

ESTTA Tracking number: **ESTTA954539**

Filing date: **02/15/2019**

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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

| | | | |
|---------|--|-------------|----------|
| Name | The Weidt Group, Inc. | | |
| Entity | Corporation | Citizenship | Delaware |
| Address | 5800 Baker Road Minnetonka, MN 55345 UNITED STATES | | |

| | |
|----------------------|--|
| Attorney information | Michael T. Olsen / Tucker A. Chambers Winthrop & Weinstine, P.A. 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402 UNITED STATES trademark@winthrop.com, tchambers@winthrop.com, molsen@winthrop.com 6126046586 |
|----------------------|--|

Registration Subject to Cancellation

| | | | |
|--------------------------------|---|---------------------------------|------------|
| Registration No. | 5522010 | Registration date | 07/24/2018 |
| International Registration No. | NONE | International Registration Date | NONE |
| Registrant | nlyte Software Limited Riverside House 26 Osiers Road London, SW181NH ENGLAND | | |

Goods/Services Subject to Cancellation

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| <p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Apparatus for recording, transmission, reproduction or storage of sound, images or data; apparatus for the storage of data, namely, blank digital storage media; blank magnetic data carriers, blank recording discs; data processing equipment and computers; computer software for data centers, namely, for data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; computer hardware; computer programs for data centers, namely, for data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; computer software for data center management; computer peripherals; document printers; pre-recorded video and audio tapes, compact discs, DVD's, CD-ROMs featuring content relating to data center infrastructure management, data analysis, data management, data systemization, data processing,</p> |
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work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; discs and diskettes, tapes, videos and other media bearing content relating to data center infrastructure management, data analysis, data management, data systemization, dataprocessing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; electronic test and measurement devices for use in the fields of networks and telecommunications, namely, instrumentation used to test and certify new and existing data and voice communication cable and coaxial cable; parts and fittings for all the aforesaid goods; none of the aforementioned goods being electronic equipment and software for controlling valves or electronic equipment and software for controlling and monitoring manufacturing equipment; none of the aforesaid software being for the collection, analysis, transmission, reporting and display of retail and points of sales data; none of the aforesaid software being for advertising or marketing purposes; none being for operating or controlling apparatus and/or instruments for medical procedures, or being for operating or controlling borescopic and/or surgical apparatus and/or instruments, or being for use in connection with borescopic and/or surgical apparatus and/or instruments, or apparatus and/or instruments for medical procedures; all of the aforesaid relating to the management, operation, auditing, planning, controlling, organising and optimisation of data centers

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Business management and administration services in the field of data center infrastructure management, data analysis, data management, data systemization, dataprocessing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; inventory management and tracking services in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; business project management in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; business data analysis services in the field of data center infrastructure management, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; data analysis in the field of data center infrastructure management, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; auditing services, namely, data auditing and business auditing; computerized auditing, namely, data auditing and business auditing; compilation of business data in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; data handling, namely, data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; data management in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; database management services, namely, data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; computerised database management in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, workflow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; collating, systemization, updating and maintenance of computer databases, namely, the compilation and systemization of information into computer databases and the updating

and maintenance of computer databases; data center business management services; business operation and management of data centers; business consulting services in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; business consulting services in the field of data center computer server capacity planning, computer network capacity planning, computer equipment and IT infrastructure capacity planning, communications bandwidth capacity planning, physical space capacity planning, data center electrical load and power capacity planning, cooling equipment capacity planning, computer hardware rack capacity planning, physical and data security capacity planning, electrical capacity planning; business consulting services in the field of branch circuit monitoring for data centers, namely, consulting services concerning the monitoring of electrical power and electrical loads and the monitoring and management of data center infrastructure; information, advisory and consultancy services relating to all the aforementioned services; none of the aforesaid services being for advertising or marketing purposes; all of the aforesaid services relating to the management, operation, auditing, planning, controlling, organising and optimisation of data centers

