

ESTTA Tracking number: **ESTTA1373664**Filing date: **07/26/2024**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91287045
Party	Plaintiff Liberty Truck Center, Inc. d/b/a Onvo
Correspondence address	EDWARD D LANQUIST, JR. BAKER DONELSON 1600 WEST END AVENUE, SUITE 2000 NASHVILLE, TN 37203 UNITED STATES Primary email: elanquist@bakerdonelson.com Secondary email(s): shill@bakerdonelson.com, trade- marks@bakerdonelson.com 615-726-5581
Submission	Motion to Amend Pleading/Amended Pleading
Filer's name	Scott Douglass
Filer's email	sdouglass@bakerdonelson.com, phenley@bakerdonelson.com
Signature	/Scott Douglass/
Date	07/26/2024
Attachments	REDACTED Motion for Leave to Amend Notice of Opposition - 97353445.p df(1436542 bytes )

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

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LIBERTY TRUCK CENTER, INC., )  
 )  
Opposer, ) Consolidated Parent Opposition No.:  
 ) 91286871  
 ) Serial No.: 97353420  
v. ) Mark: ONVO  
 )  
NIO CO. LTD., )  
 )  
Applicant. )  
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LIBERTY TRUCK CENTER, INC., )  
 )  
Opposer, ) Opposition No.: 91287045  
 ) Serial No.: 97353445  
v. ) Mark: ONVO  
 )  
NIO CO. LTD., )  
 )  
Applicant. )  
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**OPPOSER LIBERTY TRUCK CENTER, INC.’S MOTION FOR LEAVE TO AMEND  
NOTICE OF OPPOSITION**

Opposer Liberty Truck Center, Inc. d/b/a ONVO (“Opposer”) hereby moves the Trademark Trial and Appeal Board (the “Board”) for leave to amend its Notice of Opposition pursuant to the Federal Rule of Civil Procedure 15(a)(2) and 37 C.F.R. §2.107; pursuant to TBMP § 507.01, both a red-lined form and a clean copy of the proposed amended pleading accompanies this Motion in Exhibit A and Exhibit B, respectively.

Pleadings in an opposition proceeding against an application may be amended in the same manner and to the same extent as in a civil action in a United States district court. Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 315(a), citing 37 C.F.R. §2.107; TBMP §

507.01. Federal Rule of Civil Procedure 15(a)(2) directs that leave to amend “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a); TBMP §§ 507.01(a)(2), 507.02.

The TTAB “liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties,” especially when the proposed amendment may “serve simply to amplify allegations already included in the moving party’s pleading.” TBMP § 507.02; *Am. Optical Corp. v. Am. Olean Tile Co., Inc.*, 168 USPQ 471, 473 (TTAB 1971); *Cool-Ray, Inc. v. Eye Care, Inc.*, 183 USPQ 618, 621 (TTAB 1974). The TTAB is likely to grant a motion for leave to amend a notice of opposition when the proceeding is still in the discovery stage due to the decreased risk of prejudice to the party. *Microsoft Corp. v. Qantel Bus. Sys. Inc.*, 16 USPQ2d 1732, 1733-34 (TTAB 1990) (granting motion for leave to amend, as opposition was still in discovery stage, so no undue prejudice to applicant).

A major factor in analyzing possible prejudice to the opposing party is the timing of the motion for leave to amend, which should be filed as soon as newly discovered evidence that gives rise to a new ground for amendment becomes apparent. TBMP § 507.02(a). When an opposer learns of an additional ground for its opposition through discovery, it is proper for the opposer to move for leave to amend its notice of opposition to include the additional ground. *See, e.g., Commodore Elecs. Ltd. v. Cbm Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1503, 1993 WL 156479 at \*1 (TTAB 1993) (accepting amended notice of opposition). In *Commodore*, the opposer filed a motion for leave to amend its notice of opposition based on newly discovered information it learned during the discovery period that supported the applicant’s lack of bona fide intent to use its mark in commerce on the specified services when it filed several applications for the marks and related goods and services. *Id.* at \*1; *see also Lane Ltd. v. Jackson Int’l Trading Co.*, 33 U.S.P.Q.2d

1351, 1355-57 (TTAB 1994) (noting that, according to Congress's reports in drafting various trademark acts, an example of circumstances that may cast doubt on, or completely disprove, an applicant's intent to use the mark could include "an excessive number of intent-to-use applications in relation to the number of products the applicant is likely to introduce under the applied-for marks during the pendency of the applications").

In *Commodore*, the Board found that the absence of any documents produced in response to written discovery may be sufficient to constitute objective proof of a lack of bona fide intention to use the mark in commerce, absent other facts which adequately explain or outweigh the failure of the applicant to have any documents supportive of or bearing upon its claimed intent to use its mark in commerce. *Commodore*, 1993 WL 156479 at \*4-\*5; see also *Honda Motor Co. v. Winkelmann*, 90 U.S.P.Q.2d 1660 (TTAB 2009) (Precedential Opinion) (applicant can support its intent to use the mark by producing either objective documentary evidence of its intent to use the marks in commerce, or a valid explanation as to why no evidence has been produced under a totality of the circumstances analysis). An applicant's foreign registrations, with an internet printout concerning car care packages or other promotional material that did not include the vehicles themselves, was not sufficient to support the applicant's bona fide intent to use the mark in the United States with the claimed goods. *Honda Motor Co.*, 90 U.S.P.Q.2d 1660, at 1665. Ultimately, the Board in *Commodore* granted the opposer's motion and accepted its amended notice of opposition, noting that the applicant would not be prejudiced by allowance of this claim since sufficient time remained in the discovery period for applicant to serve additional discovery requests. 1993 WL 156479 at \*3, \*6.

Here, it would be in the interests of justice to allow Opposer to amend its notice of opposition, especially since these Consolidated Opposition Nos. 91286871 (parent), 91287045,

91287118, 91287169, 91287334, 91288221, 91288568, 91288829, and 91289239 (collectively, “Consolidated Oppositions”) are still in the discovery stage, so there is little risk of undue prejudice to Applicant NIO Co. Ltd (“Applicant”). Furthermore, Opposer’s proposed amendments amplify the allegations already included in its original notice of opposition. For example, Opposer already alleged the wide range of goods and services in the plethora of Applicant’s applications (U.S. Ser. Nos. 97354138, 97353420, 97354315, 97354301, 97353445, 97354129, 97976153, 97353458, and 97976749 (collectively, or “the Applications”) in at least International Classes 7, 9, 12, 18, 22, 25, 28, 35, 37, 39, 40, and 42. *See* Notice of Opposition, 1 TTABVue 10 ¶¶ 19-20. As contemplated by Congress, as outlined in *Lane Ltd.*, Applicant’s excessive number of intent to use Applications, and the sheer number and range of goods and services covered by those Applications, casts doubt on Applicant’s intent to use the mark, especially in light of the lack of objective evidence produced by Applicant to date, to support its likelihood to use all such products and services in commerce under the applied-for marks.

Between Applicant’s discovery responses to date and its conduct in delaying its responses and supplemental responses to outstanding discovery in these Consolidated Oppositions, Applicant has failed to proffer any affirmative, objective evidence to support Applicant’s claimed intent to use its proposed ONVO marks set forth in the Applications. Applicant has admitted that it has not used any of its Proposed Marks in commerce within the United States. *See, e.g.*, Ex. C, Appl.’s January 17, 2024 Resps. to Opp.’s First Set of Interrog., at Interrog. Nos. 3-4; Ex. D, Appl.’s Jan. 17, 2024 Resps. to Opp.’s First Set of Req. for Admis., at Req. Nos. 1-2; Ex. E, Appl.’s Mar. 12, 2024 Suppl. Resps., at Interrog. Nos. 10, 15, and Req. for Produc. No. 11. Furthermore, Applicant “has no concrete plans” regarding the manufacture, distribution, offering, provision, or selling of goods or services under its Proposed Mark in the United States in the next three years. (Ex. C,

Appl.'s January 17, 2024 Resps. to Opp.'s First Set of Interrog., at Interrog. No. 17.) Applicant only conducted trademark searches for "ONVO" outside of the United States (European Union, Great Britain, Norway, Russian Federation for Classes 7, 9, 22, 35, 39, 40, 42; European Union, Great Britain, Norway, and Switzerland in Classes 12, 37). Applicant failed to conduct any similar searches or other due diligence in the United States, indicating a lack of intent to use the Mark in commerce in the United States, especially when comparing the measures Applicant took in other foreign countries concerning the same mark. *See* Ex. G, Appl.'s Jan. 17, 2024 Resps. to Opp.'s First Set of Req. for Produc., at Req. No. 16, 23; Ex. D, Appl.'s Jan. 17, 2024 Resps. to Opp.'s First Set of Req. for Admis., at Req. No. 29. First Set of Req. for Admis., at Req. No. 29.

Similarly, Applicant was "not in possession of any ... documents" concerning advertising and other promotional materials for its goods and services under its Proposed Mark from January 1, 2019, to March 2024. (Ex. E, Appl.'s Mar. 12, 2024 Suppl. Resps. to Opp.'s First Set of Req. for Produc., at Req. Nos. 2-3.) Thus far, the only document Applicant has produced in response to a request for production for a representative sampling of documents concerning the development of Applicant's proposed ONVO marks, merely depicts [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] This document does not depict any [REDACTED] or other goods or services claimed by Applicant with the proposed ONVO mark, and there are no other documents to show an intent to use the proposed ONVO mark in the United States on any other goods or services involved in these Consolidated Oppositions.

All of these responses, and the three-page document depicting [REDACTED]

[REDACTED], do not even begin to offer objective evidence to

support an intent to use its proposed ONVO marks in commerce with its [REDACTED], much less the vast array of over 200 goods and services identified in Applicant's Applications (*see* Exhibit E, Appl.'s Mar. 12, 2024 Suppl. Resps., at Interrog. No. 4 (listing goods and services), other than [REDACTED] which are outside of the scope of these Oppositions.

On May 9, 2024, Opposer served additional discovery requests to further determine, in part, the information and documents Opposer has in its possession as objective evidence to support Applicant's bona fide intention to use the mark in commerce across its numerous goods and services listed in the plethora of goods and services at-issue in these Consolidated Proceedings. Since at least May 14, 2024, Opposer has sought supplemental discovery responses from Applicant across each of the Consolidated Oppositions. In the past two and a half months, Applicant has followed up on the outstanding supplemental and additional discovery responses several times, including a meet and confer on June 10, 2024, in which Applicant indicated it would supplement its discovery responses. Nevertheless, Applicant has yet to supplement its responses across each of the Consolidated Oppositions, nor respond to Opposer's additional outstanding discovery requests. In response to a voicemail from Opposer's counsel on July 18, 2024, Applicant's United States counsel last indicated that Applicant expects to serve its delayed discovery responses by the end of July.

In sum, Applicant's previous discovery responses, including a mere three pages of produced documents to support an intent to use the proposed ONVO mark with over 200 identified goods and services, combined with Applicant's conduct in prolonging delayed responses to pending discovery and supplemental responses requested months ago, signifies that Applicant has yet to produce any objective evidence to support its bona fide intention to use the mark in

commerce across its numerous goods and services listed in the plethora of goods and services at-issue in these Consolidated Proceedings, supporting Applicant's desired amendments to its notice of opposition sought in this Motion. Given that these Consolidated Oppositions are still in the discovery phase, Applicant will not suffer any prejudice, so Opposer respectfully requests that the Board grants its Motion and enters Opposer's First Amended Notice of Opposition, attached to this Motion. Pursuant to TBMP § 507.01, both a red-lined form and a clean copy of the proposed amended pleading accompanies this Motion in Exhibit A and Exhibit B, respectively.

