [3745/0602](#)

Pages: 6

Date Recorded: Mar. 24, 2008

Supporting Documents: [assignment-tm-3745-0602.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC.](#)

Execution Date: Mar. 24, 2008

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Assignee

Name: [NEWCO EYEWEAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: RHODE ISLAND

Address: 1 ALBION ROAD
LINCOLN, RHODE ISLAND 02865

Correspondent

Correspondent Name: AMY B. SPAGNOLE

Correspondent Address: 28 STATE STREET
HINCKLEY, ALLEN & SNYDER LLP
BOSTON, MA 02109-1775

Domestic Representative - Not Found

Assignment 5 of 9

Conveyance: CHANGE OF NAME

Reel/Frame: [3745/0608](#)

Pages: 6

Date Recorded: Mar. 24, 2008

Supporting Documents: [assignment-tm-3745-0608.pdf](#)

Assignor

Name: [NEWCO EYEWEAR, INC.](#)

Execution Date: Mar. 24, 2008

Legal Entity Type: CORPORATION

State or Country Where Organized: RHODE ISLAND

Assignee

Name: [NATIVE EYEWEAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: RHODE ISLAND

Address: 1 ALBION ROAD
LINCOLN, RHODE ISLAND 02865

Correspondent

Correspondent Name: AMY B. SPAGNOLE

Correspondent Address: 28 STATE STREET
HINKLEY, ALLEN & SNYDER LLP
BOSTON, MA 02109-1775

Domestic Representative - Not Found

Assignment 6 of 9

Conveyance: SECURITY AGREEMENT

Reel/Frame: [3760/0610](#)

Pages: 27

Date Recorded: Apr. 15, 2008

Supporting Documents: [assignment-tm-3760-0610.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC. \(F/K/A NEWCO EYEWEAR, INC.\)](#)

Execution Date: Mar. 24, 2008

Legal Entity Type: CORPORATION

State or Country Where Organized: RHODE ISLAND

Assignee

Name: [BANK OF AMERICA, N.A. \(AS ADMINISTRATIVE AGENT\)](#)

Legal Entity Type: NAT. BANKING ASS.

State or Country Where Organized: UNITED STATES

Address: 100 FEDERAL STREET, MA5-100-07-06
BOSTON, MASSACHUSETTS 02110

Correspondent

Correspondent Name: BRENDA H. JARRELL, PH.D.

Correspondent Address: CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Domestic Representative - Not Found

Assignment 7 of 9

Conveyance: MERGER EFFECTIVE 01022010

Reel/Frame: [4232/0949](#)

Pages: 9

Date Recorded: Jun. 28, 2010

Supporting Documents: [assignment-tm-4232-0949.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC.](#)

Execution Date: Dec. 11, 2009

Legal Entity Type: CORPORATION

State or Country Where Organized: RHODE ISLAND

Assignee

Name: [COSTA DEL MAR SUNGLASSES, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: FLORIDA

Address: 2361 MASON AVENUE, SUITE #100
DAYTONA BEACH, FLORIDA 32117

Correspondent

Correspondent Name: JOHN CYRIL MALLOY, III

Correspondent Address: 2800 S.W. 3RD AVENUE
MIAMI, FL 33129

Domestic Representative - Not Found

Assignment 8 of 9

Conveyance: CHANGE OF NAME

Reel/Frame: [4233/0253](#)

Pages: 10

Date Recorded: Jun. 29, 2010

Supporting Documents: [assignment-tm-4233-0253.pdf](#)

Assignor

Name: [COSTA DEL MAR SUNGLASSES, INC.](#)

Execution Date: Dec. 11, 2009

Legal Entity Type: CORPORATION

State or Country Where Organized: FLORIDA

Assignee

Name: [CROSS OPTICAL GROUP, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: FLORIDA