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: Design services in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; computer hardware and software design and testing, namely, in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; computer systems analysis in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; computer programming services; design of computer hardware and computer software; rental and leasing of computers; provision of online access to a computer database in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; design of computer databases for others; engineering services in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; engineering design for others; engineering drawing services; project management being technical support, namely, remote administration and management of in-house and hosted data center devices, databases and software applications; computerised analysis of data relating to data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; technical data analysis services in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; providing technical advice and assistance in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting via an interactive web site or a global computer information network; providing technical advice, information and assistance about the Internet; providing information in the field of computers and computer peripherals; maintenance and updating of computer software; computer support services, namely, troubleshooting of computer hardware and software in the field of data center infrastructure management, data analysis, data management, data systemization, data processing, work management, work flow management, asset management and optimization, network mapping and management, data center capacity planning and utilization, task management and data center reporting; consultancy services relating to information technology; room layout

design services, namely, planning and layout design for the interior space of business establishments; data center management services, namely, providing on-site management of information technology systems of others, providing remote management of information technology systems of others, monitoring of computer systems by remote access to ensure proper functioning, and remote computer backup services; operation and management of data centers, namely, providing on-site management of information technology systems of others, providing remote management of information technology systems of others, monitoring of computer systems by remote access to ensure proper functioning, and remote computer backup services; computer systems integration services; design, development, and consulting services in the field of software for data center management, data center infrastructure management, data center operations and data center efficiency; technical support services, namely, troubleshooting of facilities management and building automation computer software problems; technical support services, namely, troubleshooting in the nature of diagnosing building automation, facilities management and data center computer software and hardware problems; providing temporary use of non-downloadable computer software applications for use in data center capacity planning, real-time branch circuit and environmental system monitoring, tracking load and available power, HVAC and cabinet capacities and circuit alarm notification for small and large data centers; facilities management services, namely, monitoring of data centers and computer storage facilities with respect to electrical and mechanical systems; monitoring data center systems and mission critical systems, namely, monitoring generators, air conditioning units, transfer switches, uninterruptible power supplies, power distribution units, battery systems, chillers, pumps, on-site power generators, building management systems and network systems; monitoring information technology infrastructure power and electrical systems, information, advisory and consultancy services relating to all the aforementioned services; none of the aforementioned services relating to electronic equipment and software for controlling valves or electronic equipment and software for controlling and monitoring manufacturing equipment; none of the aforesaid services being for advertising or marketing purposes; all of the aforesaid services relating to the management, operation, auditing, planning, controlling, organising and optimisation of data centers

Grounds for Cancellation


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| Priority and likelihood of confusion | Trademark Act Sections 14(1) and 2(d) |
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| Related Proceedings | Opposition No. 91246432 |
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Marks Cited by Petitioner as Basis for Cancellation

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|----------------------|--|-----------------------|------------|
| U.S. Application No. | 88074385 | Application Date | 08/10/2018 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | NEO | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 042. First use: First Use: 2012/07/19 First Use In Commerce: 2012/07/19 | | |

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| | Providing on-line non-downloadable software for use in building and analyzing energy models |
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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4429793 | Application Date | 08/23/2012 |
| Registration Date | 11/05/2013 | Foreign Priority Date | NONE |
| Word Mark | NEO NET ENERGY OPTIMIZER | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 042. First use: First Use: 2012/07/19 First Use In Commerce: 2012/07/19 Providing on-line non-downloadable software for use in building and analyzing energy models | | |

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|-------------|---|
| Attachments | 88074385#TMSN.png(bytes) 85711188#TMSN.png(bytes) 20190215 Petition for Cancellation - NEO NLYTE ENERGY OPTIMIZER - nlyte with Ex. A.pdf(449988 bytes) |
|-------------|---|

| | |
|-----------|----------------------|
| Signature | /Tucker A. Chambers/ |
| Name | Tucker A. Chambers |
| Date | 02/15/2019 |

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

The Weidt Group, Inc.,
Petitioner,

v.

Cancellation No. _____

nlyte Software Limited,
Respondent.

PETITION FOR CANCELLATION AND MOTION FOR CONSOLIDATION

The Weidt Group, Inc. (“Petitioner”) believes that it is and will continue to be damaged by the registration of the claimed NEO (NLYTE ENERGY OPTIMIZER) mark shown in Registration No. 5,522,010, and hereby petitions to cancel the same. Petitioner also appends below a Motion for Consolidation pursuant to TBMP § 305.02, to consolidate this cancellation proceeding with the opposition proceeding instituted today against the same Respondent.

The grounds for cancellation are as follows:

Petitioner’s NEO Marks

1. Petitioner is the owner of prior common law rights to the word marks NEO and NEO NET ENERGY OPTIMIZER (collectively “Petitioner’s NEO Marks”) for a variety of software goods and services in the field of energy efficiency, including but not limited to, software for building and analyzing energy models, providing real-time building energy information and analytics, analyzing energy efficiency of building designs, performing full life-cycle energy cost analysis, comparing designs to energy costs and sustainability programs and standards, applying results to utility market transformation incentive programs, and modeling energy efficient building plans, to obtain electrical power savings, reduce energy costs, optimize building performance, and reduce environmental impacts (“Petitioner’s Goods & Services”).

