

ESTTA Tracking number: **ESTTA1187897**

Filing date: **01/31/2022**

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	Neolife International, LLC
Granted to date of previous extension	01/30/2022
Address	3500 GATEWAY BLVD FREMONT, CA 94538 UNITED STATES
Attorney information	STEWART R. KELLAR BEESON SKINNER BEVERLY, LLP ONE KAISER PLAZA, SUITE 750 OAKLAND, CA 94612 UNITED STATES Primary email: bsb@bsblp.com Secondary email(s): skellar@bsblp.com 510-832-8700 Ext.112
Docket no.	US903.04NL

Applicant information

Application no.	88154777	Publication date	08/03/2021
Opposition filing date	01/31/2022	Opposition period ends	01/30/2022
International registration no.	NONE	International registration date	NONE
Applicant	NIO CO., LTD SUITE 115, NO. 569, ANCHI ROAD ANTING TOWN, JIADING DISTRICT SHANGHAI, 201800 CHINA		


Goods/services affected by opposition

Class 004. First Use: None First Use In Commerce: None
All goods and services in the class are opposed, namely: candles; oils for the preservation of leather; tapers, lamp wicks

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)

Marks cited by opposer as basis for opposition

U.S. registration no.	4621364	Application date	08/10/2010
Register	Principal		
Registration date	10/14/2014	Foreign priority date	NONE
Word mark	NEOLIFE		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 005. First use: First Use: Feb 1, 2014 First Use In Commerce: Feb 1, 2014 nutritional and dietary food supplements, comprised of vitamins, minerals, proteins, amino acids, enzymes, fiber, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; herbal supplements; dietary supplement drink mixes containing protein, and fiber blends; meal replacement drink mixes and weight loss dietary and nutritional supplements; nutritionally fortified beverages</p> <p>Class 029. First use: First Use: Feb 1, 2014 First Use In Commerce: Feb 1, 2014 fruit based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; edible oils and fats, processed food bars primarily consisting of extracts of fruits, nuts, and seeds</p> <p>Class 030. First use: First Use: Mar 1, 2014 First Use In Commerce: Mar 1, 2014 cereal based snack foods and food bars, processed herbs, fruit teas, tea-based beverages</p> <p>Class 032. First use: First Use: Feb 1, 2014 First Use In Commerce: Feb 1, 2014 non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages, non-alcoholic beverages with tea flavor</p>		

U.S. registration no.	4846868	Application date	03/24/2014
Register	Principal		
Registration date	11/03/2015	Foreign priority date	NONE
Word mark	NEOLIFE		

Design mark	<h1>NEOLIFE</h1>
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Description of mark	NONE
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Goods/services	<p>Class 005. First use: First Use: Sep 16, 2013 First Use In Commerce: Sep 16, 2013 Nutritional and dietary food supplements; dietary supplements for humans [and animals] ; dietary supplements containing vitamins, minerals, proteins, amino acids, probiotics, enzymes, fiber, aloe vera, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; dietary and nutritional supplements used for weight loss; herbal supplements; nutritional supplement-shakes; powdered nutritional supplementdrink mix; dietary supplement drink mixes; meal replacement shakes for weight loss purposes; nutritionally fortified beverages; nutritional supplement energy bars</p> <p>Class 029. First use: First Use: Mar 26, 2014 First Use In Commerce: Mar 26, 2014 Fruit and vegetable based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; dairy based food beverages also containing chocolate or cocoa; dairy based powders for making dairy-based food beverages and shakes; edible oils and fats; processed food bars primarily based on extracts of fruits and vegetables, nuts and seeds</p> <p>Class 030. First use: First Use: Sep 16, 2014 First Use In Commerce: Sep 16, 2014 Teas; fruit teas; herbal teas for food purposes; beverages with a tea base; beverages with a chocolate or cocoa base; processed herbs; grain-based food bars also containing fruits, nuts and chocolate; chocolate based food bars</p> <p>Class 032. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages; non-alcoholic beverages with tea flavor; herbal juices; aloe vera beverage; fruit juices and energy drinks containing nutritional supplements</p>
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U.S. registration no.	5828556	Application date	01/31/2019
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Register	Principal		
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Registration date	08/06/2019	Foreign priority date	NONE
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Word mark	NEOLIFE PRO VITALITY		
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Design mark	NEOLIFE PRO VITALITY		
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: Nov 28, 2016 First Use In Commerce: Nov 28, 2016 Dietary supplements; Nutritional supplements		

U.S. registration no.	5907766	Application date	04/25/2019
Register	Principal		
Registration date	11/12/2019	Foreign priority date	NONE

Word mark	NEOLIFESHAKE		
Design mark	NEOLIFESHAKE		
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: Feb 2013 First Use In Commerce: Feb 2013 Dietary supplemental drinks; Dietary supplements; Nutritional supplements; Powdered nutritional supplement drink mix; Nutritional supplement shakes Class 029. First use: First Use: Feb 2013 First Use In Commerce: Feb 2013 Shakes		

U.S. registration no.	6104793	Application date	02/01/2019
Register	Principal		
Registration date	07/21/2020	Foreign priority date	NONE
Word mark	NEOLIFE TRÅ#		

Design mark	
Description of mark	NONE
Goods/services	Class 005. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Dietary supplemental drinks; Dietary supplements; Nutritional supplements Class 030. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Tea-based beverages Class 032. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Fruit beverages; Fruit-based beverages; Non-alcoholic water-based beverages; Non-alcoholic beverages flavored with tea

U.S. registration no.	6104794	Application date	02/01/2019
Register	Principal		
Registration date	07/21/2020	Foreign priority date	NONE

Word mark	NEOLIFE TRÁ#
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Design mark	
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Description of mark	The mark consists of "NEOLIFE" in a small caps font to the right of a stylized depiction of a wheat stalk within a circle, all above "TRÁ#" in a stylized all caps font.
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Goods/services	Class 005. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Dietary supplemental drinks; Dietary supplements; Nutritional supplements
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	<p>Class 030. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Tea-based beverages</p> <p>Class 032. First use: First Use: Sep 2, 2014 First Use In Commerce: Sep 2, 2014 Fruit beverages; Fruit-based beverages; Non-alcoholic water-based beverages; Non-alcoholic beverages flavored with tea</p>
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U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	NEOLIFE		
Goods/services	<p>agricultural products, water bottles, blender bottles, online retail store services, mail order catalog services, business support and wholesale distributorship services, jewelry pins, posters, banners, brochures, business cards, stationary, backpacks, carrying bags, duffel bags, tote bags, apparel, towels, related promotional goods, cosmetics, oils, lotions, soaps, gels, shampoos, conditioners, detergents, cleaning preparations, health and fitness contests and challenges, provision of multimedia content, classes, workshops, seminars, lectures, blogs, newsletters, and electronic articles related to beauty, nutrition, health, and wellness, and related goods and services</p>		

Related proceedings	<p>91251560 91252116 91252117 91252118 91252119 91252120 91252121 91252122 91252123 91252124 91252125 91252126 91253158 91255586 91255587 91257177 91267572 91270014</p>
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Attachments	<p>85104341#TMSN.png(bytes) 86230409#TMSN.png(bytes) 88284946#TMSN.png(bytes) 88402640#TMSN.png(bytes) 88286229#TMSN.png(bytes) 88286258#TMSN.png(bytes) 2022-01-31 Notice of Opposition to NIO LIFE CL 04 88154777.pdf(1138127 bytes)</p>
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Signature	/Stewart R. Kellar/
Name	STEWART R. KELLAR
Date	01/31/2022

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

Atty Docket: K375G-US903.04NL

NEOLIFE INTERNATIONAL, LLC,

Opposer,

v.

NIO CO. LTD.

Applicant.

OPPOSITION NO. _____

Application Serial No. 88/154,777

MARK: NIO LIFE

Publication Date: August 3, 2021

NOTICE OF OPPOSITION

Opposer, NeoLife International, LLC, a Nevada Limited Liability company (hereinafter “Opposer”), with its principal offices at 3500 Gateway Blvd, Fremont, California, 94538, believes it will be damaged by, and hereby opposes, the registration on the Principal Register of Application Serial No. 88/154,777 for the mark NIO in Class 4 (hereinafter “the ‘777 Application”), filed by Nio Co., Ltd., a limited liability company of China (hereinafter “Applicant”), located at Suite 115, No. 569, Anchi Road, Anting Town, Jiading District, Shanghai, China 201800. As grounds for this opposition, Opposer alleges:

1. Applicant seeks to register NIO as a trademark in Class 4 for “candles; oils for the preservation of leather; tapers, lamp wicks” based upon foreign registration under Section 44E of the Lanham Act, as evidenced by the publication of said mark in the Official Gazette on August 3, 2021. The ‘777 Application claims a foreign filing priority date of April 19, 2018 under Section 44D of the Lanham Act.

2. Since long before the ‘777 Application’s filing date and foreign priority date, Opposer has continuously used and is using the NEOLIFE mark on and in connection with a

broad range of beverage products, food products, nutritional supplements, cosmetics, oils, lotions, soaps, shampoos, conditioners, detergents, cleaning preparations, and related goods and services.

3. Through its substantial and continuous use of the mark NEOLIFE (the “NEOLIFE mark”) in association with its goods and services, Opposer has registered and established common law rights in the NEOLIFE mark throughout the United States long before the ‘777 Application’s filing date and foreign priority date.

4. Opposer has invested considerable time and money establishing exclusive proprietary rights in the NEOLIFE mark for use in connection with the above-referenced goods, services, and related goods and services. As a result of the sales, advertising, and promotion of said goods and services bearing or offered in connection with Opposer’s NEOLIFE Mark, Opposer has built up highly valuable goodwill in its NEOLIFE mark and said goodwill has become closely identified and associated with Opposer.

5. Opposer is the owner of the following United States Trademark Registrations:

<u>Reg. No.</u>	<u>Mark</u>	<u>Reg. Date</u>	<u>Class(es)</u>
4,621,364	NEOLIFE	10/14/2014	5, 29, 30, 32
4,846,868	NEOLIFE	11/3/2015	5, 29, 30, 32
5,828,556	NEOLIFE PRO VITALITY	8/6/2019	5
5,907,766	NEOLIFESHAKE	11/12/2019	5, 29
6,104,793	NEOLIFE TRÉ	7/21/2020	5, 30, 32
6,104,794	NEOLIFE TRÉ & design	7/21/2020	5, 30, 32

True and correct copies of the Certificates of Registration and records from the Trademark Status and Document Retrieval (TSDR) database of the USPTO showing current status and title for the above-listed registrations owned by Opposer are attached hereto as **Exhibits 1 through 6**. The above-listed trademark registrations are valid and subsisting (the “NEOLIFE Registrations”).

6. According to the records of the USPTO, on October 15, 2019 Applicant filed parallel trademark applications for the mark NIO LIFE, Application Nos. 88154949, 88154945, and 88154927, in respective Classes 29, 30, and 32. Each application received an Office Action refusing registration on the basis of a likelihood of confusion with Opposer's NEOLIFE Registration Nos. 4621364 and 4846868. True and correct copies of the Office Actions against Application Nos. 88154949, 88154945, and 88154927 are attached as **Exhibits 7 through 9** (Office Action attachments omitted). According to the records of the USPTO, Applicant failed to respond to the Office Actions and the subject applications are now abandoned.

7. NeoLife produces and sells agricultural products under the mark SUPER GRO in many international jurisdictions. NeoLife holds active trademark registrations for SUPER GRO in Class 1 in many international jurisdictions.

8. Opposer has a pending application for the mark NEOLIFE SUPER GRO in Class 1, Application No. 88254231, which has been suspended by the USPTO based upon a likelihood of confusion with Applicant's parallel-filed Application Nos. 88154756, 88154771, and 88154777, all for the mark NIO LIFE in respective Classes 1, 3, and 4. True and correct copies of the records from the TSDR database of the USPTO showing current status and title for NEOLIFE SUPER GRO and the letter of suspension citing Applicant's NIO LIFE marks are attached hereto as **Exhibits 10 and 11**. The TSDR records for Application Nos. 88154756, 88154771, 88154777 for NIO LIFE are attached hereto as **Exhibit 12**.

9. On November 23, 2011, NeoLife, under its former business name GNLD International, LLC, filed intent-to-use U.S. Trademark Application No. 85480267 for the mark SUPER GRO in Class 1 for "chemical products for use in agriculture and gardening, namely, wetting agents and soil penetrants." The TSDR record for Application No. 85480267 for SUPER GRO is attached hereto as **Exhibit 13**.

FIRST GROUND FOR OPPOSITION

PRIORITY AND LIKELY TO CAUSE CONFUSION, OR MISTAKE, OR TO DECEIVE

10. Opposer repeats and incorporates the allegations in the preceding paragraphs.
11. Upon information and belief, the April 19, 2018 foreign priority date of the ‘777 Application is the earliest date upon which Applicant can rely to establish rights in the U.S. for the NIO LIFE mark for the goods listed under the ‘777 Application.
12. Opposer has priority of use of the mark NEOLIFE. Opposer or its successors in interest began using the NEOLIFE mark in U.S. commerce prior to the filing and priority dates of Applicant’s ‘777 Application.
13. Applicant’s mark NIO LIFE is virtually identical to Opposer’s NEOLIFE mark. The marks “NIO LIFE” and “NEOLIFE” sound identical when spoken. “NIO” and “NEO” are nearly identical in sight and overall commercial impression.
14. Upon information and belief, the term “NIO” of Applicant’s NIO LIFE mark is a phonetic spelling or “typo” for the term “NEO.”
15. Upon information and belief, Applicant intends that the term “NIO” convey the same meaning as the term “NEO” found in Opposer’s NEOLIFE mark.
16. Upon information and belief, the term “NIO” of Applicant’s NIO LIFE mark means NEO or “new.”
17. Relevant consumers will likely understand the term “NIO” of Applicant’s NIO LIFE mark to mean “new” and to convey the same meaning and overall commercial impression as the term “NEO” in Opposer’s NEOLIFE mark.
18. The goods identified in the ‘777 Application are identical to or closely related to or are within the natural zone of expansion of the goods and services offered by Opposer in association with Opposer’s NEOLIFE mark and identified in the NEOLIFE Registrations.

19. Upon information and belief, the goods under the ‘777 Application are or will be offered in the same channels of trade as the goods and services offered by Opposer in association with Opposer’s NEOLIFE mark and identified in the NEOLIFE Registrations.