Address: 2361 MASON AVENUE, SUITE #100
DAYTONA BEACH, FLORIDA 32117

Correspondent

Correspondent Name: JOHN CYRIL MALLOY, III

Correspondent Address: 2800 S.W. 3RD AVENUE
MIAMI, FL 33129

Domestic Representative - Not Found

Assignment 9 of 9

Conveyance: CHANGE OF NAME

Reel/Frame: [5459/0889](#)

Pages: 2

Date Recorded: Feb. 13, 2015

Supporting Documents: [assignment-tm-5459-0889.pdf](#)

Assignor

Name: [CROSS OPTICAL GROUP, INC.](#)

Execution Date: Apr. 14, 2014

Legal Entity Type: CORPORATION

State or Country Where Organized: FLORIDA

Assignee

Name: [COSTA DEL MAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: FLORIDA

Address: 2361 MASON AVENUE
SUITE 100
DAYTONA BEACH, FLORIDA 32117

Correspondent

Correspondent Name: MALLOY & MALLOY, P.L.

Correspondent Address: 2800 S.W. 3RD AVENUE
MIAMI, FL 33129

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Cancellation

Proceeding [92069369](#)
Number:

Filing Date: Aug 22, 2018

Status: Suspended

Status Date: Nov 30, 2018

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: The Light Co., Ltd.

Correspondent Address: M SCOTT ALPRIN
ALPRIN LAW OFFICES PC
5 PINEHURST CIRCLE, NW
WASHINGTON DC , 20015
UNITED STATES

Correspondent e-mail: trademarks@alprinlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NATIVE SONS	Cancellation Pending	85560000	4393233

Plaintiff(s)

Name: Costa Del Mar, Inc. DBA Native Eyewear

Correspondent Address: W JOHN EAGAN
MALLOY & MALLOY PL
2800 SW THIRD AVE
MIAMI FL , 33129
UNITED STATES

Correspondent e-mail: jcmalloy@malloylaw.com , johneagan@malloylaw.com , litigation@malloylaw.com , CdeLaNuez@malloylaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NATIVE	REGISTERED AND RENEWED	75345936	2235338
NATIVE	REGISTERED AND RENEWED	78969828	3581846

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Aug 22, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Aug 24, 2018	Oct 03, 2018
3	INSTITUTED	Aug 24, 2018	
4	D CHANGE OF CORRESP ADDRESS	Sep 14, 2018	
5	ANSWER	Sep 14, 2018	
6	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Nov 30, 2018	
7	SUSPENDED	Nov 30, 2018	
8	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Jan 02, 2019	
9	SUSPENDED	Jan 02, 2019	
10	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Feb 04, 2019	
11	SUSPENDED	Feb 04, 2019	

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Mark: NATIVE

NATIVE

US Serial Number: 78969828

Application Filing Date: Sep. 08, 2006

US Registration Number: 3581846

Registration Date: Feb. 24, 2009

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: May 21, 2018

Publication Date: Apr. 24, 2007

Notice of Allowance Date: Jul. 17, 2007

Mark Information

Mark Literal Elements: NATIVE

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: 2235338

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: eyewear, namely, sports goggles for snow sports and motorsports

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 12, 2007

Use in Commerce: Nov. 05, 2008

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: COSTA DEL MAR, INC.

Owner Address: 2361 MASON AVENUE
SUITE 100
DAYTONA BEACH, FLORIDA 32117
UNITED STATES

Legal Entity Type: CORPORATION

State or Country FLORIDA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: John Cyril Malloy, III

Docket Number: 5118.8295.14

Attorney Primary Trademarks@malloylaw.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent John Cyril Malloy, III
Name/Address: Malloy & Malloy, P.L.
2800 S.W. 3rd Avenue
Miami, FLORIDA 33129
UNITED STATES

Phone: 305-858-8000

Fax: 305-858-0008

Correspondent e- JCMalloy@malloylaw.com Trademarks@malloyla
mail: w.com Filing@malloylaw.com