2. Petitioner has continuously used Petitioner's NEO Marks in commerce for Petitioner's Goods & Services since at least as early as July 19, 2012.

3. Petitioner is the record owner of U.S. Trademark Registration No. 4,429,793 for the mark NEO NET ENERGY OPTIMIZER® ("Petitioner's Registration") for "providing on-line non-downloadable software for use in building and analyzing energy models" in International Class 42, with a first-use-in-commerce date at least as early as July 19, 2012.

4. True and correct copies of Petitioner's Registration and a current printout of information from the electronic database records of the USPTO, showing the current status and title of Petitioner's Registration, are attached as Exhibit A.

5. The application filing date and nationwide constructive use date for the NEO NET ENERGY OPTIMIZER® mark covered by Petitioner's Registration is August 23, 2012.

6. Petitioner's Registration issued on the Principal Register of the USPTO on November 5, 2013.

7. Petitioner is also the record owner of Application Serial No. 88/074,385 for the standard-character NEO mark for "providing on-line non-downloadable software for use in building and analyzing energy models," claiming a first-use-in-commerce date at least as early as July 19, 2012.

Respondent's NEO (NLYTE ENERGY OPTIMIZER) Mark

8. nlyte Software Limited ("Respondent") is the record owner of Registration No. 5,522,010 ("Respondent's Registration") for the standard-character mark NEO (NLYTE ENERGY OPTIMIZER) (the "Respondent's Claimed Mark").

9. Respondent filed the application that matured into Respondent's Registration on August 23, 2016.

10. The claimed registration basis of Respondent's Registration is Section 44(e) of the Lanham Act, based on a trademark registration in the United Kingdom.

11. The goods and services identified in Respondent's Registration in Classes 9, 35, and 42 (collectively, "Respondent's Claimed Goods & Services") include a broad variety of goods and services related to data center optimization and efficiency, including for example:

- "Computer software for data centers, namely, for ... asset management and optimization ... data center capacity planning and utilization ... all the aforesaid relating to ... planning, controlling, organising and optimisation of data centers" in Int'l Class 9;
- "data analysis in the field of data center ... asset management and optimization ... data center capacity planning and utilization ...; business consulting services in the field of data center computer server capacity planning ... physical space capacity planning, data center electrical load and power capacity planning ... electrical capacity planning; ... consulting services concerning the monitoring of electrical power and electrical loads and the monitoring and management of data center infrastructure; all the aforesaid services relating to ... planning, controlling, organising and optimisation of data centers" in Int'l Class 35; and
- "software design ... in the field of ... asset management and optimization ... data center capacity planning and utilization ...; design of computer hardware and computer software; ... providing a website featuring a computer database in the field of ... technological data analysis ... data center capacity planning and utilization...; computerised technological analysis of data relating to ... data analysis ... asset management and optimization ... data center capacity planning and utilization...; technological data analysis services in the field of ... data analysis ... asset management and optimization ... data center capacity planning and utilization...; ... room layout design services...; ... design, development, and consulting services in the field of software for ... data center efficiency; ... all the aforesaid services relating to ... planning, controlling, organising and optimisation of data centers" in Int'l Class 42.

12. Respondent's Registration issued on July 24, 2018, which is within five years of the filing date of this Petition for Cancellation.

13. This Petition for Cancellation is timely filed.

Count I: Priority and Likelihood of Confusion (Lanham Act § 2(d))

14. Petitioner restates and incorporates by reference the preceding paragraphs.

15. Petitioner has used Petitioner's NEO Marks in commerce for Petitioner's Goods & Services prior to the filing date of the application that matured into Respondent's Registration.