Dated: July 26, 2024

Respectfully submitted,

/s/ Scott M. Douglass  
Edward D. Lanquist, Jr. (TN BPR No. 13303)  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
1600 West End Avenue, Suite 2000  
Nashville, Tennessee 37203  
(615) 726-5581/F: (615) 726-0464  
elanquist@bakerdonelson.com

Scott M. Douglass (TN BPR No. 031097)  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.  
165 Madison Avenue, Suite 2000  
Memphis, TN 38103  
(901) 577-2258/F: (901) 577-2303  
sdouglass@bakerdonelson.com

*Attorneys for Opposer Liberty Truck Center,  
Inc. d/b/a Onvo*



**CERTIFICATE OF SERVICE**

I hereby certify that this correspondence is being filed through the Electronic System for Trademark Trial and Appeals in the United States Patent and Trademark Office.

I hereby certify that on July 26, 2024, this document OPPOSER LIBERTY TRUCK CENTER, INC.'S MOTION FOR LEAVE TO AMEND NOTICE OF OPPOSITION was served via email to counsel for Applicant as set forth below:

MUNCY, GEISLER, OLDS & LOWE, P.C.  
Joe McKinney Muncy  
Roman Campos  
Rebecca Gan  
125 S Royal Street  
Alexandria, VA 22314  
km@mg-ip.com  
arc@mg-ip.com  
rgan@mg-ip.com  
mailroom@mg-ip.com

*Attorneys for Applicant*

/s/ Scott M. Douglass  
Scott M. Douglass

# EXHIBIT A

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

In the Matter of Application Serial No. 97/353,445  
For the mark: ONVO  
Published: September 5, 2023

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Liberty Truck Center, Inc. d/b/a Onvo	:	
	:	Opposition No.
Opposer,	:	<u>91287045</u> [NUMBER]
	:	
v.	:	
	:	
Nio Co. Ltd.	:	
	:	
Applicant.	:	
	:	

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**FIRST AMENDED NOTICE OF OPPOSITION**

Opposer, Liberty Truck Center, Inc. d/b/a Onvo (“Liberty Truck Center” or “Opposer”), a corporation organized and existing under the laws of Pennsylvania, with a principal place of business at 2227 Scranton Carbondale Highway, Scranton, Pennsylvania, 18508, believes that it will be damaged by the issuance of a registration for the alleged mark shown in Application Serial No. 97/353,445. Opposer hereby opposes same pursuant to Section 13(a) of the Lanham Trademark Act of 1946 (“Lanham Act”), 15 U.S.C. § 1063(a).

As grounds for opposition, Opposer alleges, in its First Amended Notice of Opposition, as follows:

1. Opposer is a travel center company that has its own line of products and offers various goods and services, including the following goods and services (“Opposer’s Goods and Services”):

- (a) Tote bags in Class 18
- (b) Travel mugs in Class 21
- (c) Clothing, namely, shirts, t-shirts, long sleeve t-shirts, and button down shirts, socks, hats, men’s underwear, women’s underwear, tank tops, crewneck sweatshirts, hooded sweatshirts, sweatshirts, sweatpants, socks, baseball caps, trucker caps, beanie hat, scarves, gloves, and vests in Class 25
- (d) Prepared packaged sandwiches in Class 30,
- (e) Soft drinks; bottled water in Class 32
- (f) Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores in Class 35
- (g) Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods in Class 39
- (h) Automobile and truck inspections provided at truck stops in Class 42
- (i) Providing shower and restroom facilities in Class 44

2. Opposer is the owner of valid and subsisting United States Trademark Registration No. 6,364,493 for “ONVO” and Design in connection with, “Tote bags” in Class 18, “Travel mugs” in Class 21, “Clothing, namely, T-shirts, Long Sleeve T-shirts, Men’s Underwear, Women’s Underwear, Tank Tops, Crewneck Sweatshirts, Hooded Sweatshirts, Sweatshirts, Sweatpants, Socks, Baseball Caps, Trucker Caps, Beanie Hat, Scarves, Gloves, and vests” in Class 25, “Soft drinks; Bottled water” in Class 32, “Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores” in Class 35, “Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods” in Class 39, and “Providing shower and restroom facilities” in Class 44 that is registered on the Principal Register in the United States Patent and Trademark Office which issued on May 25, 2021. Attached as Exhibit 1 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration.

3. Opposer is the owner of valid and subsisting United States Trademark Registration No. 6,502,747 for “ONVO” in connection with, “Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores” in Class 35, “Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board

services in the nature of freight brokerage; shipping of goods” in Class 39, “Automobile and truck inspections provided at truck stops” in Class 42, and “Providing shower and restroom facilities” in Class 44 that is registered on the Principal Register in the United States Patent and Trademark Office which issued on September 28, 2021. Attached as Exhibit 2 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration.

4. Opposer is the owner of valid and subsisting United States Trademark Registration No. 6,702,371 for “ONVO” in connection with, “Tote bags” in Class 18, “Travel mugs” in Class 21, “Clothing, namely, shirts, t-shirts, long sleeve t shirts, and button down shirts, Socks, Hats, Sweatshirts, and Hooded Sweatshirts” in Class 25, “Prepared packaged sandwiches” in Class 30, and “Soft drinks; Bottled water” in Class 32 that is registered on the Principal Register in the United States Patent and Trademark Office which issued on April 12, 2022. Attached as Exhibit 3 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration.

5. Opposer’s Registration No. 6,364,493, No. 6,502,747, No. 6,702,371, and all rights in and uses of “ONVO” generally, are referred to herein as the “ONVO Marks.”

6. Opposer has used the ONVO Marks in interstate commerce in the United States continuously since at least as early as November 2020, and in some cases as early as July 2020, in connection with the offering for sale, sale, marketing, advertising, and promotion of Opposer’s Goods and Services.

7. The ONVO Marks in connection with Opposer’s Goods and Services are arbitrary and fanciful.

8. As a result of its widespread, continuous, and exclusive use of the ONVO Marks to identify Opposer's Goods and Services and Opposer as their source, Opposer owns valid and subsisting federal statutory and common law rights to the ONVO Marks.

9. Opposer's ONVO Marks are distinctive to both the consuming public and Opposer's trade.

10. Opposer has expended substantial time, money, and resources marketing, advertising, and promoting Opposer's Goods and Services sold under the ONVO Marks.

11. Opposer has sold many of Opposer's Goods and Services under the ONVO Marks.

12. Upon information and belief, Applicant, NIO Co. Ltd. ("NIO"), with an address at Suite 115, 569 Anchi Road, Anting Town, Jiading District, Shanghai, China 201805 on April 8, 2022, filed trademark Application Serial No. 97/353,445 for "ONVO" in connection with "Camouflage nets; Non-dedicated cover for vehicle in the nature of unfitted vehicle covers; Sails; Textile awning; Gunny bags for transporting and storing bulk materials; Straw packaging for bottles in the nature of straw wrappers for bottles; Nonrubber, non-plastic, non-paper or cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard; raw fibrous textile materials; Tents" in Class 22.

13. Applicant filed Application Serial No. 97/353,445 for "ONVO" after the filing dates of all of Opposer's trademark applications pertaining to the ONVO Marks and after the first-use dates for all of the registrations for the ONVO Marks.

14. Applicant's priority date is October 22, 2021, which is later than the first-use dates for and filing dates associated with Opposer's ONVO Marks.

15. Opposer's ONVO Marks have priority over Applicant's mark because Opposer's use predates Applicant's filing date and alleged date of first use or any other date on which Applicant may rely for purposes of priority.

16. Opposer's ONVO Marks have priority over Applicant's mark because Opposer's filing dates predate Applicant's filing date and alleged date of first use or any other date on which Applicant may rely for purposes of priority.

17. Applicant's proposed mark ONVO is confusingly similar to Opposer's ONVO Marks because Applicant's mark embodies the entirety of Opposer's ONVO word element.

18. The automotive services covered by Applicant's Application Serial No. 97/353,445 are similar to Opposer's Goods and Services that Opposer offers under its ONVO Marks.

19. Applicant has filed at least 13 US trademark applications for the ONVO mark in at least International Classes 7, 9, 25, 18, 22, 12, 28, 35, 39, 37, 42, and 40.

20. Applicant's various ONVO applications cover a wide range of goods and services.

21. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with camouflage nets.

22. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with camouflage nets.

23. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-dedicated cover for vehicles.

24. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with non-dedicated cover for vehicles.

25. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-dedicated cover for vehicle in the nature of unfitted vehicle covers.

26. Applicant has no plans to use the proposed ONVO mark in commerce in the



United States in the next five years in connection with non-dedicated cover for vehicle in the nature of unfitted vehicle covers.

27. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with sails.

28. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with sails.

29. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with textile awning.

30. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with textile awning.

31. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with gunny bags for transporting bulk materials.

32. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with gunny bags for transporting bulk materials.

33. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with gunny bags for storing bulk materials.

34. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with gunny bags for storing bulk materials.

35. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with straw packaging for bottles.

36. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with straw packaging for bottles.

37. Applicant has not yet used the proposed ONVO mark in commerce in the United

States in connection with straw packaging for bottles in the nature of straw wrappers for bottles.

38. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with straw packaging for bottles in the nature of straw wrappers for bottles.

39. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with nonrubber, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

40. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with nonrubber, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

41. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-plastic, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

42. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with non-plastic, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

43. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-paper cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

44. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with non-paper cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

45. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with raw fibrous textile materials.

46. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with raw fibrous textile materials.

47. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with tents.

48. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with tents.

21. —

### **FIRST GROUND FOR OPPOSITION – LIKELIHOOD OF CONFUSION**

22.49. The applied-for mark should be barred from registration because it consists of or comprises a mark that so resembles Opposer's previously used and registered ONVO Marks as to be likely, when used in connection with the alleged goods of Applicant, to cause confusion, mistake, or deception within the meaning of 15 U.S.C. § 1052(d).

23.50. Given the wide variety of goods and services included in this trademark application filed by Applicant, and the size of Applicant, a likelihood of reverse confusion exists if Applicant registers the mark.

### **SECOND GROUND FOR OPPOSITION – LACK OF BONA FIDE INTENT TO USE**

24.51. Upon information and belief, Applicant did not have a bona fide intent to use the applied-for mark in commerce in the United States when it filed this and its other applications for the applied-for mark. Applicant has not produced documents to establish a bona fide intention use the applied-for mark in commerce in the United States on each of the many goods and services specified therein at the time of filing this application.

WHEREFORE, Opposer respectfully prays that its opposition be sustained and that registration to Applicant be refused.