20. Applicant’s NIO LIFE mark so resembles Opposer’s NEOLIFE mark that, when used in connection with the goods recited the ‘777 application, it is likely to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Lanham Act.

21. Use of Applicant’s mark on the goods recited in the ‘777 application is likely to confuse the purchasing public into mistakenly believing that Opposer is the source of Applicant’s goods or that Applicant’s goods are affiliated with, or sponsored, endorsed, or otherwise approved by Opposer.

22. Applicant’s registration and use of NIO LIFE for the goods recited in the ‘777 Application, and the likelihood of confusion caused thereby, is likely to damage and destroy the distinctiveness, goodwill, and reputation of Opposer’s NEOLIFE mark.

23. The USPTO has suspended Opposer’s Application No. 88254231 for NEOLIFE SUPER GRO based in-part upon the ‘777 Application.

24. Upon information and belief, the ‘777 Application for the term NIO LIFE would likely block or prevent later-filed applications for marks containing the prefix or term “NIO” or “NEO” from registration in Class 4 or for related goods and services in other trademark classes due a to a likelihood of confusion between the marks.

SECOND GROUND FOR OPPOSITION

NO BONA FIDE INTENT TO USE MARK IN COMMERCE FOR IDENTIFIED GOODS

25. Opposer repeats and incorporates the allegations in the preceding paragraphs.

26. Upon information and belief, Applicant did not have a bona fide intent to use the NIO LIFE mark in U.S. commerce on or in connection with the goods identified in the ‘777

Application at the time Applicant signed, and at the time Applicant filed, the '777 Application.

27. Upon information and belief, Applicant does not have a bona fide intent to use the NIO LIFE mark in U.S. commerce in association with the goods identified in the '777 Application.

WHEREFORE, by reason of the foregoing, Opposer will be damaged by, and Applicant is not entitled to, registration of the mark NIO LIFE under Application Serial No. 88/154,777, and Opposer prays that the mark shown in Application Serial No. 88/154,777 be refused registration, and that this opposition be sustained.

This Notice of Opposition is being filed electronically through ESTTA, pursuant to the Board's rules. The filing fees are being paid through ESTTA.

Respectfully submitted,

BEESON SKINNER BEVERLY, LLP

Dated: January 31, 2022

By: /Stewart R. Kellar/

Stewart R. Kellar

Brian Beverly

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Attorneys for Opposer

EXHIBIT 1

United States of America
United States Patent and Trademark Office

NEOLIFE

Reg. No. 4,621,364

GNLD INTERNATIONAL, LLC (NEVADA LIMITED LIABILITY COMPANY)
3500 GATEWAY BLVD

Registered Oct. 14, 2014

FREMONT, CA 94538

Int. Cls.: 5, 29, 30, and
32

FOR: NUTRITIONAL AND DIETARY FOOD SUPPLEMENTS, COMPRISED OF VITAMINS, MINERALS, PROTEINS, AMINO ACIDS, ENZYMES, FIBER, FISH OILS, HERBS, HERBAL EXTRACTS, FRUIT EXTRACTS, VEGETABLE EXTRACTS, AND GRAIN CONCENTRATES; HERBAL SUPPLEMENTS; DIETARY SUPPLEMENT DRINK MIXES CONTAINING PROTEIN, AND FIBER BLENDS; MEAL REPLACEMENT DRINK MIXES AND WEIGHT LOSS DIETARY AND NUTRITIONAL SUPPLEMENTS; NUTRITIONALLY FORTIFIED BEVERAGES, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

TRADEMARK

PRINCIPAL REGISTER

FIRST USE 2-1-2014; IN COMMERCE 2-1-2014.

FOR: FRUIT BASED SNACK FOODS; PRESERVED, DRIED, COOKED AND PROCESSED FRUITS AND VEGETABLES; DAIRY BASED BEVERAGES; EDIBLE OILS AND FATS, PROCESSED FOOD BARS PRIMARILY CONSISTING OF EXTRACTS OF FRUITS, NUTS, AND SEEDS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 2-1-2014; IN COMMERCE 2-1-2014.

FOR: CEREAL BASED SNACK FOODS AND FOOD BARS, PROCESSED HERBS, FRUIT TEAS, TEA-BASED BEVERAGES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-1-2014; IN COMMERCE 3-1-2014.

FOR: NON-ALCOHOLIC BEVERAGES, NAMELY, FRUIT JUICES, FRUIT DRINKS AND FRUIT BEVERAGES, NON-ALCOHOLIC BEVERAGES WITH TEA FLAVOR, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 2-1-2014; IN COMMERCE 2-1-2014.

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

OWNER OF U.S. REG. NO. 1,279,595.



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

Reg. No. 4,621,364 SN 85-104,341, FILED 8-10-2010.

STEVEN JACKSON, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

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Mark: NEOLIFE

NEOLIFE

US Serial Number: 85104341

Application Filing Date: Aug. 10, 2010

US Registration Number: 4621364

Registration Date: Oct. 14, 2014

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Nov. 23, 2019

Publication Date: Jul. 19, 2011 Notice of Allowance Date: Sep. 13, 2011

Mark Information

Mark Literal Elements: NEOLIFE

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

International Registration Number: 1080238

International Application(s) / Registration(s) Based on this Property: A0023120/1080238

Claimed Ownership of US Registrations: 1279595

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: nutritional and dietary food supplements, comprised of vitamins, minerals, proteins, amino acids, enzymes, fiber, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; herbal supplements; dietary supplement drink mixes containing protein, and fiber blends; meal replacement drink mixes and weight loss dietary and nutritional supplements; nutritionally fortified beverages

International Class(es): 005 - Primary Class

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

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 01, 2014

Use in Commerce: Feb. 01, 2014

For: fruit based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; edible oils and fats, processed food bars primarily consisting of extracts of fruits, nuts, and seeds

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 01, 2014

Use in Commerce: Feb. 01, 2014

For: cereal based snack foods and food bars, processed herbs, fruit teas, tea-based beverages

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 01, 2014

Use in Commerce: Mar. 01, 2014

For: non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages, non-alcoholic beverages with tea flavor

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 01, 2014

Use in Commerce: Feb. 01, 2014

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: NEOLIFE INTERNATIONAL, LLC

Owner Address: 3500 GATEWAY BLVD
FREMONT, CALIFORNIA UNITED STATES 94538

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly

Docket Number: K375G-US401

Attorney Primary Email Address: BSB@bsblp.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Brian Beverly
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OAKLAND, CALIFORNIA UNITED STATES 94612

Phone: 510-832-8700

Fax: 510-836-2595

Correspondent e-mail: bsb@bsblp.com skellar@bsblp.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Nov. 23, 2019	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Nov. 23, 2019	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	76293
Nov. 23, 2019	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76293
Oct. 21, 2019	TEAS SECTION 8 & 15 RECEIVED	
Oct. 14, 2019	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Aug. 02, 2017	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Oct. 14, 2014	REGISTERED-PRINCIPAL REGISTER	
Sep. 11, 2014	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Sep. 08, 2014	DATA MODIFICATION COMPLETED	66213
Sep. 05, 2014	WITHDRAWN FROM PUB - MPU REQUEST	66213
Sep. 03, 2014	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Sep. 02, 2014	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 20, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	66213
Aug. 20, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	66213
Aug. 13, 2014	STATEMENT OF USE PROCESSING COMPLETE	66230
Jul. 31, 2014	USE AMENDMENT FILED	66230
Jul. 31, 2014	TEAS STATEMENT OF USE RECEIVED	
Mar. 01, 2014	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Feb. 28, 2014	EXTENSION 5 GRANTED	66230
Feb. 19, 2014	EXTENSION 5 FILED	66230
Feb. 19, 2014	TEAS EXTENSION RECEIVED	
Sep. 13, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Sep. 12, 2013	EXTENSION 4 GRANTED	66230
Sep. 06, 2013	EXTENSION 4 FILED	66230
Sep. 06, 2013	TEAS EXTENSION RECEIVED	
Mar. 28, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Mar. 27, 2013	EXTENSION 3 GRANTED	66230
Mar. 08, 2013	EXTENSION 3 FILED	66230
Mar. 26, 2013	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66230
Mar. 08, 2013	TEAS EXTENSION RECEIVED	
Aug. 30, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Aug. 28, 2012	EXTENSION 2 GRANTED	98765
Aug. 28, 2012	EXTENSION 2 FILED	98765
Aug. 28, 2012	TEAS EXTENSION RECEIVED	
Feb. 15, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Feb. 13, 2012	EXTENSION 1 GRANTED	98765
Feb. 13, 2012	EXTENSION 1 FILED	98765
Feb. 13, 2012	TEAS EXTENSION RECEIVED	
Sep. 13, 2011	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Jul. 19, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jul. 19, 2011	PUBLISHED FOR OPPOSITION	
Jun. 13, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	66213
Jun. 10, 2011	ASSIGNED TO LIE	66213
May 27, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 26, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 26, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 26, 2011	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 30, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Nov. 30, 2010	NON-FINAL ACTION E-MAILED	6325
Nov. 30, 2010	NON-FINAL ACTION WRITTEN	78185
Nov. 26, 2010	ASSIGNED TO EXAMINER	78185

Aug. 14, 2010 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
Aug. 13, 2010 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 107

Date in Location: Nov. 23, 2019

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: GNLD International, LLC

Assignment 1 of 1

Conveyance: CHANGE OF NAME

Reel/Frame: [6111/0043](#)

Pages: 3

Date Recorded: Jul. 21, 2017

Supporting Documents: [assignment-tm-6111-0043.pdf](#)

Assignor

Name: [GNLD INTERNATIONAL, LLC](#)

Execution Date: Mar. 31, 2017

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Assignee

Name: [NEOLIFE INTERNATIONAL, LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Address: 3500 GATEWAY BLVD
FREMONT, CALIFORNIA 94538-6525

Correspondent

Correspondent Name: STEWART R. KELLAR

Correspondent Address: ONE KAISER PLAZA, SUITE 750
OAKLAND, CA 94612

Domestic Representative - Not Found

EXHIBIT 2

United States of America

United States Patent and Trademark Office

NEOLIFE

Reg. No. 4,846,868

Registered Nov. 3, 2015

Int. Cls.: 5, 29, 30, and 32

TRADEMARK

PRINCIPAL REGISTER

GNLD INTERNATIONAL, LLC (NEVADA LIMITED LIABILITY COMPANY)
3500 GATEWAY BLVD.
FREMONT, CA 945386525

FOR: NUTRITIONAL AND DIETARY FOOD SUPPLEMENTS; DIETARY SUPPLEMENTS FOR HUMANS AND ANIMALS; DIETARY SUPPLEMENTS CONTAINING VITAMINS, MINERALS, PROTEINS, AMINO ACIDS, PROBIOTICS, ENZYMES, FIBER, ALOE VERA, FISH OILS, HERBS, HERBAL EXTRACTS, FRUIT EXTRACTS, VEGETABLE EXTRACTS, AND GRAIN CONCENTRATES; DIETARY AND NUTRITIONAL SUPPLEMENTS USED FOR WEIGHT LOSS; HERBAL SUPPLEMENTS; NUTRITIONAL SUPPLEMENT SHAKES; POWDERED NUTRITIONAL SUPPLEMENT DRINK MIX; DIETARY SUPPLEMENT DRINK MIXES; MEAL REPLACEMENT SHAKES FOR WEIGHT LOSS PURPOSES; NUTRITIONALLY FORTIFIED BEVERAGES; NUTRITIONAL SUPPLEMENT ENERGY BARS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 9-16-2013; IN COMMERCE 9-16-2013.

FOR: FRUIT AND VEGETABLE BASED SNACK FOODS; PRESERVED, DRIED, COOKED AND PROCESSED FRUITS AND VEGETABLES; DAIRY BASED BEVERAGES; DAIRY BASED FOOD BEVERAGES ALSO CONTAINING CHOCOLATE OR COCOA; DAIRY BASED POWDERS FOR MAKING DAIRY-BASED FOOD BEVERAGES AND SHAKES; EDIBLE OILS AND FATS; PROCESSED FOOD BARS PRIMARILY BASED ON EXTRACTS OF FRUITS AND VEGETABLES, NUTS AND SEEDS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 3-26-2014; IN COMMERCE 3-26-2014.

FOR: TEAS; FRUIT TEAS; HERBAL TEAS FOR FOOD PURPOSES; BEVERAGES WITH A TEA BASE; BEVERAGES WITH A CHOCOLATE OR COCOA BASE; PROCESSED HERBS; GRAIN-BASED FOOD BARS ALSO CONTAINING FRUITS, NUTS AND CHOCOLATE; CHOCOLATE BASED FOOD BARS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-16-2014; IN COMMERCE 9-16-2014.

FOR: NON-ALCOHOLIC BEVERAGES, NAMELY, FRUIT JUICES, FRUIT DRINKS AND FRUIT BEVERAGES; NON-ALCOHOLIC BEVERAGES WITH TEA FLAVOR; HERBAL JUICES; ALOE VERA BEVERAGE; FRUIT JUICES AND ENERGY DRINKS CONTAINING NUTRITIONAL SUPPLEMENTS, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).



Michelle K. Lee

Director of the United States
Patent and Trademark Office

Reg. No. 4,846,868 FIRST USE 9-2-2014; IN COMMERCE 9-2-2014.

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

OWNER OF U.S. REG. NOS. 1,279,595 AND 4,621,364.

SN 86-230,409, FILED 3-24-2014.