16. Respondent's Registration does not claim use in United States commerce.
17. Petitioner's nationwide constructive use date of August 23, 2012 for the NEO NET ENERGY OPTIMIZER® mark covered by Petitioner's Registration, and the registration date of November 5, 2013 for Petitioner's Registration, predate the application filing date of August 23, 2016 for Respondent's Registration by over two years.
18. On information and belief, Petitioner has used Petitioner's NEO Marks in commerce for Petitioner's Goods & Services prior to any use by Respondent of Respondent's Claimed Mark in commerce for Respondent's Goods & Services.
19. On information and belief, Petitioner has used Petitioner's NEO Marks in commerce for Petitioner's Goods & Services prior to any use by Respondent of Respondent's Claimed Mark in commerce for any goods or services.
20. Petitioner has priority over Respondent to use Petitioner's NEO Marks for Petitioner's Goods & Services, as a result of the prior Petitioner's Registration and prior nationwide constructive use date, and Petitioner's prior common law trademark rights and continuous use in commerce of Petitioner's NEO Marks for Petitioner's Goods & Services.
21. Petitioner has expended considerable time, effort, and money developing, promoting, advertising, and popularizing Petitioner's NEO Marks in connection with Petitioner's Goods & Services.
22. The purchasing public has come to know, rely upon, and recognize Petitioner's NEO Marks as a strong indicator of the source of Petitioner's Goods & Services.
23. Petitioner's NEO Marks are inherently distinctive.
24. Respondent's Registration claims a standard-character mark, without claim to any particular font style, size, or color of the mark.

25. Petitioner's NEO Marks are visually similar to Respondent's Claimed Mark.

26. Petitioner's NEO Marks are similar in sound to Respondent's Claimed Mark.

27. Petitioner's NEO Marks are similar in meaning to Respondent's Claimed Mark.

28. Petitioner's NEO Marks have similar overall commercial impressions as Respondent's Claimed Mark.

29. The dominant element of Respondent's Claimed Mark is the term "NEO" because that term appears first, the remainder of the mark is set off in parentheses, and the terms "ENERGY OPTIMIZER" are disclaimed.

30. The dominant "NEO" element of Respondent's Claimed Mark is identical to Petitioner's NEO mark.

31. Petitioner's Goods & Services are related and overlapping with Respondent's Claimed Goods & Services.

32. For example, Petitioner's services "providing on-line non-downloadable software for use in building and analyzing energy models" are related to Respondent's Claimed Goods & Services.

33. A data center is a type of building.

34. A data center is typically housed within a building.

35. Petitioner's Goods & Services and Respondent's Claimed Goods & Services encompass related goods and services for the planning, data analysis, and optimization of the electrical and power efficiency and capacity of buildings, such as data centers.

36. Petitioner's Goods & Services and Respondent's Claimed Goods & Services encompass software goods and services for planning and optimization of buildings, such as data centers.

37. The identification of Respondent's Claimed Goods & Services set forth in Respondent's Registration is unrestricted as to classes of consumers.

38. Respondent's Claimed Goods & Services are presumed to be available to and directed to all classes of consumers.

39. The identification of Respondent's Claimed Goods & Services set forth in Respondent's Registration is unrestricted as to channels of trade.

40. Respondent's Claimed Goods & Services are presumed to travel in all channels of trade.

41. The identification of services in Petitioner's Registration is unrestricted as to channels of trade and classes of consumers.

42. The services identified in Petitioner's Registration are presumed to be available and directed to all classes of consumers and travel in all channels of trade.

43. Based on the similarity of Petitioner's NEO Marks and Respondent's Claimed Mark, and the relatedness of Petitioner's Goods & Services and Respondent's Claimed Goods & Services, the continued registration of Respondent's Claimed Mark causes a likelihood of confusion.

44. Petitioner's NEO Marks so resemble Respondent's Claimed Mark as to be likely, when used in connection with Respondent's Claimed Goods & Services, to cause confusion, to cause mistake, or to deceive as to affiliation, source, or sponsorship, to the detriment of Petitioner.

45. For the foregoing reasons, Respondent's Registration should be cancelled pursuant to Sections 2 and 14 of the Lanham Act, 15 U.S.C. §§ 1052(d), 1064.

WHEREFORE, Petitioner requests that the Trademark Trial and Appeal Board:

1. Sustain this Petition for Cancellation;
2. Cancel U.S. Reg. No. 5,522,010; and
3. Grant Petitioner any further relief the Board deems equitable.

Dated: February 15, 2019

WINTHROP & WEINSTINE, P.A.

/Tucker A. Chambers/

Michael T. Olsen

Tucker A. Chambers

225 South Sixth Street, Suite 3500

Minneapolis, Minnesota 55402

(612) 604-6400 (Telephone)

(612) 604-6800 (Facsimile)

Attorneys for Petitioner

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

The Weidt Group, Inc.,
Petitioner/Opposer,

v.