Dated: ~~September 7,~~  
~~2023~~ July 26, 2024  
Nashville, Tennessee

Respectfully submitted,

/s/ Scott M. Douglass  
~~/Edward D. Lanquist, Jr./~~  
Edward D. Lanquist, Jr. (TN BPR No. 13303)  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz, P.C.  
1600 West End Avenue, Suite 2000  
Nashville, Tennessee 37203  
(615) 726-5581/F: (615) 726-0464  
elanquist@bakerdonelson.com

Scott M. Douglass (TN BPR No. 031097)  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz, P.C.  
165 Madison Avenue, Suite 2000  
Memphis, TN 38103  
(901) 577-2258/F: (901) 577-2303  
sdouglass@bakerdonelson.com

*Attorneys for Opposer Liberty Truck Center,  
Inc. d/b/a Onvo*

**EXHIBIT 1**

**EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION NO. 6,364,493**

# United States of America

United States Patent and Trademark Office



**Reg. No. 6,364,493**

**Registered May 25, 2021**

**Int. Cl.: 18, 21, 25, 32, 35, 39, 44**

**Service Mark**

**Trademark**

**Principal Register**

Liberty Truck Center, Inc. (PENNSYLVANIA CORPORATION)  
2227 Scranton Carbondale Highway  
Scranton, PENNSYLVANIA 18508

CLASS 18: Tote bags

FIRST USE 7-15-2020; IN COMMERCE 10-5-2020

CLASS 21: Travel mugs

FIRST USE 7-15-2020; IN COMMERCE 10-5-2020

CLASS 25: Clothing, namely, T-shirts, Long Sleeve T-shirts, Men's Underwear, Women's Underwear, Tank Tops, Crewneck Sweatshirts, Hooded Sweatshirts, Sweatshirts, Sweatpants, Socks, Baseball Caps, Trucker Caps, Beanie Hat, Scarves, Gloves, and vests

FIRST USE 7-15-2020; IN COMMERCE 8-31-2020

CLASS 32: Soft drinks; Bottled water

FIRST USE 7-15-2020; IN COMMERCE 10-7-2020

CLASS 35: Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores

FIRST USE 7-15-2020; IN COMMERCE 8-17-2020

CLASS 39: Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods

FIRST USE 7-15-2020; IN COMMERCE 10-5-2020

CLASS 44: Providing shower and restroom facilities



Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office



FIRST USE 7-15-2020; IN COMMERCE 10-1-2020

The mark consists of the term "ONVO", and on top of the last letter sits a characterization of a bird, perched, facing forward with large opened eyes and small beak.

SER. NO. 90-301,462, FILED 11-05-2020

**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>.**



**EXHIBIT 2**

**EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION NO. 6,502,747**

# United States of America

## United States Patent and Trademark Office

# ONVO

**Reg. No. 6,502,747**

**Registered Sep. 28, 2021**

**Int. Cl.: 35, 39, 42, 44**

**Service Mark**

**Principal Register**

Liberty Truck Center, Inc. (PENNSYLVANIA CORPORATION)  
2227 Scranton Carbondale Highway  
Scranton, PENNSYLVANIA 18508

CLASS 35: Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

CLASS 39: Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

CLASS 42: Automobile and truck inspections provided at truck stops

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

CLASS 44: Providing shower and restroom facilities

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

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

SER. NO. 88-319,722, FILED 02-28-2019



A handwritten signature in black ink, appearing to read "Dennis H. Hampel".

Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office



**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

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**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>.**

**EXHIBIT 3**

**EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION NO. 6,702,371**

# United States of America

United States Patent and Trademark Office

# ONVO

**Reg. No. 6,702,371**

**Registered Apr. 12, 2022**

**Int. Cl.: 18, 21, 25, 30, 32**

**Trademark**

**Principal Register**

Liberty Truck Center, Inc. (PENNSYLVANIA CORPORATION)  
2227 Scranton Carbondale Highway  
Scranton, PENNSYLVANIA 18508

CLASS 18: Tote bags

FIRST USE 7-1-2020; IN COMMERCE 11-15-2020

CLASS 21: Travel mugs

FIRST USE 7-1-2020; IN COMMERCE 11-15-2020

CLASS 25: Clothing, namely, shirts, t-shirts, long sleeve t shirts, and button down shirts, Socks, Hats, Sweatshirts, and Hooded Sweatshirts

FIRST USE 7-1-2020; IN COMMERCE 8-31-2020

CLASS 30: Prepared packaged sandwiches

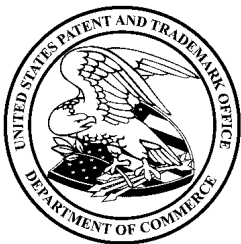
FIRST USE 7-1-2020; IN COMMERCE 8-31-2020

CLASS 32: Soft drinks; Bottled water

FIRST USE 7-15-2020; IN COMMERCE 10-7-2020

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

SER. NO. 90-075,508, FILED 07-27-2020



A handwritten signature in black ink, appearing to read "Dennis Hanford".

Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
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>.**

**CERTIFICATE OF SERVICE**

I hereby certify that on ~~September 7, 2023~~July 26, 2024, this document FIRST AMENDED

NOTICE OF OPPOSITION was served electronically to counsel for Applicant via ESTTA:

MUNCY, GEISSLER, OLDS & LOWE, P.C.

Joe McKinney Muncy

Roman Campos

Rebecca Gan

125 S Royal Street

Alexandria, VA 22314

km@mg-ip.com

arc@mg-ip.com

rgan@mg-ip.com

mailroom@mg-ip.com

Attorneys for Applicant

/s/ Scott M. Douglass

Scott M. Douglass

/s/Edward D. Lanquist, Jr.

Edward D. Lanquist, Jr.

# EXHIBIT B



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

In the Matter of Application Serial No. 97/353,445  
For the mark: ONVO  
Published: September 5, 2023

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Liberty Truck Center, Inc. d/b/a Onvo :  
 :  
 : Opposition No.  
 Opposer, : 91287045  
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 :  
 v. :  
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 Nio Co. Ltd. :  
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 Applicant. :  
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**FIRST AMENDED NOTICE OF OPPOSITION**

Opposer, Liberty Truck Center, Inc. d/b/a Onvo (“Liberty Truck Center” or “Opposer”), a corporation organized and existing under the laws of Pennsylvania, with a principal place of business at 2227 Scranton Carbondale Highway, Scranton, Pennsylvania, 18508, believes that it will be damaged by the issuance of a registration for the alleged mark shown in Application Serial No. 97/353,445. Opposer hereby opposes same pursuant to Section 13(a) of the Lanham Trademark Act of 1946 (“Lanham Act”), 15 U.S.C. § 1063(a).

As grounds for opposition, Opposer alleges, in its First Amended Notice of Opposition, as follows:

1. Opposer is a travel center company that has its own line of products and offers various goods and services, including the following goods and services (“Opposer’s Goods and Services”):

- (a) Tote bags in Class 18
- (b) Travel mugs in Class 21
- (c) Clothing, namely, shirts, t-shirts, long sleeve t-shirts, and button down shirts, socks, hats, men’s underwear, women’s underwear, tank tops, crewneck sweatshirts, hooded sweatshirts, sweatshirts, sweatpants, socks, baseball caps, trucker caps, beanie hat, scarves, gloves, and vests in Class 25
- (d) Prepared packaged sandwiches in Class 30,
- (e) Soft drinks; bottled water in Class 32
- (f) Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores in Class 35
- (g) Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods in Class 39
- (h) Automobile and truck inspections provided at truck stops in Class 42
- (i) Providing shower and restroom facilities in Class 44

2. Opposer is the owner of valid and subsisting United States Trademark Registration No. 6,364,493 for “ONVO” and Design in connection with, “Tote bags” in Class 18, “Travel mugs” in Class 21, “Clothing, namely, T-shirts, Long Sleeve T-shirts, Men’s Underwear, Women’s Underwear, Tank Tops, Crewneck Sweatshirts, Hooded Sweatshirts, Sweatshirts, Sweatpants, Socks, Baseball Caps, Trucker Caps, Beanie Hat, Scarves, Gloves, and vests” in Class 25, “Soft drinks; Bottled water” in Class 32, “Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores” in Class 35, “Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods” in Class 39, and “Providing shower and restroom facilities” in Class 44 that is registered on the Principal Register in the United States Patent and Trademark Office which issued on May 25, 2021. Attached as Exhibit 1 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration.

3. Opposer is the owner of valid and subsisting United States Trademark Registration No. 6,502,747 for “ONVO” in connection with, “Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores” in Class 35, “Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board

services in the nature of freight brokerage; shipping of goods” in Class 39, “Automobile and truck inspections provided at truck stops” in Class 42, and “Providing shower and restroom facilities” in Class 44 that is registered on the Principal Register in the United States Patent and Trademark Office which issued on September 28, 2021. Attached as Exhibit 2 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration.

4. Opposer is the owner of valid and subsisting United States Trademark Registration No. 6,702,371 for “ONVO” in connection with, “Tote bags” in Class 18, “Travel mugs” in Class 21, “Clothing, namely, shirts, t-shirts, long sleeve t shirts, and button down shirts, Socks, Hats, Sweatshirts, and Hooded Sweatshirts” in Class 25, “Prepared packaged sandwiches” in Class 30, and “Soft drinks; Bottled water” in Class 32 that is registered on the Principal Register in the United States Patent and Trademark Office which issued on April 12, 2022. Attached as Exhibit 3 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration.

5. Opposer’s Registration No. 6,364,493, No. 6,502,747, No. 6,702,371, and all rights in and uses of “ONVO” generally, are referred to herein as the “ONVO Marks.”

6. Opposer has used the ONVO Marks in interstate commerce in the United States continuously since at least as early as November 2020, and in some cases as early as July 2020, in connection with the offering for sale, sale, marketing, advertising, and promotion of Opposer’s Goods and Services.

7. The ONVO Marks in connection with Opposer’s Goods and Services are arbitrary and fanciful.

8. As a result of its widespread, continuous, and exclusive use of the ONVO Marks to identify Opposer's Goods and Services and Opposer as their source, Opposer owns valid and subsisting federal statutory and common law rights to the ONVO Marks.

9. Opposer's ONVO Marks are distinctive to both the consuming public and Opposer's trade.

10. Opposer has expended substantial time, money, and resources marketing, advertising, and promoting Opposer's Goods and Services sold under the ONVO Marks.

11. Opposer has sold many of Opposer's Goods and Services under the ONVO Marks.

12. Upon information and belief, Applicant, NIO Co. Ltd. ("NIO"), with an address at Suite 115, 569 Anchi Road, Anting Town, Jiading District, Shanghai, China 201805 on April 8, 2022, filed trademark Application Serial No. 97/353,445 for "ONVO" in connection with "Camouflage nets; Non-dedicated cover for vehicle in the nature of unfitted vehicle covers; Sails; Textile awning; Gunny bags for transporting and storing bulk materials; Straw packaging for bottles in the nature of straw wrappers for bottles; Nonrubber, non-plastic, non-paper or cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard; raw fibrous textile materials; Tents" in Class 22.

13. Applicant filed Application Serial No. 97/353,445 for "ONVO" after the filing dates of all of Opposer's trademark applications pertaining to the ONVO Marks and after the first-use dates for all of the registrations for the ONVO Marks.

14. Applicant's priority date is October 22, 2021, which is later than the first-use dates for and filing dates associated with Opposer's ONVO Marks.

15. Opposer's ONVO Marks have priority over Applicant's mark because Opposer's use predates Applicant's filing date and alleged date of first use or any other date on which Applicant may rely for purposes of priority.

16. Opposer's ONVO Marks have priority over Applicant's mark because Opposer's filing dates predate Applicant's filing date and alleged date of first use or any other date on which Applicant may rely for purposes of priority.

17. Applicant's proposed mark ONVO is confusingly similar to Opposer's ONVO Marks because Applicant's mark embodies the entirety of Opposer's ONVO word element.

18. The automotive services covered by Applicant's Application Serial No. 97/353,445 are similar to Opposer's Goods and Services that Opposer offers under its ONVO Marks.

19. Applicant has filed at least 13 US trademark applications for the ONVO mark in at least International Classes 7, 9, 25, 18, 22, 12, 28, 35, 39, 37, 42, and 40.