KERI CANTONE, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

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Mark: NEOLIFE

NEOLIFE

US Serial Number: 86230409

Application Filing Date: Mar. 24, 2014

US Registration Number: 4846868

Registration Date: Nov. 03, 2015

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Apr. 26, 2021

Publication Date: Jan. 13, 2015 Notice of Allowance Date: Mar. 10, 2015

Mark Information

Mark Literal Elements: NEOLIFE

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

International Registration Number: 1241012

International Application(s) / Registration(s) Based on this Property: A0045245/1241012

Claimed Ownership of US Registrations: 1279595, 4621364

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: Nutritional and dietary food supplements; dietary supplements for humans [and animals] ; dietary supplements containing vitamins, minerals, proteins, amino acids, probiotics, enzymes, fiber, aloe vera, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; dietary and nutritional supplements used for weight loss; herbal supplements; nutritional supplement shakes; powdered nutritional supplement drink mix; dietary supplement drink mixes; meal replacement shakes for weight loss purposes; nutritionally fortified beverages; nutritional supplement energy bars

International Class(es): 005 - Primary Class

U.S Class(es): 005, 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 16, 2013

Use in Commerce: Sep. 16, 2013

For: Fruit and vegetable based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; dairy based food beverages also containing chocolate or cocoa; dairy based powders for making dairy-based food beverages and shakes; edible oils and fats; processed food bars primarily based on extracts of fruits and vegetables, nuts and seeds

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 26, 2014

Use in Commerce: Mar. 26, 2014

For: Teas; fruit teas; herbal teas for food purposes; beverages with a tea base; beverages with a chocolate or cocoa base; processed herbs; grain-based food bars also containing fruits, nuts and chocolate; chocolate based food bars

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 16, 2014

Use in Commerce: Sep. 16, 2014

For: Non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages; non-alcoholic beverages with tea flavor; herbal juices; aloe vera beverage; fruit juices and energy drinks containing nutritional supplements

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 02, 2014

Use in Commerce: Sep. 02, 2014

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Filed ITU: Yes

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: NEOLIFE INTERNATIONAL, LLC

Owner Address: 3500 GATEWAY BLVD
FREMONT, CALIFORNIA UNITED STATES 945386525

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country NEVADA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly

Docket Number: K375G-US450

Attorney Primary Email Address: bsb@bsblp.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Brian Beverly
Beeson Skinner Beverly, LLP
One Kaiser Plaza, Suite 750
OAKLAND, CALIFORNIA UNITED STATES 94612

Phone: 510-832-8700

Fax: 510-836-2595

Correspondent e-: bsb@bsblp.com skellar@bsblp.com

Correspondent e-: Yes

mail:

mail Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Apr. 26, 2021	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Apr. 26, 2021	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	95188
Apr. 21, 2021	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	95188
Dec. 31, 2020	TEAS SECTION 8 & 15 RECEIVED	
Nov. 03, 2020	COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED	
Aug. 02, 2017	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Nov. 03, 2015	REGISTERED-PRINCIPAL REGISTER	
Sep. 26, 2015	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Sep. 25, 2015	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Sep. 18, 2015	STATEMENT OF USE PROCESSING COMPLETE	71906
Sep. 09, 2015	USE AMENDMENT FILED	71906
Sep. 18, 2015	CASE ASSIGNED TO INTENT TO USE PARALEGAL	71906
Sep. 10, 2015	TEAS STATEMENT OF USE RECEIVED	
Mar. 10, 2015	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Jan. 13, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 13, 2015	PUBLISHED FOR OPPOSITION	
Dec. 24, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 05, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	77312
Dec. 05, 2014	ASSIGNED TO LIE	77312
Nov. 18, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 17, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 16, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 16, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 15, 2014	NOTIFICATION OF PRIORITY ACTION E-MAILED	6326
May 15, 2014	PRIORITY ACTION E-MAILED	6326
May 15, 2014	PRIORITY ACTION WRITTEN	88579
May 09, 2014	ASSIGNED TO EXAMINER	88579
Apr. 08, 2014	NOTICE OF PSEUDO MARK E-MAILED	
Apr. 05, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 27, 2014	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 104

Date in Location: Apr. 26, 2021

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: GNLD International, LLC

Assignment 1 of 1

Conveyance: CHANGE OF NAME

Reel/Frame: [6111/0043](#)

Pages: 3

Date Recorded: Jul. 21, 2017

Supporting Documents: [assignment-tm-6111-0043.pdf](#)

Assignor

Name: [GNLD INTERNATIONAL, LLC](#)

Execution Date: Mar. 31, 2017

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country NEVADA
Where Organized:

Assignee

Name: [NEOLIFE INTERNATIONAL, LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country NEVADA
Where Organized:

Address: 3500 GATEWAY BLVD
FREMONT, CALIFORNIA 94538-6525

Correspondent

Correspondent STEWART R. KELLAR
Name:

Correspondent ONE KAISER PLAZA, SUITE 750
Address: OAKLAND, CA 94612

Domestic Representative - Not Found

EXHIBIT 3

United States of America

United States Patent and Trademark Office

NEOLIFE PRO VITALITY

Reg. No. 5,828,556

Neolife International, LLC (NEVADA LIMITED LIABILITY COMPANY)
3500 Gateway Blvd
Fremont, CALIFORNIA 94538

Registered Aug. 06, 2019

Int. Cl.: 5

CLASS 5: Dietary supplements; Nutritional supplements

Trademark

FIRST USE 11-28-2016; IN COMMERCE 11-28-2016

Principal Register

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 4621364, 5191063, 4846868

SER. NO. 88-284,946, FILED 01-31-2019



Andrei Iancu

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

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Mark: NEOLIFE PRO VITALITY

NEOLIFE PRO VITALITY

US Serial Number: 88284946

Application Filing Date: Jan. 31, 2019

US Registration Number: 5828556

Registration Date: Aug. 06, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

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

Status Date: Aug. 06, 2019

Publication Date: May 21, 2019

Mark Information

Mark Literal Elements: NEOLIFE PRO VITALITY

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

International Registration Number: 1488740

International Application(s) /Registration(s) Based on this Property: A0088198/1488740

Claimed Ownership of US Registrations: 4621364, 4846868, 5191063 and others

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 supplements; 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: Nov. 28, 2016

Use in Commerce: Nov. 28, 2016

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Neolife International, LLC

Owner Address: 3500 Gateway Blvd
Fremont, CALIFORNIA UNITED STATES 94538

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly

Docket Number: K375G-US498

Attorney Primary Email Address: bsb@bsbllp.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: BRIAN BEVERLY
BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND, CALIFORNIA UNITED STATES 94612

Phone: 510-832-8700

Fax: 510-836-2595

Correspondent e-mail: bsb@bsbllp.com skellar@bsbllp.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Aug. 06, 2019	REGISTERED-PRINCIPAL REGISTER	
May 21, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 21, 2019	PUBLISHED FOR OPPOSITION	
May 01, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 17, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 12, 2019	ASSIGNED TO EXAMINER	93680
Feb. 23, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 04, 2019	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: Aug. 06, 2019

EXHIBIT 4

United States of America

United States Patent and Trademark Office

NEOLIFESHAKE

Reg. No. 5,907,766

Neolife International, LLC (NEVADA LIMITED LIABILITY COMPANY)
3500 Gateway Blvd
Fremont, CALIFORNIA 94538

Registered Nov. 12, 2019

Int. Cl.: 5, 29

CLASS 5: Dietary supplemental drinks; Dietary supplements; Nutritional supplements;
Powdered nutritional supplement drink mix; Nutritional supplement shakes

Trademark

FIRST USE 2-00-2013; IN COMMERCE 2-00-2013

Principal Register

CLASS 29: Shakes

FIRST USE 2-00-2013; IN COMMERCE 2-00-2013

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY
PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 4621364, 4846868

SER. NO. 88-402,640, FILED 04-25-2019



Andrei Iancu

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

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Mark: NEOLIFESHAKE

NEOLIFESHAKE

US Serial Number: 88402640

Application Filing Date: Apr. 25, 2019

US Registration Number: 5907766

Registration Date: Nov. 12, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

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

Status Date: Nov. 12, 2019

Publication Date: Aug. 27, 2019

Mark Information

Mark Literal Elements: NEOLIFESHAKE

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: 4621364, 4846868

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 supplemental drinks; Dietary supplements; Nutritional supplements; Powdered nutritional supplement drink mix; Nutritional supplement shakes

International Class(es): 005 - Primary Class

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

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 2013

Use in Commerce: Feb. 2013

For: Shakes

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 2013

Use in Commerce: Feb. 2013

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Neolife International, LLC

Owner Address: 3500 Gateway Blvd
Fremont, CALIFORNIA UNITED STATES 94538

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country NEVADA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly

Docket Number: K375G-US504

Attorney Primary bsb@bsblip.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent BRIAN BEVERLY
Name/Address: BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND, CALIFORNIA UNITED STATES 94612

Phone: 510-832-8700

Fax: 510-836-2595

Correspondent e- bsb@bsblip.com skellar@bsblip.com
mail:

Correspondent e- Yes
mail Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Nov. 12, 2019	REGISTERED-PRINCIPAL REGISTER	
Aug. 27, 2019	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 27, 2019	PUBLISHED FOR OPPOSITION	
Aug. 07, 2019	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jul. 21, 2019	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 07, 2019	ASSIGNED TO EXAMINER	93934
May 11, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Apr. 29, 2019	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. 12, 2019

Proceedings

Summary

Number of
Proceedings: 6

Type of Proceeding: Opposition

Proceeding [91270014](#)
Number:

Filing Date: Jun 21, 2021

Status: Pending

Status Date: Jun 22, 2021

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: NIO CO., LTD

Correspondent Address: HEATHER A. DUNN, ESQ.
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: tmfilings@us.dlapiper.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Opposition Pending	88154817	

Plaintiff(s)

Name: Neolife International, LLC

Correspondent Address: STEWART R. KELLAR
BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsblp.com , skellar@bsblp.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766
NEOLIFE TRÉ	Registered	88286229	6104793
NEOLIFE TRÉ	Registered	88286258	6104794

Prosecution History

Entry Number	History Text	Date	Due Date
11	EXTENSION OF TIME GRANTED	Jan 26, 2022	
10	D MOT FOR EXT W/ CONSENT	Jan 26, 2022	
9	EXTENSION OF TIME GRANTED	Nov 24, 2021	
8	D MOT FOR EXT W/ CONSENT	Nov 24, 2021	
7	EXTENSION OF TIME GRANTED	Sep 28, 2021	
6	D MOT FOR EXT W/ CONSENT	Sep 28, 2021	
5	EXTENSION OF TIME GRANTED	Aug 02, 2021	
4	D MOT FOR EXT W/ CONSENT	Aug 02, 2021	
3	INSTITUTED	Jun 22, 2021	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 22, 2021	Aug 01, 2021
1	FILED AND FEE	Jun 21, 2021	

Type of Proceeding: Opposition

Proceeding [91267572](#)
Number:

Filing Date: Feb 10, 2021

Status: Pending

Status Date: Feb 10, 2021

Interlocutory Attorney: KEVIN G CRENNAN

Defendant**Name:** Nio Co., Ltd.**Correspondent Address:** HEATHER A. DUNN
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933**Correspondent e-mail:** tmfilings@us.dlapiper.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Opposition Pending	88154802	

Plaintiff(s)**Name:** Neolife International, LLC**Correspondent Address:** STEWART R. KELLAR
BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612**Correspondent e-mail:** bsb@bsbllp.com , skellar@bsbllp.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766

Prosecution History

Entry Number	History Text	Date	Due Date
13	EXTENSION OF TIME GRANTED	Dec 14, 2021	
12	D MOT FOR EXT W/ CONSENT	Dec 14, 2021	
11	EXTENSION OF TIME GRANTED	Oct 12, 2021	
10	D MOT FOR EXT W/ CONSENT	Oct 12, 2021	
9	EXTENSION OF TIME GRANTED	Aug 19, 2021	
8	D MOT FOR EXT W/ CONSENT	Aug 18, 2021	
7	EXTENSION OF TIME GRANTED	Jun 15, 2021	
6	D MOT FOR EXT W/ CONSENT	Jun 15, 2021	
5	EXTENSION OF TIME GRANTED	Mar 16, 2021	
4	D MOT FOR EXT W/ CONSENT	Mar 16, 2021	
3	INSTITUTED	Feb 10, 2021	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Feb 10, 2021	Mar 22, 2021
1	FILED AND FEE	Feb 10, 2021	

Type of Proceeding: Opposition**Proceeding Number:** [91257177](#)**Filing Date:** Jul 02, 2020**Status:** Pending**Status Date:** Jul 02, 2020**Interlocutory Attorney:** REBECCA J STEMPIEN_COYLE**Defendant****Name:** NIO CO., LTD**Correspondent Address:** HEATHER A. DUNN
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933**Correspondent e-mail:** TMDocket@us.dlapiper.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Opposition Pending	88154805	

Plaintiff(s)

Name: Neolife International, LLC

Correspondent Address: STEWART R KELLAR
BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsblp.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766

Prosecution History

Entry Number	History Text	Date	Due Date
20	EXTENSION OF TIME GRANTED	Dec 08, 2021	
19	D MOT FOR EXT W/ CONSENT	Dec 06, 2021	
18	EXTENSION OF TIME GRANTED	Oct 05, 2021	
17	D MOT FOR EXT W/ CONSENT	Oct 05, 2021	
16	EXTENSION OF TIME GRANTED	Aug 30, 2021	
15	D MOT FOR EXT W/ CONSENT	Aug 30, 2021	
14	EXTENSION OF TIME GRANTED	Jun 30, 2021	
13	D MOT FOR EXT W/ CONSENT	Jun 30, 2021	
12	EXTENSION OF TIME GRANTED	Apr 08, 2021	
11	D MOT FOR EXT W/ CONSENT	Apr 08, 2021	
10	EXTENSION OF TIME GRANTED	Feb 08, 2021	
9	D MOT FOR EXT W/ CONSENT	Feb 08, 2021	
8	EXTENSION OF TIME GRANTED	Dec 02, 2020	
7	D MOT FOR EXT W/ CONSENT	Dec 02, 2020	
6	EXTENSION OF TIME GRANTED	Sep 11, 2020	
5	D MOT FOR EXT W/ CONSENT	Sep 11, 2020	
4	ANSWER	Aug 11, 2020	
3	INSTITUTED	Jul 02, 2020	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 02, 2020	Aug 11, 2020
1	FILED AND FEE	Jul 02, 2020	

Type of Proceeding: Opposition

Proceeding Number: [91257166](#)

Filing Date: Jul 02, 2020

Status: Pending

Status Date: Jul 02, 2020

Interlocutory Attorney: MARY B MYLES

Defendant

Name: NIO CO., LTD

Correspondent Address: HEATHER A. DUNN
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: TMDocket@us.dlapiper.com , Heather.Dunn@dlapiper.com , Jordan.Chisek@dlapiper.com , Paul.Stickel@dlapiper.com

Associated marks

Mark	Application Status	Serial	Registration
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NIO LIFE	Opposition Pending	88154809	Number	Number
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Plaintiff(s)

Name: Neolife International, LLC

Correspondent Address: STEWART R. KELLAR
 BEESON SKINNER BEVERLY, LLP
 ONE KAISER PLAZA, SUITE 750
 OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsbllp.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766

Prosecution History

Entry Number	History Text	Date	Due Date
20	EXTENSION OF TIME GRANTED	Dec 07, 2021	
19	D MOT FOR EXT W/ CONSENT	Dec 06, 2021	
18	EXTENSION OF TIME GRANTED	Oct 05, 2021	
17	D MOT FOR EXT W/ CONSENT	Oct 05, 2021	
16	EXTENSION OF TIME GRANTED	Aug 30, 2021	
15	D MOT FOR EXT W/ CONSENT	Aug 30, 2021	
14	EXTENSION OF TIME GRANTED	Jun 30, 2021	
13	D MOT FOR EXT W/ CONSENT	Jun 30, 2021	
12	EXTENSION OF TIME GRANTED	Apr 08, 2021	
11	D MOT FOR EXT W/ CONSENT	Apr 08, 2021	
10	EXTENSION OF TIME GRANTED	Feb 08, 2021	
9	D MOT FOR EXT W/ CONSENT	Feb 08, 2021	
8	EXTENSION OF TIME GRANTED	Dec 02, 2020	
7	D MOT FOR EXT W/ CONSENT	Dec 02, 2020	
6	EXTENSION OF TIME GRANTED	Sep 18, 2020	
5	D MOT FOR EXT W/ CONSENT	Sep 11, 2020	
4	ANSWER	Aug 11, 2020	
3	INSTITUTED	Jul 02, 2020	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 02, 2020	Aug 11, 2020
1	FILED AND FEE	Jul 02, 2020	

Type of Proceeding: Opposition

Proceeding Number: [91255586](#)

Filing Date: Apr 30, 2020

Status: Pending

Status Date: Apr 30, 2020

Interlocutory Attorney: MARY B MYLES

Defendant

Name: Nio Co., Ltd.