Cancellation No. _____
Opposition No. 91246432

nlyte Software Limited,
Respondent/Applicant.

MOTION FOR CONSOLIDATION

Petitioner/Opposer The Weidt Group, Inc. (“Weidt”) requests, pursuant to TBMP §§ 305.02, 511 and Fed. R. Civ. P. 42(a), consolidation of Opposition No. 91246432 with the above Petition for Cancellation, against Respondent/Applicant nlyte Software Limited (“nlyte”). The parties in each proceeding, Weidt and nlyte, are identical. Weidt asserts the same marks in both proceedings (NEO and NEO NET ENERGY OPTIMIZER), and the marks shown in nlyte’s application and registration are similar as each begins with the dominant term “NEO.” Finally, the goods and services identified in nlyte’s application and registration are identical. Therefore, the proceedings involve common questions of law and fact, such that consolidation is appropriate based on savings in time, effort, and expense. *Dating DNA, LLC v. Imagini Holdings, Ltd.*, 94 USPQ2d 1889, 1893 (TTAB 2010); TBMP §§ 305.02, 511; Fed. R. Civ. P. 42(a).

Dated: February 15, 2019

WINTHROP & WEINSTINE, P.A.

/Tucker A. Chambers/
Michael T. Olsen
Tucker A. Chambers
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402
(612) 604-6400 (Telephone)
(612) 604-6800 (Facsimile)

Attorneys for Petitioner/Opposer

CERTIFICATE OF SERVICE BY E-MAIL

I hereby certify that on February 15, 2019, a true and complete copy of the foregoing Motion for Consolidation was served on Respondent nlyte Software Limited by forwarding said copy via email to Respondent's counsel:

Laura M. Konkel (Email: Lmkonkel@Michaelbest.com)

/Tucker A. Chambers/

Tucker A. Chambers

16825347v1

EXHIBIT A

United States of America

United States Patent and Trademark Office

NEO NET ENERGY OPTIMIZER

Reg. No. 4,429,793

THE WEIDT GROUP, INC. (DELAWARE CORPORATION)
5800 BAKER ROAD
MINNETONKA, MN 55345

Registered Nov. 5, 2013

Int. Cl.: 42

FOR: PROVIDING ON-LINE NON-DOWNLOADABLE SOFTWARE FOR USE IN BUILDING AND ANALYZING ENERGY MODELS, IN CLASS 42 (U.S. CLS. 100 AND 101).

SERVICE MARK

FIRST USE 7-19-2012; IN COMMERCE 7-19-2012.

PRINCIPAL REGISTER

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

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

SN 85-711,188, FILED 8-23-2012.

CARYN GLASSER, EXAMINING ATTORNEY




Lisa Street Lee

Deputy Director of the United States Patent and Trademark Office

Due to high-volume usage, you may experience intermittent issues on the Trademark Status and Document Retrieval (TSDR) system between 6 – 8 a.m. ET. Refreshing your web browser should resolve the issue. If you still need assistance accessing a document, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

Starting Oct. 4, 2018, bulk data customers should no longer obtain direct access to TSDR data through tsdrsec.uspto.gov. [There are two alternative ways to receive bulk data from TSDR.](#)