20. Applicant's various ONVO applications cover a wide range of goods and services.

21. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with camouflage nets.

22. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with camouflage nets.

23. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-dedicated cover for vehicles.

24. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with non-dedicated cover for vehicles.

25. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-dedicated cover for vehicle in the nature of unfitted vehicle covers.

26. Applicant has no plans to use the proposed ONVO mark in commerce in the United

States in the next five years in connection with non-dedicated cover for vehicle in the nature of unfitted vehicle covers.

27. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with sails.

28. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with sails.

29. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with textile awning.

30. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with textile awning.

31. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with gunny bags for transporting bulk materials.

32. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with gunny bags for transporting bulk materials.

33. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with gunny bags for storing bulk materials.

34. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with gunny bags for storing bulk materials.

35. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with straw packaging for bottles.

36. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with straw packaging for bottles.

37. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with straw packaging for bottles in the nature of straw wrappers for bottles.

38. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with straw packaging for bottles in the nature of straw wrappers for bottles.

39. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with nonrubber, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

40. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with nonrubber, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

41. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-plastic, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

42. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with non-plastic, cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

43. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with non-paper cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

44. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with non-paper cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard.

45. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with raw fibrous textile materials.

46. Applicant has no plans to use the proposed ONVO mark in commerce in the United



States in the next five years in connection with raw fibrous textile materials.

47. Applicant has not yet used the proposed ONVO mark in commerce in the United States in connection with tents.

48. Applicant has no plans to use the proposed ONVO mark in commerce in the United States in the next five years in connection with tents.

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

49. The applied-for mark should be barred from registration because it consists of or comprises a mark that so resembles Opposer's previously used and registered ONVO Marks as to be likely, when used in connection with the alleged goods of Applicant, to cause confusion, mistake, or deception within the meaning of 15 U.S.C. § 1052(d).

50. Given the wide variety of goods and services included in this trademark application filed by Applicant, and the size of Applicant, a likelihood of reverse confusion exists if Applicant registers the mark.

**SECOND GROUND FOR OPPOSITION – LACK OF BONA FIDE INTENT TO USE**

51. Upon information and belief, Applicant did not have a bona fide intent to use the applied-for mark in commerce in the United States when it filed this and its other applications for the applied-for mark. Applicant has not produced documents to establish a bona fide intention use the applied-for mark in commerce in the United States on each of the many goods and services specified therein at the time of filing this application.

WHEREFORE, Opposer respectfully prays that its opposition be sustained and that registration to Applicant be refused.

Dated: July 26, 2024  
Nashville, Tennessee

Respectfully submitted,

/s/ Scott M. Douglass  
Edward D. Lanquist, Jr. (TN BPR No. 13303)  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz, P.C.  
1600 West End Avenue, Suite 2000  
Nashville, Tennessee 37203  
(615) 726-5581/F: (615) 726-0464  
[elanquist@bakerdonelson.com](mailto:elanquist@bakerdonelson.com)

Scott M. Douglass (TN BPR No. 031097)  
Baker, Donelson, Bearman,  
Caldwell & Berkowitz, P.C.  
165 Madison Avenue, Suite 2000  
Memphis, TN 38103  
(901) 577-2258/F: (901) 577-2303  
[sdouglass@bakerdonelson.com](mailto:sdouglass@bakerdonelson.com)

*Attorneys for Opposer Liberty Truck Center,  
Inc. d/b/a Onvo*

**EXHIBIT 1**

**EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION NO. 6,364,493**

# United States of America

United States Patent and Trademark Office



**Reg. No. 6,364,493**

**Registered May 25, 2021**

**Int. Cl.: 18, 21, 25, 32, 35, 39, 44**

**Service Mark**

**Trademark**

**Principal Register**

Liberty Truck Center, Inc. (PENNSYLVANIA CORPORATION)  
2227 Scranton Carbondale Highway  
Scranton, PENNSYLVANIA 18508

CLASS 18: Tote bags

FIRST USE 7-15-2020; IN COMMERCE 10-5-2020

CLASS 21: Travel mugs

FIRST USE 7-15-2020; IN COMMERCE 10-5-2020

CLASS 25: Clothing, namely, T-shirts, Long Sleeve T-shirts, Men's Underwear, Women's Underwear, Tank Tops, Crewneck Sweatshirts, Hooded Sweatshirts, Sweatshirts, Sweatpants, Socks, Baseball Caps, Trucker Caps, Beanie Hat, Scarves, Gloves, and vests

FIRST USE 7-15-2020; IN COMMERCE 8-31-2020

CLASS 32: Soft drinks; Bottled water

FIRST USE 7-15-2020; IN COMMERCE 10-7-2020

CLASS 35: Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores

FIRST USE 7-15-2020; IN COMMERCE 8-17-2020

CLASS 39: Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods

FIRST USE 7-15-2020; IN COMMERCE 10-5-2020

CLASS 44: Providing shower and restroom facilities



Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office



FIRST USE 7-15-2020; IN COMMERCE 10-1-2020

The mark consists of the term "ONVO", and on top of the last letter sits a characterization of a bird, perched, facing forward with large opened eyes and small beak.

SER. NO. 90-301,462, FILED 11-05-2020

**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>.**

**EXHIBIT 2**

**EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION NO. 6,502,747**

# United States of America

United States Patent and Trademark Office

# ONVO

**Reg. No. 6,502,747**

**Registered Sep. 28, 2021**

**Int. Cl.: 35, 39, 42, 44**

**Service Mark**

**Principal Register**

Liberty Truck Center, Inc. (PENNSYLVANIA CORPORATION)  
2227 Scranton Carbondale Highway  
Scranton, PENNSYLVANIA 18508

CLASS 35: Retail store services featuring convenience store items, gasoline, diesel fuel, truck driver amenities in the nature of souvenirs, laundry soap, video games, and truck supplies in the nature of motor oil, floor mats, air fresheners; retail store services in the nature of truck stops, travel centers and fuel stops featuring fuel; retail convenience stores

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

CLASS 39: Fuel delivery services; Storage, distribution, and transportation of liquefied petroleum gas, motor fuels, and liquid fuels for motor vehicles; travel information; load board services in the nature of freight brokerage; shipping of goods

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

CLASS 42: Automobile and truck inspections provided at truck stops

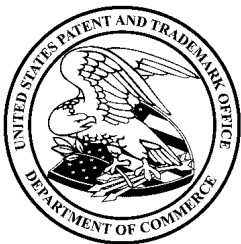
FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

CLASS 44: Providing shower and restroom facilities

FIRST USE 7-1-2020; IN COMMERCE 8-17-2020

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

SER. NO. 88-319,722, FILED 02-28-2019



A handwritten signature in cursive script, appearing to read "Dennis Hunsicker".

Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
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>.**

**EXHIBIT 3**

**EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION NO. 6,702,371**

# United States of America

United States Patent and Trademark Office

# ONVO

**Reg. No. 6,702,371**

**Registered Apr. 12, 2022**

**Int. Cl.: 18, 21, 25, 30, 32**

**Trademark**

**Principal Register**

Liberty Truck Center, Inc. (PENNSYLVANIA CORPORATION)  
2227 Scranton Carbondale Highway  
Scranton, PENNSYLVANIA 18508

CLASS 18: Tote bags

FIRST USE 7-1-2020; IN COMMERCE 11-15-2020

CLASS 21: Travel mugs

FIRST USE 7-1-2020; IN COMMERCE 11-15-2020

CLASS 25: Clothing, namely, shirts, t-shirts, long sleeve t shirts, and button down shirts, Socks, Hats, Sweatshirts, and Hooded Sweatshirts

FIRST USE 7-1-2020; IN COMMERCE 8-31-2020

CLASS 30: Prepared packaged sandwiches

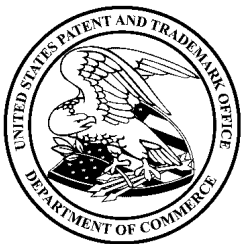
FIRST USE 7-1-2020; IN COMMERCE 8-31-2020

CLASS 32: Soft drinks; Bottled water

FIRST USE 7-15-2020; IN COMMERCE 10-7-2020

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

SER. NO. 90-075,508, FILED 07-27-2020



A handwritten signature in black ink, appearing to read "Dennis H. H. H. H.".

Performing the Functions and Duties of the  
Under Secretary of Commerce for Intellectual Property and  
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>.**

**CERTIFICATE OF SERVICE**

I hereby certify that on July 26, 2024, this document FIRST AMENDED NOTICE OF OPPOSITION was served electronically to counsel for Applicant via ESTTA:

MUNCY, GEISSLER, OLDS & LOWE, P.C.

Joe McKinney Muncy

Roman Campos

Rebecca Gan

125 S Royal Street

Alexandria, VA 22314

km@mg-ip.com

arc@mg-ip.com

[rgan@mg-ip.com](mailto:rgan@mg-ip.com)

mailroom@mg-ip.com

Attorneys for Applicant

/s/ Scott M. Douglass

Scott M. Douglass

# EXHIBIT C

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

In the Matter of Application Serial No. 97/353420  
For the Mark: ONVO  
Published: August 22, 2023

-----	X	
Liberty Truck Center, Inc.,	:	
	:	Opposition No. 91286871
Opposer	:	
	:	
v.	:	
	:	
Nio Co., Ltd.,	:	
	:	
Applicant	:	
-----	X	

**NIO'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF  
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Applicant Nio Co., Ltd. ("Applicant"), by and through its undersigned counsel, responds to Opposer's, Liberty Truck Center, Inc., ("Opposer") First Set of Interrogatories (the "Interrogatories") as follows:

**GENERAL OBJECTIONS**

Applicant incorporates the General Objections listed in Nio's Objections and Responses to Opposer's First Set for Requests of Documents and Things.

**INTERROGATORY RESPONSES**

Subject to the foregoing General Objections and the specific objections made below, Applicant objects and responds to the Interrogatories as follows:

**RESPONSE:**

Applicant's mark is not yet in use in the United States.

**INTERROGATORY NO. 3:**

For each good or service with which you have used the ONVO Mark in commerce in the United States, identify the date and describe the details of Applicant's first use of Applicant's Mark on or in conjunction with each of the goods and services.

**RESPONSE:**

Applicant's mark is not yet in use in the United States.

**INTERROGATORY NO. 4:**

Identify each good and/or service for which Applicant has a current intent to use the Mark ONVO and/or any derivative thereof.

**RESPONSE:**

Applicant's mark is not yet in use in the United States.

**INTERROGATORY NO. 5:**

Identify all persons with whom Applicant has entered into any license agreement, assignment, Marketing agreement, distribution agreement, development agreement, franchise agreement, or other granting or acceptance of rights relating to Applicant's Mark, and describe the terms of each such agreement, assignment, or other granting or acceptance of rights.



a few services, and the remaining of Applicant's goods and services are unrelated in nature and channels of trade.

**INTERROGATORY NO. 15:**

Describe all facts that would support a contention that Applicant owns any rights in the Challenged Mark in the United States.

**RESPONSE:**

Applicant objects to this interrogatory to the extent that it seeks premature disclosure of Applicant's prosecution of this Opposition.

**INTERROGATORY NO. 16:**

Identify all persons that furnished information for the responses to these interrogatories, designating the number of each interrogatory for which such persons furnished information.