Correspondent Address: HEATHER A DUNN
 DLA PIPER LLP (US)
 555 MISSION STREET, SUITE 2400
 SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: TMDocket@dlapiper.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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Plaintiff(s)**Name:** Neolife International, LLC**Correspondent Address:** STEWART R KELLAR
BEESON SKINNER BEVERLY LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612**Correspondent e-mail:** bsb@bsblp.com , skellar@bsblp.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
NUTRIANCE	REGISTERED AND RENEWED	73265518	1220495
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766

Prosecution History

Entry Number	History Text	Date	Due Date
25	EXTENSION OF TIME GRANTED	Jan 31, 2022	
24	D MOT FOR EXT W/ CONSENT	Jan 26, 2022	
23	EXTENSION OF TIME GRANTED	Nov 30, 2021	
22	D MOT FOR EXT W/ CONSENT	Nov 24, 2021	
21	EXTENSION OF TIME GRANTED	Sep 30, 2021	
20	D MOT FOR EXT W/ CONSENT	Sep 28, 2021	
19	EXTENSION OF TIME GRANTED	Sep 01, 2021	
18	D MOT FOR EXT W/ CONSENT	Aug 30, 2021	
17	EXTENSION OF TIME GRANTED	Jun 03, 2021	
16	D MOT FOR EXT W/ CONSENT	Jun 01, 2021	
15	EXTENSION OF TIME GRANTED	Mar 02, 2021	
14	D MOT FOR EXT W/ CONSENT	Mar 02, 2021	
13	EXTENSION OF TIME GRANTED	Dec 30, 2020	
12	D MOT FOR EXT W/ CONSENT	Dec 30, 2020	
11	EXTENSION OF TIME GRANTED	Nov 02, 2020	
10	D MOT FOR EXT W/ CONSENT	Nov 02, 2020	
9	EXTENSION OF TIME GRANTED	Sep 02, 2020	
8	D MOT FOR EXT W/ CONSENT	Sep 02, 2020	
7	TRIAL DATES RESET	Aug 03, 2020	
6	P MOT TO AMEND PLEADING/AMENDED PLEADING	Jul 02, 2020	
5	TRIAL DATES RESET	May 26, 2020	
4	P MOT TO AMEND PLEADING/AMENDED PLEADING	May 20, 2020	
3	INSTITUTED	Apr 30, 2020	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 30, 2020	Jun 09, 2020
1	FILED AND FEE	Apr 30, 2020	

Type of Proceeding: Opposition**Proceeding Number:** [91255587](#)**Filing Date:** Apr 30, 2020**Status:** Pending**Status Date:** Apr 30, 2020**Interlocutory Attorney:** ASHLEY D HAYES**Defendant****Name:** Nio Co., Ltd.**Correspondent Address:** HEATHER A DUNN
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: TMDocket@dlapiper.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
NIO	Opposition Pending	88179346	
Plaintiff(s)			

Name: Neolife International, LLC

Correspondent Address: STEWART R KELLAR
BEESON SKINNER BEVERLY LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsblp.com , skellar@bsblp.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766

Prosecution History			
Entry Number	History Text	Date	Due Date
21	EXTENSION OF TIME GRANTED	Dec 08, 2021	
20	D MOT FOR EXT W/ CONSENT	Dec 06, 2021	
19	EXTENSION OF TIME GRANTED	Oct 12, 2021	
18	D MOT FOR EXT W/ CONSENT	Oct 07, 2021	
17	EXTENSION OF TIME GRANTED	Sep 01, 2021	
16	D MOT FOR EXT W/ CONSENT	Aug 30, 2021	
15	EXTENSION OF TIME GRANTED	Jul 06, 2021	
14	D MOT FOR EXT W/ CONSENT	Jun 30, 2021	
13	EXTENSION OF TIME GRANTED	Apr 08, 2021	
12	D MOT FOR EXT W/ CONSENT	Apr 08, 2021	
11	EXTENSION OF TIME GRANTED	Feb 08, 2021	
10	D MOT FOR EXT W/ CONSENT	Feb 08, 2021	
9	EXTENSION OF TIME GRANTED	Dec 02, 2020	
8	D MOT FOR EXT W/ CONSENT	Dec 02, 2020	
7	TRIAL DATES RESET	Nov 16, 2020	
6	P MOT TO AMEND PLEADING/AMENDED PLEADING	Jul 02, 2020	
5	TRIAL DATES RESET	May 26, 2020	
4	P MOT TO AMEND PLEADING/AMENDED PLEADING	May 20, 2020	
3	INSTITUTED	Apr 30, 2020	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 30, 2020	Jun 09, 2020
1	FILED AND FEE	Apr 30, 2020	

EXHIBIT 5

United States of America

United States Patent and Trademark Office

NEOLIFE TRÉ

Reg. No. 6,104,793

Registered Jul. 21, 2020

Int. Cl.: 5, 30, 32

Trademark

Principal Register

Neolife International, LLC (NEVADA LIMITED LIABILITY COMPANY)
3500 Gateway Blvd
Fremont, CALIFORNIA 94538

CLASS 5: Dietary supplemental drinks; Dietary supplements; Nutritional supplements

FIRST USE 9-2-2014; IN COMMERCE 9-2-2014

CLASS 30: Tea-based beverages

FIRST USE 9-2-2014; IN COMMERCE 9-2-2014

CLASS 32: Fruit beverages; Fruit-based beverages; Non-alcoholic water-based beverages;
Non-alcoholic beverages flavored with tea

FIRST USE 9-2-2014; IN COMMERCE 9-2-2014

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY
PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 4621364, 1537100, 4846868

The wording "TRÉ" has no meaning in a foreign language.

SER. NO. 88-286,229, FILED 02-01-2019



Andrei Iancu

Director of the United States
Patent and Trademark Office



REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

Generated on: This page was generated by TSDR on 2022-01-31 14:22:17 EST

Mark: NEOLIFE TRÉ

NEOLIFE TRÉ

US Serial Number: 88286229

Application Filing Date: Feb. 01, 2019

US Registration Number: 6104793

Registration Date: Jul. 21, 2020

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

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

Status Date: Jul. 21, 2020

Publication Date: May 05, 2020

Mark Information

Mark Literal Elements: NEOLIFE TRÉ

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

Translation: The wording "TRÉ" has no meaning in a foreign language.

Related Properties Information

Claimed Ownership of US Registrations: 1537100, 4621364, 4846868 and others

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 supplemental drinks; Dietary supplements; 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: Sep. 02, 2014

Use in Commerce: Sep. 02, 2014

For: Tea-based beverages

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class(es):**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Sep. 02, 2014**Use in Commerce:** Sep. 02, 2014**For:** Fruit beverages; Fruit-based beverages; Non-alcoholic water-based beverages; Non-alcoholic beverages flavored with tea**International Class(es):** 032 - Primary Class**U.S Class(es):** 045, 046, 048**Class Status:** ACTIVE**Basis:** 1(a)**First Use:** Sep. 02, 2014**Use in Commerce:** Sep. 02, 2014

Basis Information (Case Level)

Filed Use: Yes**Currently Use:** Yes**Filed ITU:** No**Currently ITU:** No**Filed 44D:** No**Currently 44E:** No**Filed 44E:** No**Currently 66A:** No**Filed 66A:** No**Currently No Basis:** No**Filed No Basis:** No

Current Owner(s) Information

Owner Name: Neolife International, LLC**Owner Address:** 3500 Gateway Blvd
Fremont, CALIFORNIA UNITED STATES 94538**Legal Entity Type:** LIMITED LIABILITY COMPANY**State or Country** NEVADA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly**Docket Number:** K375G-US496**Attorney Primary Email Address:** bsb@bsblp.com**Attorney Email Authorized:** Yes

Correspondent

Correspondent Name/Address: Brian Beverly
Beeson Skinner Beverly, LLP
One Kaiser Plaza, Suite 750
Oakland, CALIFORNIA UNITED STATES 94612**Phone:** 510-832-8700**Fax:** 510-836-2595**Correspondent e-mail:** bsb@bsblp.com skellar@bsblp.com**Correspondent e-mail Authorized:** Yes**Domestic Representative - Not Found**

Prosecution History

Date	Description	Proceeding Number
Jul. 21, 2020	REGISTERED-PRINCIPAL REGISTER	
May 05, 2020	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 05, 2020	PUBLISHED FOR OPPOSITION	
Apr. 15, 2020	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 26, 2020	ASSIGNED TO LIE	68171
Mar. 20, 2020	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 20, 2020	EXAMINER'S AMENDMENT ENTERED	88888
Mar. 20, 2020	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Mar. 20, 2020	EXAMINERS AMENDMENT E-MAILED	6328

Mar. 20, 2020	EXAMINERS AMENDMENT -WRITTEN	93680
Mar. 20, 2020	RESTORE TO TEAS PLUS	78756
Jan. 09, 2020	NOTIFICATION OF SUBSEQUENT FINAL EMAILED	
Jan. 09, 2020	SUBSEQUENT FINAL EMAILED	
Jan. 09, 2020	SUBSEQUENT FINAL REFUSAL WRITTEN	93680
Jan. 09, 2020	REMOVED FROM TEAS PLUS	93680
Nov. 05, 2019	NOTIFICATION OF FINAL REFUSAL EMAILED	
Nov. 05, 2019	FINAL REFUSAL E-MAILED	
Nov. 05, 2019	FINAL REFUSAL WRITTEN	93680
Oct. 15, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 14, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 14, 2019	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 13, 2019	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 13, 2019	NON-FINAL ACTION E-MAILED	6325
Apr. 13, 2019	NON-FINAL ACTION WRITTEN	93680
Apr. 12, 2019	ASSIGNED TO EXAMINER	93680
Feb. 25, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 05, 2019	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. 21, 2020

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91270014](#)

Filing Date: Jun 21, 2021

Status: Pending

Status Date: Jun 22, 2021

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: NIO CO., LTD

Correspondent Address: HEATHER A. DUNN, ESQ.
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: tmfilings@us.dlapiper.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Opposition Pending	88154817	

Plaintiff(s)

Name: Neolife International, LLC

Correspondent Address: STEWART R. KELLAR
BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsblp.com , skellar@bsblp.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	85104341	4621364
NEOLIFE	Section 8 and 15 - Accepted and Acknowledged	86230409	4846868
NEOLIFE PRO VITALITY	Registered	88284946	5828556
NEOLIFESHAKE	Registered	88402640	5907766
NEOLIFE TRÉ	Registered	88286229	6104793
NEOLIFE TRÉ	Registered	88286258	6104794

Prosecution History			
Entry Number	History Text	Date	Due Date
11	EXTENSION OF TIME GRANTED	Jan 26, 2022	
10	D MOT FOR EXT W/ CONSENT	Jan 26, 2022	
9	EXTENSION OF TIME GRANTED	Nov 24, 2021	
8	D MOT FOR EXT W/ CONSENT	Nov 24, 2021	
7	EXTENSION OF TIME GRANTED	Sep 28, 2021	
6	D MOT FOR EXT W/ CONSENT	Sep 28, 2021	
5	EXTENSION OF TIME GRANTED	Aug 02, 2021	
4	D MOT FOR EXT W/ CONSENT	Aug 02, 2021	
3	INSTITUTED	Jun 22, 2021	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 22, 2021	Aug 01, 2021
1	FILED AND FEE	Jun 21, 2021	

EXHIBIT 6

United States of America

United States Patent and Trademark Office



TRÉ

Reg. No. 6,104,794

Registered Jul. 21, 2020

Int. Cl.: 5, 30, 32

Trademark

Principal Register

Neolife International, LLC (NEVADA LIMITED LIABILITY COMPANY)
3500 Gateway Blvd
Fremont, CALIFORNIA 94538

CLASS 5: Dietary supplemental drinks; Dietary supplements; Nutritional supplements

FIRST USE 9-2-2014; IN COMMERCE 9-2-2014

CLASS 30: Tea-based beverages

FIRST USE 9-2-2014; IN COMMERCE 9-2-2014

CLASS 32: Fruit beverages; Fruit-based beverages; Non-alcoholic water-based beverages;
Non-alcoholic beverages flavored with tea

FIRST USE 9-2-2014; IN COMMERCE 9-2-2014

The mark consists of "NEOLIFE" in a small caps font to the right of a stylized depiction of a wheat stalk within a circle, all above "TRÉ" in a stylized all caps font.

OWNER OF U.S. REG. NO. 4621364, 1537100, 4846868

The wording "TRÉ" has no meaning in a foreign language.

SER. NO. 88-286,258, FILED 02-01-2019



Director of the United States
Patent and Trademark Office



REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

Generated on: This page was generated by TSDR on 2022-01-31 14:22:24 EST

Mark: NEOLIFE TRÉ



US Serial Number: 88286258

Application Filing Date: Feb. 01, 2019

US Registration Number: 6104794

Registration Date: Jul. 21, 2020

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

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

Status Date: Jul. 21, 2020

Publication Date: May 05, 2020

Mark Information

Mark Literal Elements: NEOLIFE TRÉ

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 "NEOLIFE" in a small caps font to the right of a stylized depiction of a wheat stalk within a circle, all above "TRÉ" in a stylized all caps font.