Correspondent e- Yes
mail Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 21, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
May 21, 2018	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	74272
May 21, 2018	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	74272
May 18, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	74272
May 08, 2018	TEAS SECTION 8 & 9 RECEIVED	
Nov. 05, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Oct. 31, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - MAILED	
Oct. 31, 2014	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	68335
Oct. 29, 2014	TEAS SECTION 8 & 15 RECEIVED	
May 30, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Jun. 30, 2010	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Mar. 25, 2009	CERTIFICATE OF CORRECTION ISSUED	68335
Mar. 24, 2009	ASSIGNED TO PARALEGAL	68335
Mar. 12, 2009	TEAS SECTION 7 REQUEST RECEIVED	
Feb. 24, 2009	REGISTERED-PRINCIPAL REGISTER	
Jan. 17, 2009	LAW OFFICE REGISTRATION REVIEW COMPLETED	73787
Jan. 14, 2009	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 14, 2009	STATEMENT OF USE PROCESSING COMPLETE	69302
Jan. 12, 2009	USE AMENDMENT FILED	69302
Jan. 12, 2009	TEAS STATEMENT OF USE RECEIVED	
Jan. 02, 2009	ASSIGNED TO EXAMINER	83183
Jul. 21, 2008	EXTENSION 2 GRANTED	69302
Jul. 11, 2008	EXTENSION 2 FILED	69302
Jul. 21, 2008	CASE ASSIGNED TO INTENT TO USE PARALEGAL	69302
Jul. 11, 2008	TEAS EXTENSION RECEIVED	
Apr. 23, 2008	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Mar. 26, 2008	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Dec. 31, 2007	EXTENSION 1 GRANTED	98765
Dec. 31, 2007	EXTENSION 1 FILED	98765
Dec. 31, 2007	TEAS EXTENSION RECEIVED	

Jul. 17, 2007	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 24, 2007	PUBLISHED FOR OPPOSITION	
Apr. 04, 2007	NOTICE OF PUBLICATION	
Mar. 06, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
Mar. 06, 2007	ASSIGNED TO LIE	73787
Feb. 01, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 01, 2007	ASSIGNED TO EXAMINER	76072
Sep. 13, 2006	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Feb. 24, 2019

Change in Registration: Yes

Correction made to Registration: In the statement, Column 1 line 1, " PENNSYLVANIA. " should be deleted, and " RHODE ISLAND" should be inserted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: May 21, 2018

Assignment Abstract Of Title Information

Summary

Total Assignments: 6

Registrant: Native Eyewear, Inc.

Assignment 1 of 6

Conveyance: MERGER EFFECTIVE 03242008

Reel/Frame: [3745/0602](#)

Pages: 6

Date Recorded: Mar. 24, 2008

Supporting Documents: [assignment-tm-3745-0602.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC.](#)

Execution Date: Mar. 24, 2008

Legal Entity Type: CORPORATION

State or Country Where Organized: PENNSYLVANIA

Assignee

Name: [NEWCO EYEWEAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: RHODE ISLAND

Address: 1 ALBION ROAD
LINCOLN, RHODE ISLAND 02865

Correspondent

Correspondent Name: AMY B. SPAGNOLE

Correspondent Address: 28 STATE STREET
HINCKLEY, ALLEN & SNYDER LLP
BOSTON, MA 02109-1775

Domestic Representative - Not Found

Assignment 2 of 6

Conveyance: CHANGE OF NAME

Reel/Frame: [3745/0608](#)

Pages: 6

Date Recorded: Mar. 24, 2008

Supporting Documents: [assignment-tm-3745-0608.pdf](#)

Assignor

Name: [NEWCO EYEWEAR, INC.](#) Execution Date: Mar. 24, 2008
Legal Entity Type: CORPORATION State or Country Where Organized: RHODE ISLAND

Assignee

Name: [NATIVE EYEWEAR, INC.](#)
Legal Entity Type: CORPORATION State or Country Where Organized: RHODE ISLAND
Address: 1 ALBION ROAD
LINCOLN, RHODE ISLAND 02865