**RESPONSE:**

Applicant objects to this document request on the grounds it is overbroad, unduly burdensome and that it seeks to identify all persons that furnished information for the responses to these interrogatories, designation the number of each interrogatory for which such persons furnished information. Notwithstanding said objection, Applicant responds as follows:

Eike Przybilla furnished the information to respond to the interrogatories.

**INTERROGATORY NO. 17:**

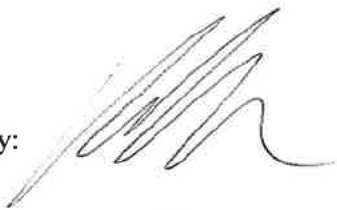
Describe in detail all steps taken towards the offering, providing, or sale of any goods or services under or in connection with the Challenged Mark, including all plans you have to manufacture, distribute,

offer, provide, or sell goods or services under the Challenged Mark during the next three years in the United States.

**RESPONSE:**

Applicant objects to this document request on the grounds it is overbroad, unduly burdensome as it seeks to describe in detail all steps and all plans Nio has regarding the manufacture, distribute, offer, provide, or sell goods or services. Notwithstanding such objection, Applicant responds that currently Nio has no concrete plans.

By:



Date: January 16, 2024

Respectfully submitted,

NIO CO., LTD.

As to the objections: /s/ *Roman Campos*

Roman Campos

P. Jay Hines

Joe McKinney Muncy

Attorneys for Applicant

MUNCY, GEISLER, OLDS & LOWE, P.C.

125 S. Royal St., Alexandria VA 22314

Phone: 703-621-7140

Fax: 703-621-7155

mailroom@mg-ip.com; arc@mg-ip.com

## **CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of January 2024, a true and correct copy of the foregoing was served by electronic mail to the following: [elanquist@bakerdonelson.com](mailto:elanquist@bakerdonelson.com); [shill@bakerdonelson.com](mailto:shill@bakerdonelson.com); [sdouglass@bakerdonelson.com](mailto:sdouglass@bakerdonelson.com); [trademarks@bakerdonelson.com](mailto:trademarks@bakerdonelson.com)

*/s/ Roman Campos*

Roman Campos

# EXHIBIT D

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

In the Matter of Application Serial No. 97/353,420  
For the mark: ONVO  
Published: August 22, 2023

-----X

Liberty Truck Center, Inc.	:	
	:	Opposition No. 91286871
Opposer,	:	
	:	
v.	:	
	:	
Nio Co., Ltd.	:	
	:	
Applicant.	:	

-----X

**NIO'S OBJECTIONS AND RESPONSES TO FIRST SET OF REQUESTS FOR  
ADMISSIONS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Applicant Nio Co., Ltd. ("Applicant"), by and through its undersigned counsel, responds to Opposer Liberty Truck Center Inc.'s ("Opposer") First Set of Requests for Admission (the "Admissions") as follows:

**GENERAL OBJECTIONS**

Applicant hereby incorporates the general objections set forth in its responses to Applicant's Objection and Responses to First Request for the Production of Documents and Things.

**REQUEST FOR ADMISSION NO. 1:**

Admit that you have sold no goods displaying the Challenged Mark in the United States.

**RESPONSE:**

Applicant admits this request for admission.

**REQUEST FOR ADMISSION NO. 2:**

Admit that you have provided no services under the Challenged Mark in the United States.

**RESPONSE:**

Applicant admits this request for admission.

**REQUEST FOR ADMISSION NO. 3:**

Admit that Opposer's rights in Opposer's Mark precede any rights Applicant claims in the Challenged Mark.

**RESPONSE:**

Applicant admits this request for admission.

**REQUEST FOR ADMISSION NO. 4:**

Admit that the earliest priority date for the Challenged Mark is no earlier than October 12, 2021.

**RESPONSE TO REQUEST NO. 4:**

Applicant admits this request for admission.

**REQUEST FOR ADMISSION NO. 5:**

Admit that you have an intent to use the Challenged Mark in connection with "Electric vehicles, namely, automobiles, motorcycles, trucks, vans; Motor vehicles, namely, automobiles, trucks, vans, sport utility vehicles; Personal watercraft, namely, motorboats; Railbound vehicles; Air vehicles for transport; Sports cars; Motorcycles; Driverless cars; Self-driving cars; Bicycles; Air

**RESPONSE TO REQUEST NO. 28:**

Applicant does not have sufficient knowledge as to admit or deny this request for admission.

**REQUEST FOR ADMISSION NO. 29:**

Admit that, prior to adopting the Challenged Mark, you (or a lawyer or third-party acting on your behalf) conducted a trademark search for uses of ONVO in the United States.

**RESPONSE TO REQUEST NO. 29:**

Applicant denies to this request for admission.

**REQUEST FOR ADMISSION NO. 30:**

Admit that electric vehicles are marketed under the Challenged Mark in or around gas stations, fuel stations, convenience stores, and truck stops.

**RESPONSE TO REQUEST NO. 30:**

Applicant denies this request for admission.

**REQUEST FOR ADMISSION NO. 31:**

Admit that motor vehicles are marketed under the Challenged Mark in or around gas stations, fuel stations, convenience stores, and truck stops.

**RESPONSE TO REQUEST NO. 31:**

Applicant denies this request for admission. Motor vehicles would need gas stations but not convenience stores or truck stops.

**REQUEST FOR ADMISSION NO. 32:**

Admit that you are not aware of any marks, other than Opposer's Mark, that include the term ONVO used in connection with gas stations and fuel stations, and convenience stores.

**RESPONSE TO REQUEST NO. 36:**

Applicant denies this request for admission.

Respectfully submitted,

NIO CO., LTD.

*/s/ Roman Campos*

Roman Campos

P. Jay Hines

Joe McKinney Muncy

Attorneys for Applicant

Dated: January 17th, 2024

MUNCY, GEISLER, OLDS & LOWE, PC

125 S. Royal St., Alexandria VA 22314

Phone: 703-621-7140

Fax: 703-621-7155

[mailroom@mg-ip.com](mailto:mailroom@mg-ip.com); [arc@mg-ip.com](mailto:arc@mg-ip.com)



**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of January 2024, a true and correct copy of the foregoing was served by electronic mail to the following: elanquist@bakerdonelson.com; shill@bakerdonelson.com; sdouglass@bakerdonelson.com; trademarks@bakerdonelson.com

*/s/ Roman Campos*

Roman Campos

# EXHIBIT E

**From:** [Roman Campos](#)  
**To:** [Douglass, Scott](#); [Mailroom](#); [Danielle Tarchenski](#); [Loria M. Grindle](#); [Nafeesa Kutub](#); [Ken Muncy](#)  
**Cc:** [Lanquist, Ed](#); [Hill, Sarah](#); [Henley, Paulluvi](#)  
**Subject:** RE: [NIO RESPONSES TO FIRST AND SECOND SET OF WRITTEN DISCOVERIES] Liberty Truck Center, Inc. d/b/a Onvo v. Nio Co. Ltd.: Opposition No. 91286871 - Initial Disclosures and Discovery Requests  
**Date:** Tuesday, March 12, 2024 12:43:11 PM  
**Attachments:** [image001.png](#)  
[2024-03-12-NIO v. LIBERTY additional requests and objections.pdf](#)

---

Scott, thank you for your patience. See attached our responses to your client's deficiency letter. We are sending the attachment on a separate email.


Many thanks,  
Roman

**Roman Campos | Attorney**

MUNCY, GEISLER, OLDS & LOWE, P.C.

Mail: 125 S. Royal St., Alexandria, VA 22314, USA

E-mail: [mailroom@mg-ip.com](mailto:mailroom@mg-ip.com) - Phone: (703) 621-7140 Ext. 271 - Fax: (703) 621-7155

Website: [www.mg-ip.com](http://www.mg-ip.com) – E-mail: [arc@mg-ip.com](mailto:arc@mg-ip.com) 

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*Admitted to practice in the United States Court of Appeals for the Federal Circuit*

*Admitted to practice in the United States District Court for the Southern and Eastern Districts of New York*

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---

**From:** Douglass, Scott <[sdouglass@bakerdonelson.com](mailto:sdouglass@bakerdonelson.com)>  
**Sent:** Thursday, February 29, 2024 3:27 PM  
**To:** Roman Campos <[arc@mg-ip.com](mailto:arc@mg-ip.com)>; Mailroom <[Mailroom@mg-ip.com](mailto:Mailroom@mg-ip.com)>; Danielle Tarchenski <[dst@mg-ip.com](mailto:dst@mg-ip.com)>; Loria M. Grindle <[LMG@mg-ip.com](mailto:LMG@mg-ip.com)>; Nafeesa Kutub <[ntk@mg-ip.com](mailto:ntk@mg-ip.com)>; Ken Muncy <[km@mg-ip.com](mailto:km@mg-ip.com)>  
**Cc:** Lanquist, Ed <[elanquist@bakerdonelson.com](mailto:elanquist@bakerdonelson.com)>; Hill, Sarah <[shill@bakerdonelson.com](mailto:shill@bakerdonelson.com)>; Henley, Paulluvi <[phenley@bakerdonelson.com](mailto:phenley@bakerdonelson.com)>; Douglass, Scott <[sdouglass@bakerdonelson.com](mailto:sdouglass@bakerdonelson.com)>  
**Subject:** RE: [NIO RESPONSES TO FIRST AND SECOND SET OF WRITTEN DISCOVERIES] Liberty Truck

## **Nio's Objections and Responses to Opposer's First Set of Interrogatories:**

With respect to your client's responses to the First Set of Interrogatories:

Interrogatory No. 4:

Seeks: Identify each good and/or service for which Applicant has a current intent to use the Mark ONVO and/or any derivative thereof.

Your client asserts its mark is not yet in use in the United States, but it does not respond to the request specifically, which asks your client to identify "each good and/or service for which **Applicant has a current intent to use the Mark ONVO** and/or any derivative thereof." If your client has no intent to use, then it should so state. Otherwise, it should answer the request.