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

Translation: The wording "TRÉ" has no meaning in a foreign language.

Design Search Code(s): 05.07.02 - Stalks (grain); Haystacks; Bundles, grain
26.01.01 - Circles as carriers or as single line borders

Related Properties Information

Claimed Ownership of US Registrations: 1537100, 4621364, 4846868 and others

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 supplemental drinks; Dietary supplements; 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: Sep. 02, 2014

Use in Commerce: Sep. 02, 2014

For: Tea-based beverages

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 02, 2014

Use in Commerce: Sep. 02, 2014

For: Fruit beverages; Fruit-based beverages; Non-alcoholic water-based beverages; Non-alcoholic beverages flavored with tea

International Class(es): 032 - Primary Class

U.S Class(es): 045, 046, 048

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 02, 2014

Use in Commerce: Sep. 02, 2014

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Neolife International, LLC

Owner Address: 3500 Gateway Blvd
Fremont, CALIFORNIA UNITED STATES 94538

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly

Docket Number: K375G-US497

Attorney Primary Email Address: bsb@bsblp.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Brian Beverly
Beeson Skinner Beverly, LLP
One Kaiser Plaza, Suite 750
Oakland, CALIFORNIA UNITED STATES 94612

Phone: 510-832-8700

Fax: 510-836-2595

Correspondent e-mail: bsb@bsblp.com skellar@bsblp.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 21, 2020	REGISTERED-PRINCIPAL REGISTER	
May 05, 2020	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 05, 2020	PUBLISHED FOR OPPOSITION	
Apr. 15, 2020	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 26, 2020	ASSIGNED TO LIE	68171

Mar. 20, 2020	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 20, 2020	EXAMINER'S AMENDMENT ENTERED	88888
Mar. 20, 2020	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Mar. 20, 2020	EXAMINERS AMENDMENT E-MAILED	6328
Mar. 20, 2020	EXAMINERS AMENDMENT -WRITTEN	93680
Mar. 20, 2020	RESTORE TO TEAS PLUS	78756
Jan. 10, 2020	NOTIFICATION OF SUBSEQUENT FINAL EMAILED	
Jan. 10, 2020	SUBSEQUENT FINAL EMAILED	
Jan. 10, 2020	SUBSEQUENT FINAL REFUSAL WRITTEN	93680
Jan. 10, 2020	REMOVED FROM TEAS PLUS	93680
Nov. 05, 2019	NOTIFICATION OF FINAL REFUSAL EMAILED	
Nov. 05, 2019	FINAL REFUSAL E-MAILED	
Nov. 05, 2019	FINAL REFUSAL WRITTEN	93680
Oct. 15, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 14, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 14, 2019	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 13, 2019	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 13, 2019	NON-FINAL ACTION E-MAILED	6325
Apr. 13, 2019	NON-FINAL ACTION WRITTEN	93680
Apr. 12, 2019	ASSIGNED TO EXAMINER	93680
Mar. 21, 2019	NOTICE OF DESIGN SEARCH CODE E-MAILED	
Feb. 25, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 05, 2019	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. 21, 2020

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91270014](#)

Filing Date: Jun 21, 2021

Status: Pending

Status Date: Jun 22, 2021

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: NIO CO., LTD

Correspondent Address: HEATHER A. DUNN, ESQ.
DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: tmfilings@us.dlapiper.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Opposition Pending	88154817	

Plaintiff(s)

Name: Neolife International, LLC

Correspondent Address: STEWART R. KELLAR
BEESON SKINNER BEVERLY, LLP

ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsbllp.com , skellar@bsbllp.com

Associated marks			
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NEOLIFESHAKE	Registered	88402640	5907766
NEOLIFE TRÉ	Registered	88286229	6104793
NEOLIFE TRÉ	Registered	88286258	6104794

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4	D MOT FOR EXT W/ CONSENT	Aug 02, 2021	
3	INSTITUTED	Jun 22, 2021	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 22, 2021	Aug 01, 2021
1	FILED AND FEE	Jun 21, 2021	

EXHIBIT 7

To: NIO CO., LTD (TMDocket@dlapiper.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88154949 - NIO LIFE - 399405900162
Sent: 11/16/2018 4:50:38 PM
Sent As: ECOM112@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION
SERIAL NO.** 88154949

MARK: NIO LIFE

88154949

CORRESPONDENT

ADDRESS:

HEATHER A.
DUNN, ESQ.
DLA PIPER LLP
(US)

399405900162
555 MISSION
STREET, SUITE 2400
SAN FRANCISCO,
CA 94105-2933

APPLICANT: NIO CO.,
LTD

**CLICK HERE TO RESPOND TO THIS
LETTER:**

http://www.uspto.gov/trademarks/teas/response_forms.jsp

[VIEW YOUR APPLICATION FILE](#)

**CORRESPONDENT'S
REFERENCE/DOCKET
NO:**

399405900162

**CORRESPONDENT E-
MAIL ADDRESS:**

TMDocket@dlapiper.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW. A RESPONSE TRANSMITTED THROUGH THE TRADEMARK ELECTRONIC APPLICATION SYSTEM (TEAS) MUST BE RECEIVED BEFORE MIDNIGHT **EASTERN TIME** OF THE LAST DAY OF THE RESPONSE PERIOD.

ISSUE/MAILING DATE: 11/16/2018

The assigned trademark examining attorney has reviewed the referenced application and has determined the following. Questions regarding the Office Action should be directed to the trademark examining attorney at kyle.peete@uspto.gov.

Summary of Issues

- Section 2(d) - Likelihood of Confusion Refusal
- Foreign Registration

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 4621364 and 4846868. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registrations.

The applicant's mark is:

NIO LIFE for "fruit pulp; milk products excluding ice cream; fruit jellies; prepared nuts; ice milk and frozen yogurt" in International Class 029.

The registrant's marks are:

NEOLIFE for "nutritional and dietary food supplements, comprised of vitamins, minerals, proteins, amino acids, enzymes, fiber, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; herbal supplements; dietary supplement drink mixes containing protein, and fiber blends; meal replacement drink mixes and weight loss dietary and nutritional supplements; nutritionally fortified beverages" in International Class 005, "fruit based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; edible oils and fats, processed food bars primarily consisting of extracts of fruits, nuts, and seeds" in International Class 029, "cereal based snack foods and food bars, processed herbs, fruit teas, tea-based beverages" in International Class 030 and "non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages, non-alcoholic beverages with tea flavor" in International Class 032

NEOLIFE for "Nutritional and dietary food supplements; dietary supplements for humans and animals; dietary supplements containing vitamins, minerals, proteins, amino acids, probiotics, enzymes, fiber, aloe vera, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; dietary and nutritional supplements used for weight loss; herbal supplements; nutritional supplement shakes; powdered nutritional supplement drink mix; dietary supplement drink mixes; meal replacement shakes for weight loss purposes; nutritionally fortified beverages; nutritional supplement energy bars" in International Class 005, "Fruit and vegetable based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; dairy based food beverages also containing chocolate or cocoa; dairy based powders for making dairy-based food beverages and shakes; edible oils and fats; processed food bars primarily based on extracts of fruits and vegetables, nuts and seeds" in International Class 029, "Teas; fruit teas; herbal teas for food purposes; beverages with a tea base; beverages with a chocolate or cocoa base; processed herbs; grain-based food bars also containing fruits, nuts and chocolate; chocolate based food bars" in International Class 030 and "Non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages; non-alcoholic beverages with tea flavor; herbal juices; aloe vera beverage; fruit juices and energy drinks containing nutritional supplements" in International Class 032.

Similarity of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)); TMEP §1207.01(b).

Here, the applicant's mark is nearly identical to the cited registered mark, the only difference being applicant's use of the letter "T" in place of the cited registered mark's letter "E" in NIO/NEO and applicant's use of a space between the terms in its mark.

The marks are essentially phonetic equivalents and thus sound similar. Similarity in sound alone may be sufficient to support a finding that the marks are confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b)(iv).

As such, the marks are identical in sound and virtually identical in appearance, and are thus confusingly similar for the purposes of determining likelihood of confusion. *See, e.g., Seaguard Corp. v. Seaward Int'l, Inc.*, 223 USPQ 48, 51 (TTAB 1984) ("[T]he marks 'SEAGUARD' and 'SEA GUARD' are, in contemplation of law, identical [internal citation omitted]."); *In re Best W. Family Steak House, Inc.*, 222 USPQ 827, 827 (TTAB 1984) ("There can be little doubt that the marks [BEEFMASTER and BEEF MASTER] are practically identical"); *Stock Pot, Inc., v. Stockpot Rest., Inc.*, 220 USPQ 52, 52 (TTAB 1983), *aff'd* 737 F.2d 1576, 222 USPQ 665 (Fed. Cir. 1984) ("There is no question that the marks of the parties [STOCKPOT and STOCK POT] are confusingly similar. The word marks are phonetically identical and visually almost identical.").

When comparing marks, “[t]he proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that [consumers] who encounter the marks would be likely to assume a connection between the parties.” *Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012)); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re St. Helena Hosp.*, 774 F.3d 747, 750-51, 113 USPQ2d 1082, 1085 (Fed. Cir. 2014); *Geigy Chem. Corp. v. Atlas Chem. Indus., Inc.*, 438 F.2d 1005, 1007, 169 USPQ 39, 40 (CCPA 1971)); TMEP §1207.01(b).

Moreover, where the goods and/or services of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding that confusion is likely declines. *See Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(b).

Similarity of the Goods/Services

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Here, applicant’s fruit based products and dairy snacks are essentially identical to the registrant’s same goods.

Where the marks of the respective parties are identical or virtually identical, as in this case, the degree of similarity or relatedness between the goods and/or services needed to support a finding of likelihood of confusion declines. *See In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015) (citing *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993)), *aff’d*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017); TMEP §1207.01(a).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Accordingly, registration is denied on the Principal Register. Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Foreign Registration

The application specifies both an intent to use basis under Trademark Act Section 1(b) and a claim of priority under Section 44(d) based on a foreign application. *See* 15 U.S.C. §§1051(b), 1126(d); 37 C.F.R. §2.34(a)(2), (a)(4). However, no copy of a foreign registration has been provided even though the application indicates applicant’s intent to rely on Section 44(e) as an additional basis for registration. *See* 15 U.S.C. §1126(e).

An application with a Section 44(e) basis must include a true copy, photocopy, certification, or certified copy of a foreign registration from an applicant’s country of origin. 15 U.S.C. §1126(e); 37 C.F.R. §2.34(a)(3)(ii); TMEP §§1004, 1004.01, 1016. In addition, an applicant’s country of origin must be a party to a convention or treaty relating to trademarks to which the United States is also a party, or must extend reciprocal registration rights to nationals of the United States by law. 15 U.S.C. §1126(b); TMEP §§1002.01, 1004.

Therefore, applicant must provide a copy of the foreign registration from applicant’s country of origin when it becomes available. TMEP §1003.04(a). A copy of a foreign registration must consist of a document issued to an applicant by, or certified by, the intellectual property office in applicant’s country of origin. TMEP §1004.01. If applicant’s country of origin does not issue registrations or Madrid Protocol certificates of extension of protection, applicant may submit a copy of the Madrid Protocol international registration that shows that protection of the international registration has been extended to applicant’s country of origin. TMEP §1016. In addition, applicant must also provide an English translation if the foreign registration is not written in English. 37 C.F.R. §2.34(a)(3)(ii); TMEP §1004.01(a)-(b). The translation should be signed by the translator. TMEP §1004.01(b).

If the foreign registration has not yet issued, or applicant requires additional time to procure a copy of the foreign registration (and English

translation, as appropriate), applicant should so inform the trademark examining attorney and request that the U.S. application be suspended until a copy of the foreign registration is available. TMEP §§716.02(b), 1003.04(b).

If applicant cannot satisfy the requirements of a Section 44(e) basis, applicant may request that the mark be approved for publication based solely on the Section 1(b) basis. See 15 U.S.C. §§1051(b), 1126(e); 37 C.F.R. §2.35(b)(1); TMEP §§806.02(f), 806.04(b), 1003.04(b). Although the mark may be approved for publication on the Section 1(b) basis, it will not register until an acceptable allegation of use has been filed. See 15 U.S.C. §1051(c)-(d); 37 C.F.R. §§2.76, 2.88; TMEP §1103. Please note that, if the U.S. application satisfied the requirements of Section 44(d) as of the U.S. application filing date, applicant may retain the priority filing date under Section 44(d) without perfecting the Section 44(e) basis, provided there is a continuing valid basis for registration. See 37 C.F.R. §2.35(b)(3)-(4); TMEP §§806.02(f), 806.04(b).

Alternatively, applicant has the option to amend the application to rely solely on the Section 44(e) basis and request deletion of the Section 1(b) basis. See 37 C.F.R. §2.35(b)(1); TMEP §806.04. The foreign registration alone may serve as the basis for obtaining a U.S. registration. See 37 C.F.R. §2.34(a)(3); TMEP §806.01(d).

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

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TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

EXHIBIT 8

To: NIO CO., LTD (TMDocket@dlapiper.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88154945 - NIO LIFE - 399405900163
Sent: 11/16/2018 4:49:49 PM
Sent As: ECOM112@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION
SERIAL NO.** 88154945

MARK: NIO LIFE

88154945

CORRESPONDENT

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DLA PIPER LLP
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APPLICANT: NIO CO.,
LTD

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**CORRESPONDENT'S
REFERENCE/DOCKET
NO:**

399405900163

**CORRESPONDENT E-
MAIL ADDRESS:**

TMDocket@dlapiper.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW. A RESPONSE TRANSMITTED THROUGH THE TRADEMARK ELECTRONIC APPLICATION SYSTEM (TEAS) MUST BE RECEIVED BEFORE MIDNIGHT **EASTERN TIME** OF THE LAST DAY OF THE RESPONSE PERIOD.

ISSUE/MAILING DATE: 11/16/2018

The assigned trademark examining attorney has reviewed the referenced application and has determined the following. Questions regarding the Office Action should be directed to the trademark examining attorney at kyle.peete@uspto.gov.