Correspondent

Correspondent Name: AMY B. SPAGNOLE
Correspondent Address: 28 STATE STREET
HINCKLEY, ALLEN & SNYDER LLP
BOSTON, MA 02109-1775

Domestic Representative - Not Found

Assignment 3 of 6

Conveyance: SECURITY AGREEMENT
Reel/Frame: [3760/0610](#) Pages: 27
Date Recorded: Apr. 15, 2008
Supporting Documents: [assignment-tm-3760-0610.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC. \(F/K/A NEWCO EYEWEAR, INC.\)](#) Execution Date: Mar. 24, 2008
Legal Entity Type: CORPORATION State or Country Where Organized: RHODE ISLAND

Assignee

Name: [BANK OF AMERICA, N.A. \(AS ADMINISTRATIVE AGENT\)](#)
Legal Entity Type: NAT. BANKING ASS. State or Country Where Organized: UNITED STATES
Address: 100 FEDERAL STREET, MA5-100-07-06
BOSTON, MASSACHUSETTS 02110

Correspondent

Correspondent Name: BRENDA H. JARRELL, PH.D.
Correspondent Address: CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Domestic Representative - Not Found

Assignment 4 of 6

Conveyance: MERGER EFFECTIVE 01022010
Reel/Frame: [4232/0949](#) Pages: 9
Date Recorded: Jun. 28, 2010
Supporting Documents: [assignment-tm-4232-0949.pdf](#)

Assignor

Name: [NATIVE EYEWEAR, INC.](#) Execution Date: Dec. 11, 2009
Legal Entity Type: CORPORATION State or Country Where Organized: RHODE ISLAND

Assignee

Name: [COSTA DEL MAR SUNGLASSES, INC.](#)
Legal Entity Type: CORPORATION State or Country Where Organized: FLORIDA

Where Organized:

Address: 2361 MASON AVENUE, SUITE #100
DAYTONA BEACH, FLORIDA 32117

Correspondent

Correspondent Name: JOHN CYRIL MALLOY, III

Correspondent Address: 2800 S.W. 3RD AVENUE
MIAMI, FL 33129

Domestic Representative - Not Found

Assignment 5 of 6

Conveyance: CHANGE OF NAME

Reel/Frame: [4233/0253](#)

Pages: 10

Date Recorded: Jun. 29, 2010

Supporting Documents: [assignment-tm-4233-0253.pdf](#)

Assignor

Name: [COSTA DEL MAR SUNGLASSES, INC.](#)

Execution Date: Dec. 11, 2009

Legal Entity Type: CORPORATION

State or Country: FLORIDA
Where Organized:

Assignee

Name: [CROSS OPTICAL GROUP, INC.](#)

Legal Entity Type: CORPORATION

State or Country: FLORIDA
Where Organized:

Address: 2361 MASON AVENUE, SUITE #100
DAYTONA BEACH, FLORIDA 32117

Correspondent

Correspondent Name: JOHN CYRIL MALLOY, III

Correspondent Address: 2800 S.W. 3RD AVENUE
MIAMI, FL 33129

Domestic Representative - Not Found

Assignment 6 of 6

Conveyance: CHANGE OF NAME

Reel/Frame: [5390/0461](#)

Pages: 2

Date Recorded: Oct. 29, 2014

Supporting Documents: [assignment-tm-5390-0461.pdf](#)

Assignor

Name: [CROSS OPTICAL GROUP, INC.](#)

Execution Date: Apr. 14, 2014

Legal Entity Type: CORPORATION

State or Country: FLORIDA
Where Organized:

Assignee

Name: [COSTA DEL MAR, INC.](#)

Legal Entity Type: CORPORATION

State or Country: FLORIDA
Where Organized:

Address: 2361 MASON AVENUE
SUITE 100
DAYTONA BEACH, FLORIDA 32117

Correspondent

Correspondent Name: MALLOY & MALLOY, P.L.