### **Response to Interrogatory No. 4:**

**Nio has the intent to use its ONVO mark in connection with "Machine tools for the battery industry, namely, for use in assembling batteries; Injection plastic molding machines; Machine parts, namely, molds for use in the manufacture of automotive parts, electronic devices; machines for the production of tires, namely, tire building machines for tires; paint processing machine; lifting device, namely, land vehicles, automotive parts; Power-operated lifts for moving, parking and storing land vehicles; Metal working machines; Ignition devices for motors of land vehicles; Carburetors; Machine parts, namely, floor polishing machines; Manipulators for forging presses and for forging machines; Industrial robots; Cutting machines; Machines for the construction of electronic devices, namely electronic ignitions for vehicles, electronic door openers; Fuel filters for vehicle engines; Air filters for automobile engines; Pistons for vehicle engines; Mufflers for motors and engines; Emission reduction units for motors and engines, namely, EGR valves; Emission reduction units for motors and engines, namely, catalytic converters; Cylinders for motors and engines; Hydraulic engines and motors; Cooling radiators for motors and engines; Electric generators and related equipment, namely, automatic standby electric generator sets; Starters for motors and engines; Cylinder heads for engines; Engine injectors; Alternators; Compressors for machines; Valves being parts of machines; Hydraulic pumps; Back pressure valves as parts of machines; Oil pumps for use in motors and engines; Electric door openers; Crank shafts for automobile engines; Window closers, electric; Gears and enclosed drives for industrial machinery; Shock absorbers for machines; Electric welding machines; Dust removing installations for cleaning purposes; Car navigation computers; Tool measuring instruments; Weighing apparatus and instruments; Multifunctional devices which incorporate copier and facsimile functions in the standalone mode; Hologram apparatus; Electronic terminals for highway toll collection; Time clocks time recording devices; Interactive touch screen terminals; Computer Peripherals; Humanoid robots with artificial intelligence for use in scientific research; Downloadable computer application software for mobile phones, namely, software for use in database management, use in electronic storage of data, and use to control land vehicles; Recorded computer software for use in database management, use as a spreadsheet, word processing; Remote controls for car stopping; Batteries for vehicles;**

Charging stations for electric vehicles; Personal protection device, namely, articles of protective clothing with built in armor for the prevention of accident or injury; Industrial X-ray apparatus in the nature of testing equipment for determining industrial flaws; Fire extinguishers; Electrolysis apparatus for laboratory use; Lighting Rods; Optical fibers; Remote controls for radios, televisions, stereos; Video displays, namely, LCD large-screen displays, Flat panel display screens; Sensors for measuring distance, chemical levels in aqueous solutions, not for medical use; Semiconductor devices; Integrated circuits; Semiconductors; Scientific and technical apparatus, namely, optical mirrors; Measuring device, namely, speedometers, thermometer, caliper and device for measuring distance; Radios for vehicles; Photographic cameras; Dashboard cameras; Rearview cameras for vehicles; Portable media players; Facial recognition apparatus, namely, video cameras with integrated recorded computer programs using artificial intelligence for use in facial recognition; Videotapes and video disks recorded with animation; Batteries; Eye glasses; Sound alarms; Thermostats; Electrical cables, Electric vehicles, namely, automobiles, motorcycles, trucks, vans; Motor vehicles, namely, automobiles, trucks, vans, sport utility vehicles; Personal watercraft, namely, motorboats; Railbound vehicles; Air vehicles for transport; Sports cars; Motorcycles; Driverless cars; Self-driving cars; Bicycles; Air pumps for bicycles; Cable cars; Trolleys; Sleds for transport purposes; Tires for vehicles; Adhesive rubber patches for repairing inner tubes; Steering wheels for vehicles, Semi-processed or unprocessed leather; backpacks, belt bags, box clutches, briefcases, bucket bags, duffels, cross-body, and coin purses; Furnishings with leather decoration; Leather lace; Umbrella or parasol frame; Umbrella; Walking stick; Belt (saddle); Pet clothing, Camouflage nets; Non-dedicated cover for vehicle in the nature of unfitted vehicle covers; Sails; Textile awning; Gunny bags for transporting and storing bulk materials; Straw packaging for bottles in the nature of straw wrappers for bottles; Nonrubber, non-plastic, non-paper or cardboard filling materials in the nature of packing materials, not of rubber, plastics, paper or cardboard; raw fibrous textile materials; Tents; Religious clothing, namely, biretta, cassocks, robes, tunic, hood; Shower cap; Eye mask for sleep in the nature of sleep masks; Shawl for haircut in the nature of capes for use in salons and barber shops; Game equipment, namely, chips, game wheels; dog toys, stuffed toys, and action figure toys; Chess games, pieces, sets; Balls for sports activities; Exercise equipment, namely, exercise bands, training bars, rowing machines; Archery equipment, namely, arm guards, arrow fletching devices, bow cases, nontelescopic bow sights, quivers; Sports equipment, namely, vibration dampeners for rackets, telescoping caddy for bucket for carrying, storing and transporting tennis balls and other sports equipment; Entertainment goods, namely, inflatable, play swimming pools; Ice skates, roller skates, and hockey skates; Decorations for Christmas trees except lighting items and candy; Fishing gear, namely, fishing bobbers, fishing lures, fishing reels; Cheerleading baton in the nature of twirling batons; Camouflage cover for hunting, namely, camouflage screens for hunting purposes, camouflage netting used in hunting; Scratch cards for playing lottery games; Model cars; Toy cars; Scaled model car; Display of merchandise on communication media for retail purposes, namely, providing television home shopping services in the field of medicinal supplies, veterinary supplies, sanitary preparations and medical supplies; Online advertising on computer networks; Advertising services; Business management assistance; Organizing exhibitions for commercial or advertising purposes; Organizing exhibitions and trade fairs for commercial or advertising purposes; Sell for others in the nature of

retail store services featuring medicinal supplies, veterinary supplies, sanitary preparations and medical supplies; Import and export agency; Provision of an online marketplace for buyers and sellers of goods and services; Commercial management of athletes in the nature of business management of athletes; Copy Service, namely, copying of documents for others; Accounting services; Vending machine rental; Look for sponsorship, namely, sponsorship search; Retail store services featuring medicinal supplies, veterinary supplies, sanitary preparations and medical supplies; Electric vehicle battery charging service; Electric vehicle service station for refueling and maintenance of electric vehicles; Rubber tire repair; Car Maintenance and Repair for electric vehicles; Carrier maintenance service in the nature of maintenance of electric motor vehicles; Delivery electric vehicle repair services; Repair and maintenance of electric vehicles; Auto Body Repair services; Customized installation of car interiors; Building construction information; Construction equipment rental; Mining extraction services; Upholstery repairs; Heating equipment installation and repair; Mechanical installation, maintenance and repair, namely, the installation, maintenance, and repair of electric vehicles; Furniture maintenance; Disinfection of surgical instruments, furniture, electric vehicles; Installation and repair of antitheft alarm system; Eliminate interference from electronic devices in the nature of interference suppression services for electronic devices; Installation and repair of medical equipment; Anti-rust services, namely, anti-rust treatment of vehicles; Leather care, cleaning and repair; Rental of electric cars for others; Transportation services, namely, providing shuttle services by bus, transportation of passengers and passengers' luggage; Navigation system rental; Towing service for vehicle failure; Car transport; Racing car rental; Car driving service, namely, providing drivers for individuals whose ability to drive their cars is impaired; Energy Distribution; metal casting; textile finishing in the nature of applying finishes to textiles; burning pottery in the nature of pottery firing; clothing making in the nature of custom tailoring; carving in the nature of woodworking; woodworking; dental technician services; rental of electric power, hydroelectric, wind-power electricity generators; chemical reagent processing and handling in the nature of chemical distillation services; artwork framing; material handling information, namely, providing information relating to material treatment; paper handling in the nature of paper finishing, paper treating; optical glass grinding; air purification; water treatment; ultralow temperature freezing service in the field of life science, namely, freezing of bacteria, viruses for others; rental of heating boilers; medicinal materials processing in the nature of processing of medicinal plants; Cosmetic research; biological research; industrial design; computer programming; computer software design; Graphic Art Design; technical research services in the field of engineering, and health; Providing weather information; Architectural services; Clothing design services; Computer technology consultancy; Conversion of data or documents from physical to electronic media; Software as a service (SAAS) services featuring software for use in database management, for service desk management, for accounting; Cloud computing featuring software for use in database management, for use as a spreadsheet, for word processing; Quality control for others; Mapping services; Vehicle performance testing, namely, vehicle roadworthiness testing.

Interrogatory No. 6:

Seeks: Identify each survey, market research project, or other due diligence project conducted by or on behalf of Applicant pertaining or relating to Applicant's Mark or

**Nio's goods and services are not in current use. However, Nio will offer its products and services using websites and social media accounts.**

Interrogatory No. 10:

Seeks: Describe the conditions under which and buyers to whom sales of Applicant's products are made; the response should describe how Applicant's products are offered or sold to buyers and potential buyers.

Your client objects as this being a request for disclosure of confidential information. However, as you are aware, this is one of the Dupont factors, and it is directly relevant to this proceeding and to the discovery to which our client is entitled. Additionally, this information would be produced pursuant to the above-referenced TTAB Standard Protective Order that is attached.

**Response to Interrogatory No. 10:**

**Nio's goods and services are not in current use. However, Nio will offer its products and services using websites and social media accounts.**

Interrogatory No. 12:

Seeks: Identify all facts supporting your affirmative defenses.

Your client objects because it seeks premature disclosure of Applicant's prosecution of the opposition. Your client must have a good faith basis for making each of the affirmative defenses. If it does not, then your client should disclose that it has no facts to support its affirmative defenses. Accordingly, our client requests that you supplement this Interrogatory.

**Response to Interrogatory No. 12:**

**The registered marks owned by Liberty, as evidenced by records from the United States Patent and Trademark Office (USPTO), primarily relate to gas stations and associated services within the petroleum industry and products associated with gas stations: gas, coffee, travel mugs, t-shirts, snack, among others. Examination of the USPTO records reveals multiple new applications filed by Liberty, all of which assert an intent to use its marks in various contexts, consistent with its existing gas station-related products and services.**

**The factual basis for the Applicant's affirmative defenses lies within the documentary evidence available through the USPTO, which clearly illustrates the fundamental dissimilarity between the respective business activities of the Applicant and the Opposer.**

**The USPTO only partially refused Applicant's applications in Classes 18 and 25. After Applicant's amendments, none of the remaining products and services in the applications are related. The USPTO agreed by approving the applications for publication.**

**Further, Applicant's letter to Liberty's counsel is another proof that Applicant has no intent to copy, overlap or to relate to Liberty in any way. Applicant alerted Opposer of the refusals because it is clear that the goods and services are unrelated, and the parties could coexist without confusion in unrelated activities.**

**The Applicant's operations and offerings are entirely unrelated to those of Liberty, as evidenced by the disparate nature of the goods and services. Furthermore, there is no indication whatsoever of any intent on the part of the Applicant to infringe upon Liberty's marks. The Applicant's filings and business practices further substantiate the position that Opposer's claims lack merit and are made in bad faith.**

Interrogatory No. 13:

Seeks: Identify and describe all expenditures incurred by you in connection with the development, production, distribution, promotion, advertisement, and sale of any goods or services under the Challenged Mark, including by identifying the nature and amount of each expenditure.

Your client objects as this being a request for disclosure of confidential information. However, as you are aware, this is one of the Dupont factors, meaning it is relevant and subject to discovery. Additionally, this information would be produced pursuant to the TTAB Standard Protective Order referenced above.

[REDACTED]

[REDACTED]

[REDACTED]

Interrogatory No. 15:

Seeks: Describe all facts that would support a contention that Applicant owns any rights in the Challenged Mark in the United States.

Your client has elected not to respond whatsoever. As you are aware, your client has an obligation to respond now and can supplement later. The argument that it is a premature disclosure of Applicant's prosecution in this opposition would appear to be merely an attempt to hide the ball by your client. If your client has no use of the mark in the United States, it should state so.

**Response to Interrogatory No. 15:**

**Nio has no use of the ONVO mark in the US.**



**Nio's Objections and Responses to Opposer's First Set of Requests for Production of Documents:**

With respect to your client's document production, the things that were produced were documents from the Trademark Office. Your client produced no internal files relating to any of the document requests. This does not constitute a good-faith response to the requests.

Document Request No. 1:

Seeks: All documents concerning the creation, consideration, design, development, selection, adoption, and/or first use of Applicant's Mark for any product or service.

Your client produced no such documents despite saying that it would provide a representative sampling of such documents. This information is relevant to several of the DuPont factors, including intent. Such documents surely exist and must be produced.

**Response to Document Request No. 1:**

[REDACTED]

Document Request No. 2:

Seeks: Representative samples of all advertising and other promotional materials for Applicant's goods or services for the period of January 1, 2019, through the present.

Your client states that it is not in possession of any such documents. However, if your client is using the mark anywhere else in the world, then those promotional materials are relevant as well to show course of conduct. These should be produced.