Summary of Issues

- Section 2(d) - Likelihood of Confusion Refusal
- Foreign Registration

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 4621364 and 4846868. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registrations.

The applicant's mark is:

NIO LIFE for "Coffee; coffee-based beverages; Coffee powder; tea; tea-based beverages; sugar; confectionery namely, Cocoa drink; chocolate-based beverage; bread; cookies; confectionery made of sugar; pastries; almond paste; cereal-based snack food; ice cream" in International Class 030.

The registrant's marks are:

NEOLIFE for "nutritional and dietary food supplements, comprised of vitamins, minerals, proteins, amino acids, enzymes, fiber, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; herbal supplements; dietary supplement drink mixes containing protein, and fiber blends; meal replacement drink mixes and weight loss dietary and nutritional supplements; nutritionally fortified beverages" in International Class 005, "fruit based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; edible oils and fats, processed food bars primarily consisting of extracts of fruits, nuts, and seeds" in International Class 029, "cereal based snack foods and food bars, processed herbs, fruit teas, tea-based beverages" in International Class 030 and "non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages, non-alcoholic beverages with tea flavor" in International Class 032

NEOLIFE for "Nutritional and dietary food supplements; dietary supplements for humans and animals; dietary supplements containing vitamins, minerals, proteins, amino acids, probiotics, enzymes, fiber, aloe vera, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; dietary and nutritional supplements used for weight loss; herbal supplements; nutritional supplement shakes; powdered nutritional supplement drink mix; dietary supplement drink mixes; meal replacement shakes for weight loss purposes; nutritionally fortified beverages; nutritional supplement energy bars" in International Class 005, "Fruit and vegetable based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; dairy based food beverages also containing chocolate or cocoa; dairy based powders for making dairy-based food beverages and shakes; edible oils and fats; processed food bars primarily based on extracts of fruits and vegetables, nuts and seeds" in International Class 029, "Teas; fruit teas; herbal teas for food purposes; beverages with a tea base; beverages with a chocolate or cocoa base; processed herbs; grain-based food bars also containing fruits, nuts and chocolate; chocolate based food bars" in International Class 030 and "Non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages; non-alcoholic beverages with tea flavor; herbal juices; aloe vera beverage; fruit juices and energy drinks containing nutritional supplements" in International Class 032.

Similarity of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)); TMEP §1207.01(b).

Here, the applicant's mark is nearly identical to the cited registered mark, the only difference being applicant's use of the letter "I" in place of the cited registered mark's letter "E" in NIO/NEO and applicant's use of a space between the terms in its mark.

The marks are essentially phonetic equivalents and thus sound similar. Similarity in sound alone may be sufficient to support a finding that the marks are confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b)(iv).

As such, the marks are identical in sound and virtually identical in appearance, and are thus confusingly similar for the purposes of determining likelihood of confusion. *See, e.g., Seaguard Corp. v. Seaward Int'l, Inc.*, 223 USPQ 48, 51 (TTAB 1984) ("[T]he marks 'SEAGUARD' and 'SEA GUARD' are, in contemplation of law, identical [internal citation omitted]."); *In re Best W. Family Steak House, Inc.*, 222 USPQ 827,

827 (TTAB 1984) (“There can be little doubt that the marks [BEEFMASTER and BEEF MASTER] are practically identical”); *Stock Pot, Inc., v. Stockpot Rest., Inc.*, 220 USPQ 52, 52 (TTAB 1983), *aff’d* 737 F.2d 1576, 222 USPQ 665 (Fed. Cir. 1984) (“There is no question that the marks of the parties [STOCKPOT and STOCK POT] are confusingly similar. The word marks are phonetically identical and visually almost identical.”).

When comparing marks, “[t]he proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that [consumers] who encounter the marks would be likely to assume a connection between the parties.” *Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012)); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re St. Helena Hosp.*, 774 F.3d 747, 750-51, 113 USPQ2d 1082, 1085 (Fed. Cir. 2014); *Geigy Chem. Corp. v. Atlas Chem. Indus., Inc.*, 438 F.2d 1005, 1007, 169 USPQ 39, 40 (CCPA 1971)); TMEP §1207.01(b).

Moreover, where the goods and/or services of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding that confusion is likely declines. *See Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(b).

Similarity of the Goods/Services

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Here, applicant’s cereal-based snack foods and tea-based beverages are identical to the registrant’s cereal-based snack foods and tea-based beverages. Applicant’s other beverages and snacks are closely related to the registrant’s carious beverages and snack foods.

Where the marks of the respective parties are identical or virtually identical, as in this case, the degree of similarity or relatedness between the goods and/or services needed to support a finding of likelihood of confusion declines. *See In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015) (citing *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993)), *aff’d*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017); TMEP §1207.01(a).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Accordingly, registration is denied on the Principal Register. Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Foreign Registration

The application specifies both an intent to use basis under Trademark Act Section 1(b) and a claim of priority under Section 44(d) based on a foreign application. *See* 15 U.S.C. §§1051(b), 1126(d); 37 C.F.R. §2.34(a)(2), (a)(4). However, no copy of a foreign registration has been provided even though the application indicates applicant’s intent to rely on Section 44(e) as an additional basis for registration. *See* 15 U.S.C. §1126(e).

An application with a Section 44(e) basis must include a true copy, photocopy, certification, or certified copy of a foreign registration from an applicant’s country of origin. 15 U.S.C. §1126(e); 37 C.F.R. §2.34(a)(3)(ii); TMEP §§1004, 1004.01, 1016. In addition, an applicant’s country of origin must be a party to a convention or treaty relating to trademarks to which the United States is also a party, or must extend reciprocal registration rights to nationals of the United States by law. 15 U.S.C. §1126(b); TMEP §§1002.01, 1004.

Therefore, applicant must provide a copy of the foreign registration from applicant’s country of origin when it becomes available. TMEP §1003.04(a). A copy of a foreign registration must consist of a document issued to an applicant by, or certified by, the intellectual property office in applicant’s country of origin. TMEP §1004.01. If applicant’s country of origin does not issue registrations or Madrid Protocol certificates of extension of protection, applicant may submit a copy of the Madrid Protocol international registration that shows that protection of the

international registration has been extended to applicant's country of origin. TMEP §1016. In addition, applicant must also provide an English translation if the foreign registration is not written in English. 37 C.F.R. §2.34(a)(3)(ii); TMEP §1004.01(a)-(b). The translation should be signed by the translator. TMEP §1004.01(b).

If the foreign registration has not yet issued, or applicant requires additional time to procure a copy of the foreign registration (and English translation, as appropriate), applicant should so inform the trademark examining attorney and request that the U.S. application be suspended until a copy of the foreign registration is available. TMEP §§716.02(b), 1003.04(b).

If applicant cannot satisfy the requirements of a Section 44(e) basis, applicant may request that the mark be approved for publication based solely on the Section 1(b) basis. See 15 U.S.C. §§1051(b), 1126(e); 37 C.F.R. §2.35(b)(1); TMEP §§806.02(f), 806.04(b), 1003.04(b). Although the mark may be approved for publication on the Section 1(b) basis, it will not register until an acceptable allegation of use has been filed. See 15 U.S.C. §1051(c)-(d); 37 C.F.R. §§2.76, 2.88; TMEP §1103. Please note that, if the U.S. application satisfied the requirements of Section 44(d) as of the U.S. application filing date, applicant may retain the priority filing date under Section 44(d) without perfecting the Section 44(e) basis, provided there is a continuing valid basis for registration. See 37 C.F.R. §2.35(b)(3)-(4); TMEP §§806.02(f), 806.04(b).

Alternatively, applicant has the option to amend the application to rely solely on the Section 44(e) basis and request deletion of the Section 1(b) basis. See 37 C.F.R. §2.35(b)(1); TMEP §806.04. The foreign registration alone may serve as the basis for obtaining a U.S. registration. See 37 C.F.R. §2.34(a)(3); TMEP §806.01(d).

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/Kyle Christopher Peete/
Trademark Attorney [Law Office 112]
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WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

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To: NIO CO., LTD (TMDocket@dlapiper.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88154945 - NIO LIFE - 399405900163
Sent: 11/16/2018 4:49:50 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **11/16/2018** FOR U.S. APPLICATION SERIAL NO. 88154945

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **11/16/2018** (or sooner if specified in the Office action). A response transmitted through the Trademark Electronic Application System (TEAS) must be received before midnight **Eastern Time** of the last day of the response period. For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the TEAS response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

EXHIBIT 9

To: NIO CO., LTD (TMDocket@dlapiper.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88154927 - NIO LIFE - 399405900165
Sent: 11/16/2018 4:48:38 PM
Sent As: ECOM112@USPTO.GOV
Attachments: [Attachment - 1](#)
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION
SERIAL NO. 88154927**

MARK: NIO LIFE

88154927

CORRESPONDENT

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APPLICANT: NIO CO.,
LTD

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**CORRESPONDENT E-
MAIL ADDRESS:**

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OFFICE ACTION

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ISSUE/MAILING DATE: 11/16/2018

The assigned trademark examining attorney has reviewed the referenced application and has determined the following. Questions regarding the Office Action should be directed to the trademark examining attorney at kyle.peete@uspto.gov.

Summary of Issues

- Section 2(d) - Likelihood of Confusion Refusal
- Foreign Registration

Section 2(d) - Likelihood of Confusion Refusal

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration Nos. 4621364 and 4846868. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registrations.

The applicant's mark is:

NIO LIFE for "bottled water; beer-based cocktails; beer; seltzer water; aerated water; protein-enriched sports beverages; water beverages; fruit drink; fruit juice; cola; preparations for making fruit-based and soft drink beverages" in International Class 032.

The registrant's marks are:

NEOLIFE for "nutritional and dietary food supplements, comprised of vitamins, minerals, proteins, amino acids, enzymes, fiber, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; herbal supplements; dietary supplement drink mixes containing protein, and fiber blends; meal replacement drink mixes and weight loss dietary and nutritional supplements; nutritionally fortified beverages" in International Class 005, "fruit based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; edible oils and fats, processed food bars primarily consisting of extracts of fruits, nuts, and seeds" in International Class 029, "cereal based snack foods and food bars, processed herbs, fruit teas, tea-based beverages" in International Class 030 and "non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages, non-alcoholic beverages with tea flavor" in International Class 032

NEOLIFE for "Nutritional and dietary food supplements; dietary supplements for humans and animals; dietary supplements containing vitamins, minerals, proteins, amino acids, probiotics, enzymes, fiber, aloe vera, fish oils, herbs, herbal extracts, fruit extracts, vegetable extracts, and grain concentrates; dietary and nutritional supplements used for weight loss; herbal supplements; nutritional supplement shakes; powdered nutritional supplement drink mix; dietary supplement drink mixes; meal replacement shakes for weight loss purposes; nutritionally fortified beverages; nutritional supplement energy bars" in International Class 005, "Fruit and vegetable based snack foods; preserved, dried, cooked and processed fruits and vegetables; dairy based beverages; dairy based food beverages also containing chocolate or cocoa; dairy based powders for making dairy-based food beverages and shakes; edible oils and fats; processed food bars primarily based on extracts of fruits and vegetables, nuts and seeds" in International Class 029, "Teas; fruit teas; herbal teas for food purposes; beverages with a tea base; beverages with a chocolate or cocoa base; processed herbs; grain-based food bars also containing fruits, nuts and chocolate; chocolate based food bars" in International Class 030 and "Non-alcoholic beverages, namely, fruit juices, fruit drinks and fruit beverages; non-alcoholic beverages with tea flavor; herbal juices; aloe vera beverage; fruit juices and energy drinks containing nutritional supplements" in International Class 032.

Similarity of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). "Similarity in any one of these elements may be sufficient to find the marks confusingly similar." *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)); TMEP §1207.01(b).

Here, the applicant's mark is nearly identical to the cited registered mark, the only difference being applicant's use of the letter "I" in place of the cited registered mark's letter "E" in NIO/NEO and applicant's use of a space between the terms in its mark.

The marks are essentially phonetic equivalents and thus sound similar. Similarity in sound alone may be sufficient to support a finding that the marks are confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b)(iv).

As such, the marks are identical in sound and virtually identical in appearance, and are thus confusingly similar for the purposes of determining likelihood of confusion. *See, e.g., Seaguard Corp. v. Seaward Int'l, Inc.*, 223 USPQ 48, 51 (TTAB 1984) ("[T]he marks 'SEAGUARD' and 'SEA GUARD' are, in contemplation of law, identical [internal citation omitted]."); *In re Best W. Family Steak House, Inc.*, 222 USPQ 827, 827 (TTAB 1984) ("There can be little doubt that the marks [BEEFMASTER and BEEF MASTER] are practically identical"); *Stock Pot, Inc., v. Stockpot Rest., Inc.*, 220 USPQ 52, 52 (TTAB 1983), *aff'd* 737 F.2d 1576, 222 USPQ 665 (Fed. Cir. 1984) ("There is no question that the marks of the parties [STOCKPOT and STOCK POT] are confusingly similar. The word marks are phonetically identical and visually almost

identical.”).

When comparing marks, “[t]he proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that [consumers] who encounter the marks would be likely to assume a connection between the parties.” *Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012)); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re St. Helena Hosp.*, 774 F.3d 747, 750-51, 113 USPQ2d 1082, 1085 (Fed. Cir. 2014); *Geigy Chem. Corp. v. Atlas Chem. Indus., Inc.*, 438 F.2d 1005, 1007, 169 USPQ 39, 40 (CCPA 1971)); TMEP §1207.01(b).

Moreover, where the goods and/or services of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding that confusion is likely declines. *See Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(b).

Similarity of the Goods/Services

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Here, applicant’s fruit juices and non-alcoholic beverages are essentially identical to the registrant’s fruit juices and non-alcoholic beverages.

Where the marks of the respective parties are identical or virtually identical, as in this case, the degree of similarity or relatedness between the goods and/or services needed to support a finding of likelihood of confusion declines. *See In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015) (citing *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993)), *aff’d*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017); TMEP §1207.01(a).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Accordingly, registration is denied on the Principal Register. Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Foreign Registration

The application specifies both an intent to use basis under Trademark Act Section 1(b) and a claim of priority under Section 44(d) based on a foreign application. *See* 15 U.S.C. §§1051(b), 1126(d); 37 C.F.R. §2.34(a)(2), (a)(4). However, no copy of a foreign registration has been provided even though the application indicates applicant’s intent to rely on Section 44(e) as an additional basis for registration. *See* 15 U.S.C. §1126(e).