Correspondent Address: 2800 S.W. 3RD AVENUE
MIAMI, FL 33129

Domestic Representative - Not Found

Proceedings

Summary

Number of
Proceedings: 1

Type of Proceeding: Cancellation

Proceeding
Number: [92069369](#)

Filing Date: Aug 22, 2018

Status: Suspended

Status Date: Nov 30, 2018

Interlocutory
Attorney: YONG OH (RICHARD) KIM

Defendant

Name: The Light Co., Ltd.

Correspondent
Address: M SCOTT ALPRIN
ALPRIN LAW OFFICES PC
5 PINEHURST CIRCLE, NW
WASHINGTON DC , 20015
UNITED STATES

Correspondent e-
mail: trademarks@alprinlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NATIVE SONS	Cancellation Pending	85560000	4393233

Plaintiff(s)

Name: Costa Del Mar, Inc. DBA Native Eyewear

Correspondent
Address: W JOHN EAGAN
MALLOY & MALLOY PL
2800 SW THIRD AVE
MIAMI FL , 33129
UNITED STATES

Correspondent e-
mail: jcmalloy@malloylaw.com , lohneagan@malloylaw.com , litigation@malloylaw.com , CdeLaNuez@malloylaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NATIVE	REGISTERED AND RENEWED	75345936	2235338
NATIVE	REGISTERED AND RENEWED	78969828	3581846

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Aug 22, 2018	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Aug 24, 2018	Oct 03, 2018
3	INSTITUTED	Aug 24, 2018	
4	D CHANGE OF CORRESP ADDRESS	Sep 14, 2018	
5	ANSWER	Sep 14, 2018	
6	D MOT TO SUSP W/ CONSENT PEND SETTLE NEGOTIATIONS	Nov 30, 2018	
7	SUSPENDED	Nov 30, 2018	
8	P MOT TO SUSP W/ CONSENT PEND SETTLE NEGOTIATIONS	Jan 02, 2019	
9	SUSPENDED	Jan 02, 2019	
10	P MOT TO SUSP W/ CONSENT PEND SETTLE NEGOTIATIONS	Feb 04, 2019	
11	SUSPENDED	Feb 04, 2019	

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Mark: NATIVE

NATIVE

US Serial Number: 86278114

Application Filing Date: May 12, 2014

US Registration Number: 4767151

Registration Date: Jul. 07, 2015

Register: Principal

Mark Type: Service Mark

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

Status Date: Jul. 07, 2015

Publication Date: Apr. 21, 2015

Mark Information

Mark Literal Elements: NATIVE

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: 2235338, 3581846, 3872474

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: Online retail store services, featuring sunglasses and related accessories, namely, sunglass lenses, frames, nose pads, temple boots, and cases

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 2007

Use in Commerce: Nov. 2008

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: COSTA DEL MAR, INC.

Owner Address: 2361 Mason Avenue, Suite 100
Daytona Beach, FLORIDA 32117
UNITED STATES

Legal Entity Type: CORPORATION

State or Country FLORIDA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: John Cyril Malloy, III

Docket Number: 2.679.14

Correspondent

Correspondent Name/Address: JOHN CYRIL MALLOY, III
MALLOY & MALLOY, P.L.
2800 SW 3RD AVE
MIAMI, FLORIDA 33129-2317
UNITED STATES

Phone: 305-858-8000

Fax: 305-858-0008

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 07, 2015	REGISTERED-PRINCIPAL REGISTER	
Apr. 21, 2015	PUBLISHED FOR OPPOSITION	
Apr. 08, 2015	ASSIGNED TO EXAMINER	73731
Apr. 01, 2015	NOTICE OF PUBLICATION	
Mar. 18, 2015	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
Mar. 18, 2015	ASSIGNED TO LIE	68171
Feb. 26, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 14, 2015	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Feb. 13, 2015	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Feb. 13, 2015	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 18, 2014	NON-FINAL ACTION MAILED	
Aug. 15, 2014	NON-FINAL ACTION WRITTEN	76855
Aug. 14, 2014	ASSIGNED TO EXAMINER	76855
May 22, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 15, 2014	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: Jul. 07, 2015