**Response to Document Request No. 2:**

**Applicant reiterates that is not in possession of any such documents.**

Document Request No. 3:

Seeks: Representative samples of each type of advertisement and promotional material (e.g., print, radio, television, brochures, catalogues, flyers, press releases, emails, website pages, website banners, in-store displays, point-of-sale promotional items) that has displayed or that will display Applicant's Mark, including documents sufficient to show every manner of presentation of Applicant's Mark in each type of advertisement or promotional material, for the period of January 1, 2019, through the present.

Your client has produced no such documents. However, again, there may be documents outside of the United States that are relevant to the course of conduct. These should be produced.

**Response to Document Request No. 3:**

**Applicant reiterates that is not in possession of any such documents.**

Document Request No. 5:

Seeks: Documents sufficient to describe or identify the actual and target purchasers of goods or services sold or planned or intended to be sold by Applicant under or in connection with the Asserted Mark.

As you are aware, there is a standard protective order in all TTAB matters. Accordingly, please produce such information. Such information is relevant for many of the DuPont factors.

**Response to Document Request No. 5:**

**Applicant is not in possession of any such documentation. However, Applicant asserts that the target audience of the brand will be the mainstream global family user, and the likely competitor will be Tesla.**

Document Request No. 8:

Seeks: All documents in Applicant's possession, control, or custody concerning Opposer or Opposer's Mark.

Your client rejects to producing any documents. However, this requests only seeks documents in your possession and your client's possession, control, or custody. It does not have to seek such documents. Therefore, it is not unduly burdensome.

**Response to Document Request No. 8:**

**Nio has public records from the USPTO related to the Opposer's Marks, and the communications with Opposer seeking a coexistence agreement.**

Document Request No. 9:

Seeks: All documents concerning the circumstances under which Applicant first became aware of Opposer's use of ONVO.

Your client has stated that it seeks information protected under attorney-client privilege. However, the date that your client first became aware of our client's use of the mark is not privileged. Therefore, such documents are relevant.

**Response to Document Request No. 8:**

**Nio stated that it became aware of Opposer's mark around February 2023 when received a partial refusal from the USPTO in one of its pending applications. Nio did not**

**know of Liberty nor the existence of Liberty's marks before receiving the partial refusal from the USPTO. Nio did not have any knowledge of Opposer's marks before the partial refusal notification from the USPTO.**

Document Request No. 10:

Seeks: All documents sent to or exchanged with Opposer.

Again, this request does not seek information that your client has to go beyond its own records. Therefore, it is not unduly burdensome.

**Response to Document Request No. 10:**

**Nio did seek consent to register its trademark from Liberty, emphasizing that the goods and services involved were unrelated. Additionally, Nio informed the opposing party about its ongoing applications, noting that the trademarks in question did not pose a risk of confusion according to trademark law.**

**After receiving partial refusals from the USPTO for Classes 18 and 25 only, Nio became aware of Liberty's trademarks and promptly sent a letter to the opposing party. It reiterated that Liberty operates in a completely different industry and assured that Nio has no plans to overlap upon Liberty's marks, as detailed in the letter.**

**Nio provides the consent letter sent to Opposer and the further response from Nio.**

Document Request No. 11:

Seeks: All documents that you will use to show use in commerce of Applicant's Mark.

Your client's objection does not make sense. Use in commerce is the key consideration for proving trademark rights in the United States. Your client either has such proof or does not. Therefore, please produce such documents or state no documents exist.

**Response to Document Request No. 11:**

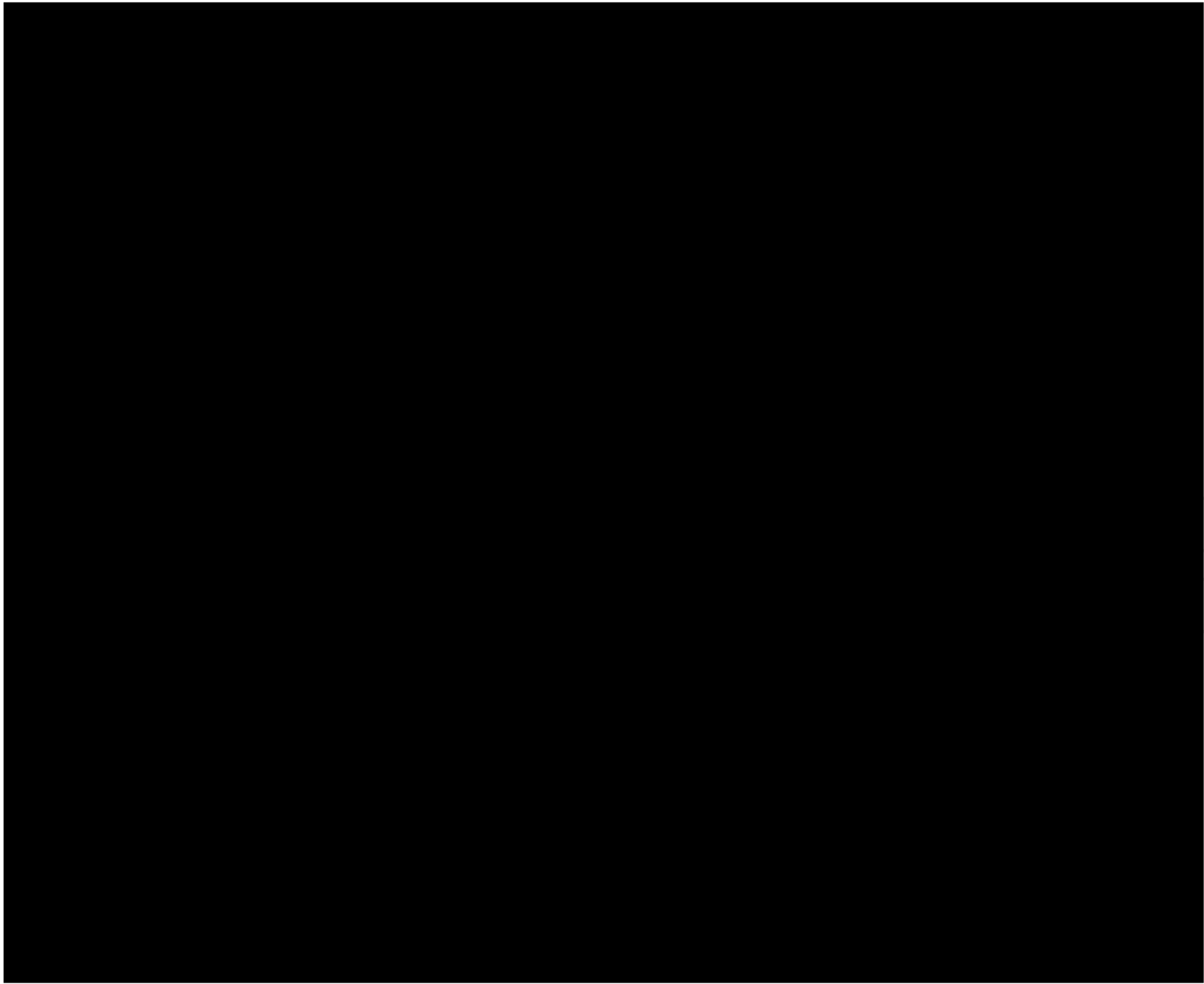
**Nio's ONVO mark is not in current use in the US.**

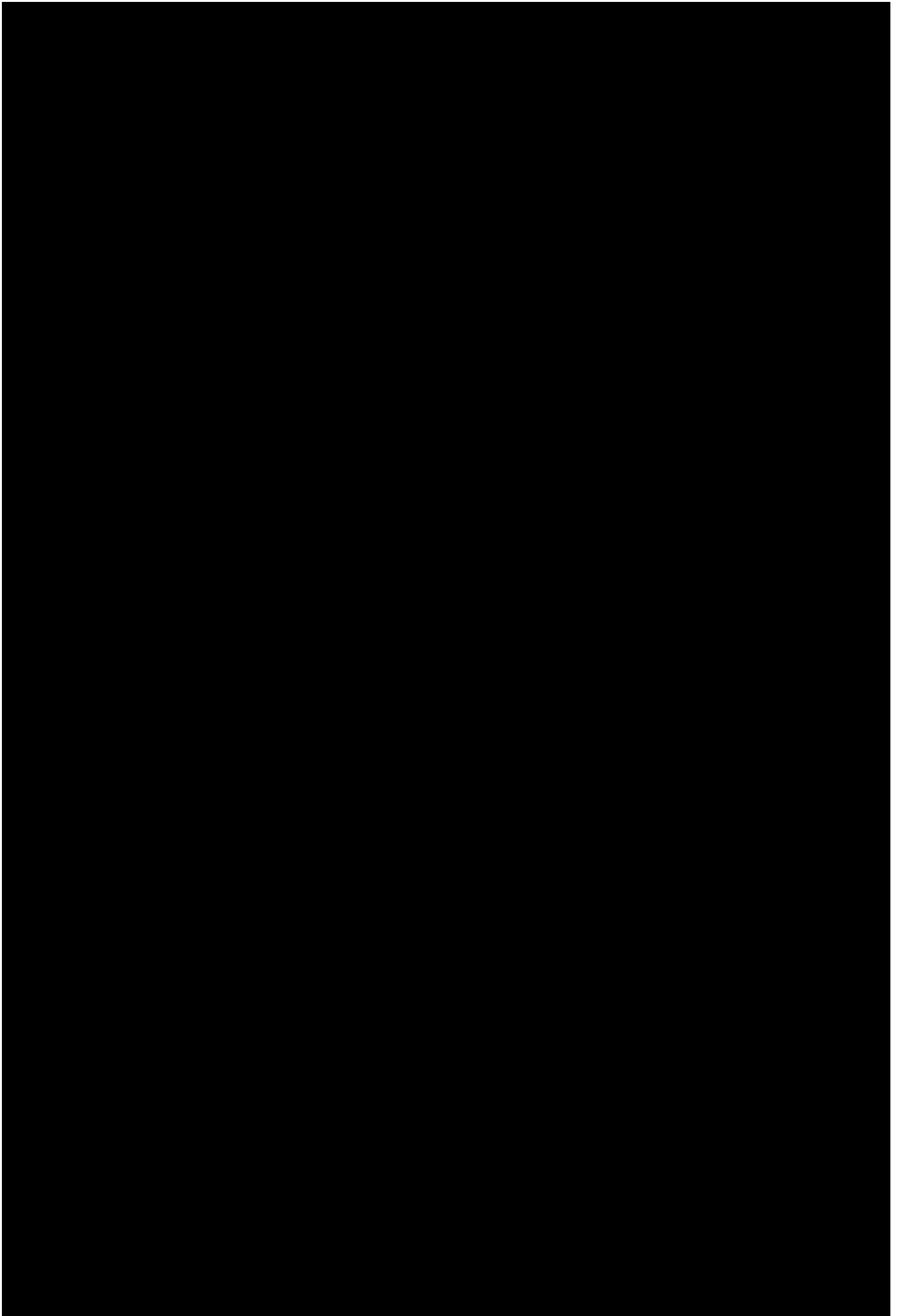
Document Request No. 12:

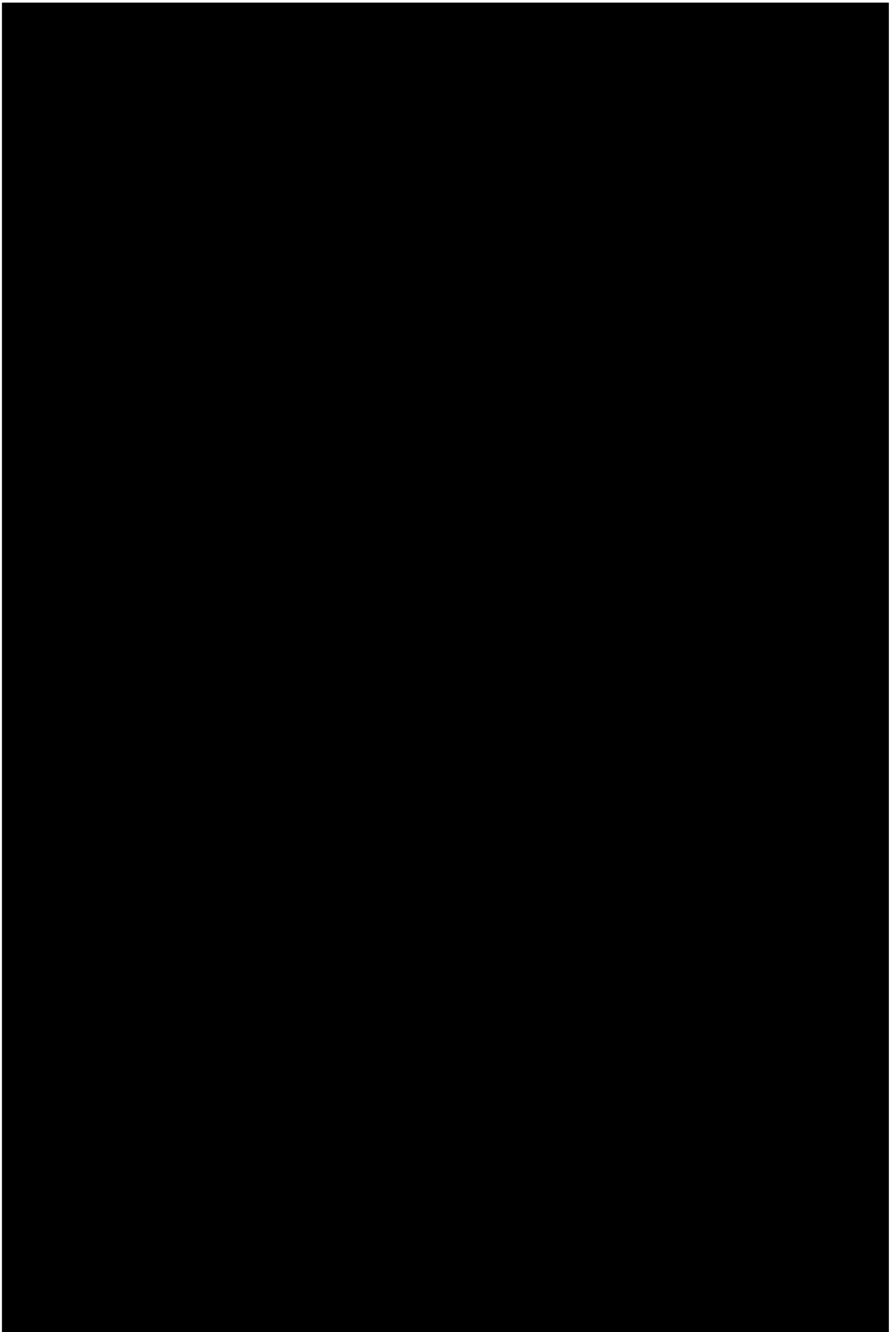
Seeks: All correspondence with local, state, and federal government authorities and agencies regarding Applicant's Mark or the offering of goods and/or services identified in Applicant's Mark's applications.

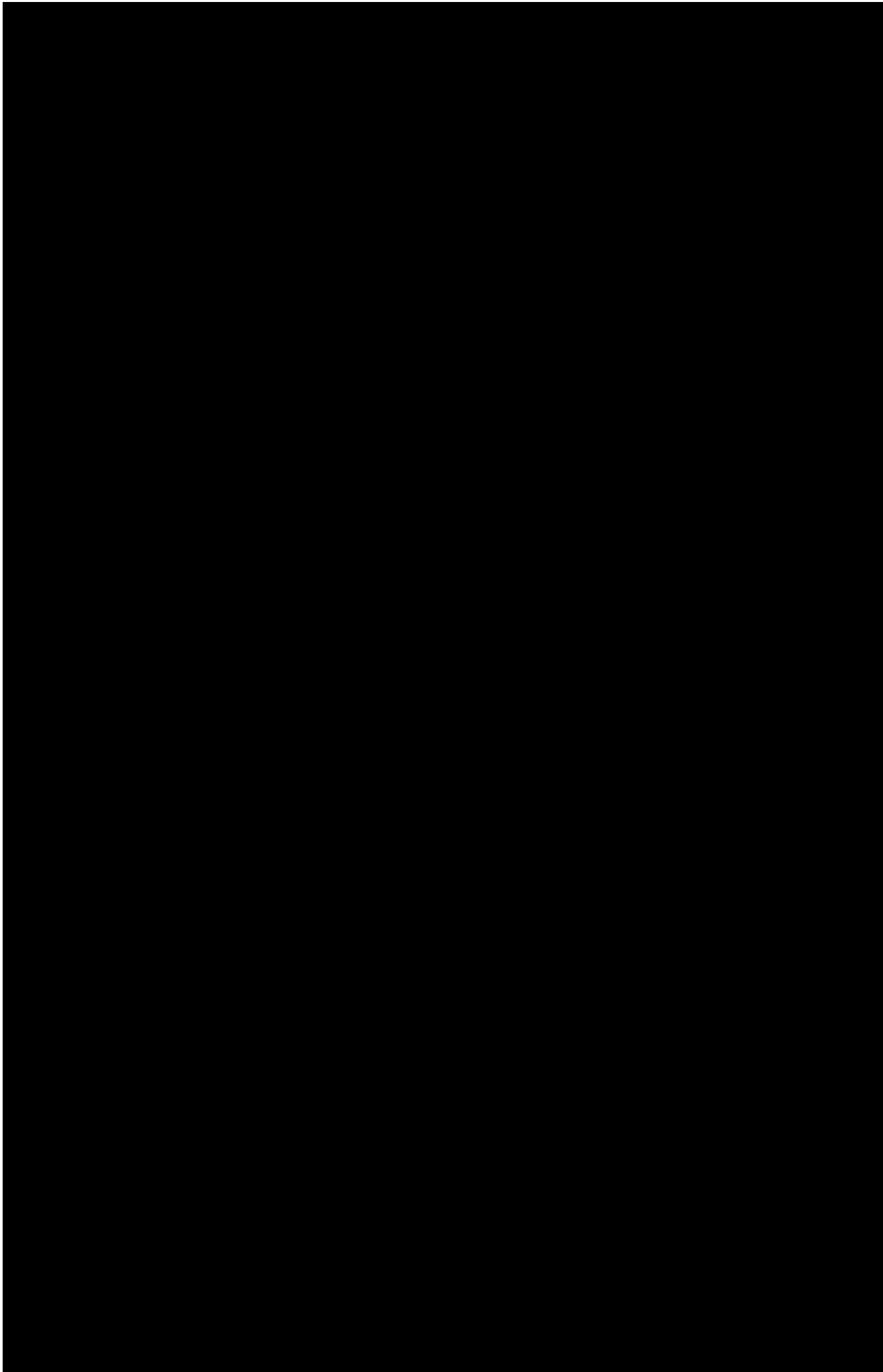
Your client objects that it is unduly burdensome. However, your client fails to state which documents would be available if your client produced them as required under the Federal Rules of Civil Procedure. Additionally, given that your client appears not to have used the mark yet, such correspondence with government authorities should be limited.

# EXHIBIT F











# EXHIBIT G

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

In the Matter of Application Serial No. 97/353420  
For the Mark: ONVO  
Published: August 22, 2023

----- X  
Liberty Truck Center, Inc., :  
: Opposition No. 91286871  
Opposer :  
: v. :  
: Nio Co., Ltd., :  
: Applicant :  
----- X

**APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS  
FOR THE PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Applicant Nio Co., Ltd. ("Applicant"), by and through its undersigned counsel, responds to Opposer Liberty Truck Center Inc.'s ("Opposer") First Set of Requests for the Production of Documents and Things to Applicant (the "Requests") as follows:

**GENERAL OBJECTIONS**

Applicant makes the following objections ("General Objections") to the definitions, instructions, and interrogatories in the Interrogatories. These General Objections are hereby incorporated into each

**DOCUMENT REQUEST NO. 16:**

Copies of all trademark searches, trademark clearances, internet print-outs, and other inquiries conducted by or on behalf of Applicant concerning the availability to use or register Applicant's Mark, and all memos, correspondence, and other documents relating thereto.

**RESPONSE TO DOCUMENT REQUEST NO. 16:**

Applicant is not in possession of any such documents.

**DOCUMENT REQUEST NO. 17:**

All documents concerning any objection, litigation, cancellation, opposition, proceeding, or dispute in connection with Applicant's Mark.

**RESPONSE TO DOCUMENT REQUEST NO. 17:**

Besides the public documents available to Opposer regarding Opposer's oppositions against Applicant, Applicant is not in possession of any such documents.

**DOCUMENT REQUEST NO. 18:**

All documents showing settlement or resolution of any objection, litigation, cancellation, opposition, proceeding, or dispute in connection with Applicant's Mark, including settlement agreements and covenants not to sue.

**RESPONSE TO DOCUMENT REQUEST NO. 18:**

Applicant is not in possession of any such documents.

**DOCUMENT REQUEST NO. 19:**

All documents pertaining to any efforts undertaken by Applicant to enforce and/or assert Applicant's Mark, including cease-and-desist letters.

**DOCUMENT REQUEST NO. 23:**

All documents pertaining to the due diligence undertaken by Applicant to ascertain the strength, validity, enforceability, or value of Applicant's Mark before, during, or after the launch of the goods or services associated with Applicant's Mark.

**RESPONSE TO DOCUMENT REQUEST NO. 23:**

Applicant objects to this document request on the grounds that the preparation of a full, accurate and truthful answer would be unduly burdensome in that Opposer seeks all documents pertaining to due diligence undertaken by Applicant. Further, Applicant objects on the grounds that it seeks confidential business information. Notwithstanding said Objection, Applicant is not in possession of any such documents pertaining to the US.

**DOCUMENT REQUEST NO. 24:**

All documents pertaining to any transactions relating to Applicant's Mark.

**RESPONSE TO DOCUMENT REQUEST NO. 24:**

Applicant is not in possession of any such documents.

**DOCUMENT REQUEST NO. 25:**

All documents concerning any trademark or domain name watch or surveillance notices received by Applicant concerning Opposer's use of Opposer's Mark or similar marks.

**RESPONSE TO DOCUMENT REQUEST NO. 25:**

Applicant is not in possession of any such documents.

Respectfully submitted,

NIO CO., LTD.

By: */s/ Roman Campos*

Roman Campos

P. Jay Hines

Joe McKinney Muncy

Attorneys for Applicant

Date: January 17, 2024

MUNCY, GEISLER, OLDS & LOWE, P.C.

125 S. Royal St., Alexandria VA 22314

Phone: 703-621-7140

Fax: 703-621-7155

mailroom@mg-ip.com; arc@mg-ip.com

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of January 2024, a true and correct copy of the foregoing was served by electronic mail to the following: elanquist@bakerdonelson.com; shill@bakerdonelson.com; sdouglass@bakerdonelson.com; trademarks@bakerdonelson.com

*/s/ Roman Campos*

Roman Campos