An application with a Section 44(e) basis must include a true copy, photocopy, certification, or certified copy of a foreign registration from an applicant’s country of origin. 15 U.S.C. §1126(e); 37 C.F.R. §2.34(a)(3)(ii); TMEP §§1004, 1004.01, 1016. In addition, an applicant’s country of origin must be a party to a convention or treaty relating to trademarks to which the United States is also a party, or must extend reciprocal registration rights to nationals of the United States by law. 15 U.S.C. §1126(b); TMEP §§1002.01, 1004.

Therefore, applicant must provide a copy of the foreign registration from applicant’s country of origin when it becomes available. TMEP §1003.04(a). A copy of a foreign registration must consist of a document issued to an applicant by, or certified by, the intellectual property office in applicant’s country of origin. TMEP §1004.01. If applicant’s country of origin does not issue registrations or Madrid Protocol certificates of extension of protection, applicant may submit a copy of the Madrid Protocol international registration that shows that protection of the international registration has been extended to applicant’s country of origin. TMEP §1016. In addition, applicant must also provide an English translation if the foreign registration is not written in English. 37 C.F.R. §2.34(a)(3)(ii); TMEP §1004.01(a)-(b). The translation should be signed by the translator. TMEP §1004.01(b).

If the foreign registration has not yet issued, or applicant requires additional time to procure a copy of the foreign registration (and English translation, as appropriate), applicant should so inform the trademark examining attorney and request that the U.S. application be suspended until a copy of the foreign registration is available. TMEP §§716.02(b), 1003.04(b).

If applicant cannot satisfy the requirements of a Section 44(e) basis, applicant may request that the mark be approved for publication based solely on the Section 1(b) basis. See 15 U.S.C. §§1051(b), 1126(e); 37 C.F.R. §2.35(b)(1); TMEP §§806.02(f), 806.04(b), 1003.04(b). Although the mark may be approved for publication on the Section 1(b) basis, it will not register until an acceptable allegation of use has been filed. See 15 U.S.C. §1051(c)-(d); 37 C.F.R. §§2.76, 2.88; TMEP §1103. Please note that, if the U.S. application satisfied the requirements of Section 44(d) as of the U.S. application filing date, applicant may retain the priority filing date under Section 44(d) without perfecting the Section 44(e) basis, provided there is a continuing valid basis for registration. See 37 C.F.R. §2.35(b)(3)-(4); TMEP §§806.02(f), 806.04(b).

Alternatively, applicant has the option to amend the application to rely solely on the Section 44(e) basis and request deletion of the Section 1(b) basis. See 37 C.F.R. §2.35(b)(1); TMEP §806.04. The foreign registration alone may serve as the basis for obtaining a U.S. registration. See 37 C.F.R. §2.34(a)(3); TMEP §806.01(d).

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

/Kyle Christopher Peete/
Trademark Attorney [Law Office 112]
(571) 272-8275 (Phone)
(571) 273-8275 (Fax)
kyle.peete@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: NIO CO., LTD (TMDocket@dlapiper.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88154927 - NIO LIFE - 399405900165
Sent: 11/16/2018 4:48:40 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **11/16/2018** FOR U.S. APPLICATION SERIAL NO. 88154927

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **11/16/2018** (or sooner if specified in the Office action). A response transmitted through the Trademark Electronic Application System (TEAS) must be received before midnight **Eastern Time** of the last day of the response period. For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the TEAS response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

EXHIBIT 10

Generated on: This page was generated by TSDR on 2022-01-31 14:21:57 EST

Mark: NEOLIFE SUPER GRO

NEOLIFE SUPER GRO

US Serial Number: 88254231

Application Filing Date: Jan. 08, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status: Suspension check completed. Application remains suspended.

Status Date: Oct. 18, 2021

Mark Information

Mark Literal Elements: NEOLIFE SUPER GRO

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: Chemicals for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; Fertilizers; Soil additives; Wetting agents; Soil conditioning preparations; Soil improving agents

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Neolife International, LLC
Owner Address: 3500 Gateway Blvd
Fremont, CALIFORNIA UNITED STATES 94538
Legal Entity Type: LIMITED LIABILITY COMPANY
State or Country NEVADA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brian Beverly
Attorney Primary Email Address: bsb@bsblp.com
Docket Number: K375G-US503
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Brian Beverly
Beeson Skinner Beverly, LLP
One Kaiser Plaza, Suite 750
Oakland, CALIFORNIA UNITED STATES 94612
Phone: 510-832-8700
Fax: 510-836-2595
Correspondent e-mail: bsb@bsblp.com skellar@bsblp.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 18, 2021	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	88889
Apr. 01, 2021	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Oct. 01, 2020	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Oct. 01, 2020	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Mar. 02, 2020	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Aug. 30, 2019	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Aug. 30, 2019	LETTER OF SUSPENSION E-MAILED	6332
Aug. 30, 2019	SUSPENSION LETTER WRITTEN	93671
Aug. 29, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 28, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 28, 2019	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 28, 2019	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Feb. 28, 2019	NON-FINAL ACTION E-MAILED	6325
Feb. 28, 2019	NON-FINAL ACTION WRITTEN	93671
Feb. 21, 2019	ASSIGNED TO EXAMINER	93671
Jan. 30, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 11, 2019	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: PASSMAN, NICOLE A
Law Office Assigned: LAW OFFICE 125

File Location

Current Location: TMO LAW OFFICE 125
Date in Location: Oct. 18, 2021

EXHIBIT 11

To: Neolife International, LLC (bsb@bsbllp.com)
Subject: U.S. Trademark Application Serial No. 88254231 - NEOLIFE SUPER GRO - K375G-US503
Sent: August 30, 2019 02:06:12 PM
Sent As: ecom125@uspto.gov
Attachments:

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application
Serial No.
88254231

Mark:
NEOLIFE
SUPER GRO

Correspondence
Address:
Brian
Beverly
Beeson
Skinner Beverly,
LLP
One Kaiser
Plaza, Suite 750
Oakland CA
94612

Applicant:
Neolife
International,
LLC

Reference/Docket
No. K375G-
US503

Correspondence
Email Address:

bsb@bsbllp.com

SUSPENSION NOTICE
No Response Required

Issue date: **August 30, 2019**

The application is suspended for the reason(s) specified below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The pending application(s) below has an earlier filing date or effective filing date than applicant's application. If the mark in the application(s) below registers, the USPTO may refuse registration of applicant's mark under Section 2(d) because of a likelihood of confusion with the registered mark(s). 15 U.S.C. §1052(d); *see* 37 C.F.R. §2.83; TMEP §§1208.02(c). Action on this application is suspended until the prior-filed application(s) below either registers or abandons. 37 C.F.R. §2.83(c). Information relevant to the application(s) below was sent previously.

- U.S. Application Serial No(s). 88154771, 88154777 and 88154756

The following requirement is maintained: requirement for disclaimer of descriptive wording.

Suspension process. The USPTO will periodically check this application to determine if it should remain suspended. *See* TMEP §716.04. As needed, the trademark examining attorney will issue a letter to applicant to inquire about the status of the reason for the suspension. TMEP §716.05.

No response required. Applicant may [file a response](#), but is not required to do so.

Nicole Passman
/Nicole Passman/
Examining Attorney
Law Office 125
(571) 272-3244
nicole.passman@uspto.gov

EXHIBIT 12

Generated on: This page was generated by TSDR on 2022-01-31 14:26:06 EST

Mark: NIO LIFE

NIO LIFE

US Serial Number: 88154756

Application Filing Date: Oct. 15, 2018

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Published for Opposition

A pending trademark application has been examined by the Office and has been published in a way that provides an opportunity for the public to oppose its registration.

Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Sep. 01, 2021

Publication Date: Aug. 03, 2021

Mark Information

Mark Literal Elements: NIO LIFE

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

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 30348742

Foreign Application Filing Date: Apr. 19, 2018

Foreign Registration Number: 30348742

Foreign Registration Date: Feb. 14, 2019

Foreign Application/Registration Country: CHINA

Foreign Expiration Date: Feb. 13, 2029

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: flower preservatives; photographic paper; oils for currying leather

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No	Currently Use: No
Filed ITU: Yes	Currently ITU: No
Filed 44D: Yes	Currently 44E: Yes
Filed 44E: No	Currently 66A: No
Filed 66A: No	Currently No Basis: No
Filed No Basis: No	

Current Owner(s) Information

Owner Name: NIO CO., LTD

Owner Address: SUITE 115, NO. 569, ANCHI ROAD
ANTING TOWN, JIADING DISTRICT
SHANGHAI CHINA 201800

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: CHINA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Heather A. Dunn, Esq.

Attorney Primary Email Address: TMFilings@us.dlapiper.com

Docket Number: 399405900145

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Heather A. Dunn, Esq.
DLA Piper LLP (US)
555 Mission Street, Suite 2400
San Francisco, CALIFORNIA UNITED STATES 94105-2933

Phone: 415.836.2557

Correspondent e-mail: TMFilings@us.dlapiper.com

Fax: 415.659.7357

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Heather A. Dunn, Esq.

Domestic Representative e-mail: TMFilings@us.dlapiper.com

Phone: 415.836.2557

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Sep. 01, 2021	EXTENSION OF TIME TO OPPOSE RECEIVED	
Aug. 03, 2021	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 03, 2021	PUBLISHED FOR OPPOSITION	
Jul. 14, 2021	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jun. 29, 2021	ELECTRONIC RECORD REVIEW COMPLETE	68065
Jun. 25, 2021	ON HOLD - ELECTRONIC RECORD REVIEW REQUIRED	
Jun. 21, 2021	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 09, 2021	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 09, 2021	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Jun. 09, 2021	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Jun. 09, 2021	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 09, 2021	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Apr. 08, 2021	TEAS/EMAIL CORRESPONDENCE ENTERED	68123

Apr. 08, 2021	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Apr. 06, 2021	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Dec. 15, 2020	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Dec. 15, 2020	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 15, 2020	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Dec. 15, 2020	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 15, 2020	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Oct. 08, 2020	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Oct. 08, 2020	INQUIRY TO SUSPENSION E-MAILED	
Oct. 08, 2020	SUSPENSION INQUIRY WRITTEN	81141
Aug. 26, 2020	SUSPENSION CHECKED A- TO ATTORNEY FOR ACTION	68123
Jun. 10, 2020	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	68123
Jun. 05, 2020	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 05, 2020	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Jun. 05, 2020	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Jun. 05, 2020	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 05, 2020	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 26, 2020	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 26, 2020	LETTER OF SUSPENSION E-MAILED	6332
Feb. 26, 2020	SUSPENSION LETTER WRITTEN	81141
Jan. 13, 2020	TEAS/EMAIL CORRESPONDENCE ENTERED	68123
Jan. 13, 2020	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Jan. 09, 2020	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Sep. 12, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Sep. 12, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 09, 2019	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Jul. 09, 2019	INQUIRY TO SUSPENSION E-MAILED	
Jul. 09, 2019	SUSPENSION INQUIRY WRITTEN	81141
Jun. 13, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 13, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jun. 13, 2019	ASSIGNED TO LIE	68123
Nov. 14, 2018	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Nov. 14, 2018	LETTER OF SUSPENSION E-MAILED	6332
Nov. 14, 2018	SUSPENSION LETTER WRITTEN	81141
Nov. 07, 2018	ASSIGNED TO EXAMINER	81141
Oct. 25, 2018	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 18, 2018	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: PEETE, KYLE C

Law Office Assigned: LAW OFFICE 112

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jun. 29, 2021

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Extension of Time

Proceeding Number: [88154756](#)

Filing Date: Sep 01, 2021

Status: Extension of Time to Oppose Filed

Status Date: Sep 01, 2021

Interlocutory

Attorney:**Defendant****Name:** NIO CO., LTD**Correspondent** HEATHER A. DUNN, ESQ.**Address:** DLA PIPER LLP (US)
555 MISSION STREET, SUITE 2400
SAN FRANCISCO CA UNITED STATES , 94105-2933**Correspondent e-mail:** tmfilings@us.dlapiper.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Request For Extension of Time to File Opposition	88154756	

Potential Opposer(s)**Name:** Neolife International, LLC**Correspondent** STEWART R. KELLAR**Address:** BEESON SKINNER BEVERLY, LLP
ONE KAISER PLAZA, SUITE 750
OAKLAND CA UNITED STATES , 94612**Correspondent e-mail:** bsb@bsblp.com , skellar@bsblp.com**Prosecution History**

Entry Number	History Text	Date	Due Date
6	EXT GRANTED	Dec 01, 2021	
5	FINAL 60-DAY REQUEST TO EXT TIME TO OPPOSE	Dec 01, 2021	
4	EXT GRANTED	Oct 04, 2021	
3	ADD'L 60-DAY REQUEST TO EXT TIME TO OPPOSE	Oct 04, 2021	
2	EXT GRANTED	Sep 01, 2021	
1	FIRST 30-DAY REQUEST TO EXT TIME TO OPPOSE	Sep 01, 2021	

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Mark: NIO LIFE

NIO LIFE

US Serial Number: 88154771

Application Filing Date: Oct. 15, 2018

US Registration Number: 6274924

Registration Date: Feb. 23, 2021

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

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

Status Date: Feb. 23, 2021

Publication Date: Dec. 08, 2020

Mark Information

Mark Literal Elements: NIO LIFE

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

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 30348741

Foreign Application Filing Date: Apr. 19, 2018

Foreign Registration Number: 30348741

Foreign Registration Date: Jan. 28, 2020

Foreign Application/Registration Country: CHINA

Foreign Expiration Date: Jan. 27, 2030

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: cosmetics, perfumes, essential oils, air fragrance preparations; cakes of soap; dentifrices; incense

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No	Currently Use: No
Filed ITU: Yes	Currently ITU: No
Filed 44D: Yes	Currently 44E: Yes
Filed 44E: No	Currently 66A: No
Filed 66A: No	Currently No Basis: No
Filed No Basis: No	

Current Owner(s) Information

Owner Name: NIO CO., LTD

Owner Address: SUITE 115, NO. 569, ANCHI ROAD
ANTING TOWN, JIADING DISTRICT
SHANGHAI CHINA 201800

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: CHINA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Heather A. Dunn, Esq.

Attorney Primary Email Address: TMFilings@us.dlapiper.com

Docket Number: 399405900146

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Heather A. Dunn, Esq.
DLA Piper LLP (US)
555 Mission Street, Suite 2400
San Francisco, CALIFORNIA UNITED STATES 94105-2933

Phone: 415.836.2557

Fax: 415.659.7357

Correspondent e-mail: TMFilings@us.dlapiper.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Heather A. Dunn, Esq.

Fax: 415.659.7357

Domestic Representative e-mail: TMFilings@us.dlapiper.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Jun. 09, 2021	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 09, 2021	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Jun. 09, 2021	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Jun. 09, 2021	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 09, 2021	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 23, 2021	REGISTERED-PRINCIPAL REGISTER	
Dec. 15, 2020	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Dec. 15, 2020	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 15, 2020	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Dec. 15, 2020	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 15, 2020	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Dec. 08, 2020	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	

Dec. 08, 2020	PUBLISHED FOR OPPOSITION	
Nov. 18, 2020	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Oct. 30, 2020	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 28, 2020	TEAS/EMAIL CORRESPONDENCE ENTERED	70884
Aug. 28, 2020	CORRESPONDENCE RECEIVED IN LAW OFFICE	70884
Aug. 26, 2020	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Jun. 09, 2020	ASSIGNED TO LIE	70884
Jun. 05, 2020	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 05, 2020	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Jun. 05, 2020	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Jun. 05, 2020	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 05, 2020	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 27, 2020	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Feb. 27, 2020	INQUIRY TO SUSPENSION E-MAILED	
Feb. 27, 2020	SUSPENSION INQUIRY WRITTEN	81141
Feb. 21, 2020	SUSPENSION CHECKED Å- TO ATTORNEY FOR ACTION	68552
Feb. 03, 2020	ASSIGNED TO LIE	68552
Sep. 12, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Sep. 12, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 17, 2019	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jul. 17, 2019	LETTER OF SUSPENSION E-MAILED	6332
Jul. 17, 2019	SUSPENSION LETTER WRITTEN	81141
Jun. 13, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 13, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jun. 13, 2019	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 12, 2019	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 12, 2019	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 12, 2018	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 12, 2018	NON-FINAL ACTION E-MAILED	6325
Dec. 12, 2018	NON-FINAL ACTION WRITTEN	81141
Nov. 14, 2018	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Nov. 14, 2018	LETTER OF SUSPENSION E-MAILED	6332
Nov. 14, 2018	SUSPENSION LETTER WRITTEN	81141
Nov. 07, 2018	ASSIGNED TO EXAMINER	81141
Oct. 25, 2018	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 18, 2018	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: Feb. 23, 2021

Generated on: This page was generated by TSDR on 2022-01-31 14:26:17 EST

Mark: NIO LIFE

NIO LIFE

US Serial Number: 88154777

Application Filing Date: Oct. 15, 2018

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Published for Opposition

A pending trademark application has been examined by the Office and has been published in a way that provides an opportunity for the public to oppose its registration.

Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Sep. 01, 2021

Publication Date: Aug. 03, 2021

Mark Information

Mark Literal Elements: NIO LIFE

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

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 30348740

Foreign Application Filing Date: Apr. 19, 2018

Foreign Registration Number: 30348740

Foreign Registration Date: Feb. 14, 2019

Foreign Application/Registration Country: CHINA

Foreign Expiration Date: Feb. 13, 2029

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: candles; oils for the preservation of leather; tapers, lamp wicks

International Class(es): 004 - Primary Class

U.S Class(es): 001, 006, 015

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No
Filed ITU: Yes
Filed 44D: Yes
Filed 44E: No
Filed 66A: No
Filed No Basis: No

Currently Use: No
Currently ITU: No
Currently 44E: Yes
Currently 66A: No
Currently No Basis: No

Current Owner(s) Information

Owner Name: NIO CO., LTD
Owner Address: SUITE 115, NO. 569, ANCHI ROAD
ANTING TOWN, JIADING DISTRICT
SHANGHAI CHINA 201800
Legal Entity Type: LIMITED LIABILITY COMPANY
State or Country Where Organized: CHINA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Heather A. Dunn, Esq.
Attorney Primary Email Address: TMFilings@us.dlapiper.com
Docket Number: 399405900147
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Heather A. Dunn, Esq.
DLA Piper LLP (US)
555 Mission Street, Suite 2400
San Francisco, CALIFORNIA UNITED STATES 94105-2933
Phone: 415.836.2557
Fax: 415.659.7357
Correspondent e-mail: TMFilings@us.dlapiper.com
Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Heather A. Dunn, Esq.
Phone: 415.836.2557
Fax: 415.659.7357
Domestic Representative e-mail: TMFilings@us.dlapiper.com
Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Sep. 01, 2021	EXTENSION OF TIME TO OPPOSE RECEIVED	
Aug. 03, 2021	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 03, 2021	PUBLISHED FOR OPPOSITION	
Jul. 14, 2021	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jun. 29, 2021	ELECTRONIC RECORD REVIEW COMPLETE	68065
Jun. 25, 2021	ON HOLD - ELECTRONIC RECORD REVIEW REQUIRED	
Jun. 21, 2021	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 09, 2021	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 09, 2021	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Jun. 09, 2021	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Jun. 09, 2021	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 09, 2021	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Apr. 09, 2021	TEAS/EMAIL CORRESPONDENCE ENTERED	68123

Apr. 09, 2021	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Apr. 06, 2021	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Dec. 15, 2020	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Dec. 15, 2020	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 15, 2020	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Dec. 15, 2020	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 15, 2020	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Oct. 08, 2020	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Oct. 08, 2020	INQUIRY TO SUSPENSION E-MAILED	
Oct. 08, 2020	SUSPENSION INQUIRY WRITTEN	81141
Aug. 26, 2020	SUSPENSION CHECKED A- TO ATTORNEY FOR ACTION	68123
Jun. 10, 2020	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	68123
Jun. 05, 2020	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 05, 2020	TEAS CHANGE OF DOMESTIC REPRESENTATIVES ADDRESS	
Jun. 05, 2020	TEAS WITHDRAWAL OF ATTORNEY RECEIVED-FIRM RETAINS	
Jun. 05, 2020	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 05, 2020	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 26, 2020	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 26, 2020	LETTER OF SUSPENSION E-MAILED	6332
Feb. 26, 2020	SUSPENSION LETTER WRITTEN	81141
Jan. 13, 2020	TEAS/EMAIL CORRESPONDENCE ENTERED	68123
Jan. 13, 2020	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Jan. 09, 2020	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Sep. 12, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Sep. 12, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 09, 2019	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Jul. 09, 2019	INQUIRY TO SUSPENSION E-MAILED	
Jul. 09, 2019	SUSPENSION INQUIRY WRITTEN	81141
Jun. 13, 2019	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jun. 13, 2019	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jun. 13, 2019	ASSIGNED TO LIE	68123
Nov. 14, 2018	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Nov. 14, 2018	LETTER OF SUSPENSION E-MAILED	6332
Nov. 14, 2018	SUSPENSION LETTER WRITTEN	81141
Nov. 07, 2018	ASSIGNED TO EXAMINER	81141
Oct. 25, 2018	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 18, 2018	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: PEETE, KYLE C

Law Office Assigned: LAW OFFICE 112

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jun. 29, 2021

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Extension of Time

Proceeding Number: [88154777](#)

Filing Date: Sep 01, 2021

Status: Extension of Time to Oppose Filed

Status Date: Sep 01, 2021

Interlocutory

Attorney:**Defendant****Name:** NIO Co., LTD

Correspondent HEATHER A. DUNN
Address: DLA PIPER LLP (US)
 555 MISSION STREET, SUITE 2400
 SAN FRANCISCO CA UNITED STATES , 94105-2933

Correspondent e-mail: tmfilings@us.dlapiper.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NIO LIFE	Request For Extension of Time to File Opposition	88154777	

Potential Opposer(s)**Name:** Neolife International, LLC

Correspondent STEWART R. KELLAR
Address: BEESON SKINNER BEVERLY, LLP
 ONE KAISER PLAZA, SUITE 750
 OAKLAND CA UNITED STATES , 94612

Correspondent e-mail: bsb@bsblp.com , skellar@bsblp.com

Prosecution History

Entry Number	History Text	Date	Due Date
6	EXT GRANTED	Dec 01, 2021	
5	FINAL 60-DAY REQUEST TO EXT TIME TO OPPOSE	Dec 01, 2021	
4	EXT GRANTED	Oct 04, 2021	
3	ADD'L 60-DAY REQUEST TO EXT TIME TO OPPOSE	Oct 04, 2021	
2	EXT GRANTED	Sep 01, 2021	
1	FIRST 30-DAY REQUEST TO EXT TIME TO OPPOSE	Sep 01, 2021	

EXHIBIT 13

Generated on: This page was generated by TSDR on 2022-01-31 14:44:24 EST

Mark: SUPER GRO

SUPER GRO

US Serial Number: 85480267

Application Filing Date: Nov. 23, 2011

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



DEAD/APPLICATION/Refused/Dismissed or Invalidated

This trademark application was refused, dismissed, or invalidated by the Office and this application is no longer active.

Status: Abandoned after an inter partes decision by the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Jul. 30, 2013

Publication Date: Dec. 18, 2012

Date Abandoned: Jul. 30, 2013

Mark Information

Mark Literal Elements: SUPER GRO

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: chemical products for use in agriculture and gardening, namely, wetting agents and soil penetrants

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006, 010, 026, 046

Class Status: ABANDONED

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: GNLD International, LLC

Owner Address: 3500 Gateway Blvd.
Fremont, CALIFORNIA UNITED STATES 94538

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country NEVADA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Kathleen A. Skinner

Docket Number: K375G-US484

Attorney Primary bsb@bsblp.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent KATHLEEN A SKINNER
Name/Address: BEESON SKINNER BEVERLY LLP
1 KAISER PLZ
STE 750
OAKLAND, CALIFORNIA UNITED STATES 94612-3611

Phone: 510-832-8700

Fax: 510-836-2595

Correspondent e- bsb@bsblp.com
mail:

Correspondent e- Yes
mail Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 30, 2013	ABANDONMENT NOTICE MAILED - INTER PARTES DECISION	
Jul. 30, 2013	ABANDONMENT - AFTER INTER PARTES DECISION	
Jul. 30, 2013	OPPOSITION TERMINATED NO. 999999	210267
Jul. 30, 2013	OPPOSITION SUSTAINED NO. 999999	210267
Apr. 17, 2013	OPPOSITION INSTITUTED NO. 999999	210267
Jan. 03, 2013	EXTENSION OF TIME TO OPPOSE RECEIVED	
Dec. 18, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 18, 2012	PUBLISHED FOR OPPOSITION	
Nov. 28, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 15, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	73296
Nov. 13, 2012	ASSIGNED TO LIE	73296
Oct. 29, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 05, 2012	ASSIGNED TO EXAMINER	76839
Sep. 18, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Sep. 17, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Sep. 17, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 15, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 15, 2012	NON-FINAL ACTION E-MAILED	6325
Mar. 15, 2012	NON-FINAL ACTION WRITTEN	59851
Mar. 08, 2012	ASSIGNED TO EXAMINER	59851
Dec. 02, 2011	NOTICE OF PSEUDO MARK MAILED	
Dec. 01, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 26, 2011	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: EULIN, INGRID C

Law Office LAW OFFICE 111
Assigned:

File Location

Current Location: TTAB

Date in Location: Jul. 30, 2013

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91210267](#)

Filing Date: Apr 17, 2013

Status: Terminated

Status Date: Apr 17, 2013

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: GNLD International, LLC

Correspondent Address: KATHLEEN A SKINNER
BEESON SKINNER BEVERLY LLP
1 KAISER PLZ , STE 750
OAKLAND CA UNITED STATES , 94612-3611

Correspondent e-mail: bsb@bsbllp.com , kskinner@bsbllp.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SUPER GRO	Abandoned - After Inter-Partes Decision	85480267	

Plaintiff(s)

Name: OMS Investments, Inc.

Correspondent Address: JOHN GARY MAYNARD III
HUNTON WILLIAMS LLP
951 EAST BYRD STREET, RIVERFRONT PLAZA, EAST TOWER
RICHMOND VA UNITED STATES , 23219-4074

Correspondent e-mail: jgmaynard@hunton.com , HWRITM@hunton.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
MIRACLE-GRO	REGISTERED AND RENEWED	72046856	668868
MIRACLE-GRO	REGISTERED AND RENEWED	73283281	1223038
MIRACLE-GRO	REGISTERED AND RENEWED	76496455	2820953
MIRACLE-GRO	REGISTERED AND RENEWED	76496458	2822655
MIRACLE-GRO	REGISTERED AND RENEWED	76496457	3233837

Prosecution History

Entry Number	History Text	Date	Due Date
11	BD DECISION: SUSTAINED	Jul 30, 2013	
10	TERMINATED	Jul 30, 2013	
9	BD DECISION: SUSTAINED	Jul 30, 2013	
8	W/DRAW OF APPLICATION	Jul 26, 2013	
7	EXTENSION OF TIME GRANTED	Jun 21, 2013	
6	D MOT FOR EXT W/ CONSENT	Jun 21, 2013	
5	EXTENSION OF TIME GRANTED	May 28, 2013	
4	D MOT FOR EXT W/ CONSENT	May 27, 2013	
3	PENDING, INSTITUTED	Apr 17, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Apr 17, 2013	May 27, 2013
1	FILED AND FEE	Apr 17, 2013	

Type of Proceeding: Extension of Time

Proceeding Number: [85480267](#)

Filing Date: Jan 03, 2013

Status: Terminated

Status Date: Apr 17, 2013

Interlocutory
Attorney:

Defendant

Name: GNLD International, LLC

Correspondent KATHLEEN A. SKINNER

Address: BEESON SKINNER BEVERLY, LLP
1 KAISER PLZ STE 750
OAKLAND CA UNITED STATES , 94612-3611

Associated marks

Mark	Application Status	Serial Number	Registration Number
SUPER GRO	Abandoned - After Inter-Partes Decision	85480267	

Potential Opposer(s)

Name: OMS Investments, Inc.

Correspondent John Gary Maynard, III, Joshua M. Kalb

Address: Hunton & Williams LLP
951 East Byrd StreetRiverfront Plaza - East Tower
Richmond VA UNITED STATES , 23219-4074

Correspondent e-mail: HWITM@hunton.com , ikalb@hunton.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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Prosecution History

Entry Number	History Text	Date	Due Date
2	EXTENSION OF TIME GRANTED	Jan 03, 2013	
1	INCOMING - EXT TIME TO OPPOSE FILED	Jan 03, 2013	