| STATUS | DOCUMENTS | MAINTENANCE | Back to Search | Print |
|--|---|--|--------------------------------|-------|
| Generated on: This page was generated by TSDR on 2019-02-14 23:20:54 EST | | | | |
| Mark: NEO NET ENERGY OPTIMIZER | | | | |
| NEO NET ENERGY OPTIMIZER | | | | |
| US Serial Number: | 85711188 | Application Filing Date: | Aug. 23, 2012 | |
| US Registration Number: | 4429793 | Registration Date: | Nov. 05, 2013 | |
| Register: | Principal | | | |
| Mark Type: | Service Mark | | | |
| TM5 Common Status Descriptor: | LIVE/REGISTRATION/Issued and Active | | | |
|  | The trademark application has been registered with the Office. | | | |
| Status: | A Sections 8 and 15 combined declaration has been accepted and acknowledged. | | | |
| Status Date: | Dec. 06, 2018 | | | |
| Publication Date: | Apr. 30, 2013 | Notice of Allowance Date: | Jun. 25, 2013 | |
| ▼ Mark Information ▲ Collapse All | | | | |
| Mark Literal Elements: | NEO NET ENERGY OPTIMIZER | | | |
| Standard Character Claim: | Yes. The mark consists of standard characters without claim to any particular font style, size, or color. | | | |
| Mark Drawing Type: | 4 - STANDARD CHARACTER MARK | | | |
| Disclaimer: | "NET ENERGY OPTIMIZER" | | | |
| ▼ Goods and Services | | | | |
| Note: | | | | |
| The following symbols indicate that the registrant/owner has amended the goods/services: | | | | |
| <ul style="list-style-type: none"> • Brackets [.] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *.* identify additional (new) wording in the goods/services. | | | | |
| For: | Providing on-line non-downloadable software for use in building and analyzing energy models | | | |
| International Class(es): | 042 - Primary Class | U.S Class(es): | 100, 101 | |
| Class Status: | ACTIVE | | | |
| Basis: | 1(a) | | | |
| First Use: | Jul. 19, 2012 | Use in Commerce: | Jul. 19, 2012 | |
| ▼ Basis Information (Case Level) | | | | |
| Filed Use: | No | Currently Use: | Yes | |
| Filed ITU: | Yes | Currently ITU: | No | |
| Filed 44D: | No | Currently 44E: | No | |
| Filed 44E: | No | Currently 66A: | No | |
| Filed 66A: | No | Currently No Basis: | No | |
| Filed No Basis: | No | | | |
| ▼ Current Owner(s) Information | | | | |
| Owner Name: | THE WEIDT GROUP, INC. | | | |
| Owner Address: | 5800 BAKER ROAD MINNETONKA, MINNESOTA UNITED STATES 55345 | | | |
| Legal Entity Type: | CORPORATION | State or Country Where Organized: | DELAWARE | |
| ▼ Attorney/Correspondence Information | | | | |
| Attorney of Record | | | | |
| Attorney Name: | Michael T. Olsen | Docket Number: | 12316.1 | |
| Attorney Primary Email Address: | trademark@winthrop.com | Attorney Email Authorized: | Yes | |

| Correspondent | | |
|---|--|---|
| Correspondent Name/Address: | MICHAEL T. OLSEN WINTHROP & WEINSTINE, P.A. 225 South Sixth Street Capella Tower, Suite 3500 MINNEAPOLIS, MINNESOTA UNITED STATES 55402-4629 | |
| Phone: | (612) 604-6718 | Fax: (612) 604-6818 |
| Correspondent e-mail: | trademark@winthrop.com molsen@winthrop.com tchambers@winthrop.com cclassen@winthrop.com | Correspondent e-mail Authorized: Yes |
| Domestic Representative - Not Found | | |
| ▼ Prosecution History | | |
| Date | Description | Proceeding Number |
| Dec. 06, 2018 | NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED | |
| Dec. 06, 2018 | REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. | 76874 |
| Dec. 06, 2018 | CASE ASSIGNED TO POST REGISTRATION PARALEGAL | 76874 |
| Nov. 12, 2018 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Nov. 12, 2018 | TEAS SECTION 8 & 15 RECEIVED | |
| Nov. 05, 2018 | COURTESY REMINDER - SEC. 8 (6-YR) E-MAILED | |
| Nov. 05, 2013 | REGISTERED-PRINCIPAL REGISTER | |
| Oct. 04, 2013 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED | |
| Oct. 03, 2013 | LAW OFFICE REGISTRATION REVIEW COMPLETED | 68171 |
| Sep. 30, 2013 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED | |
| Sep. 09, 2013 | STATEMENT OF USE PROCESSING COMPLETE | 65362 |
| Aug. 12, 2013 | USE AMENDMENT FILED | 65362 |
| Sep. 06, 2013 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 65362 |
| Aug. 12, 2013 | TEAS STATEMENT OF USE RECEIVED | |
| Aug. 06, 2013 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Jun. 25, 2013 | NOA E-MAILED - SOU REQUIRED FROM APPLICANT | |
| Apr. 30, 2013 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED | |
| Apr. 30, 2013 | PUBLISHED FOR OPPOSITION | |
| Apr. 10, 2013 | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED | |
| Mar. 26, 2013 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 68171 |
| Mar. 26, 2013 | ASSIGNED TO LIE | 68171 |
| Mar. 12, 2013 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Mar. 08, 2013 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Mar. 07, 2013 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Mar. 07, 2013 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Jan. 30, 2013 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP | |
| Nov. 27, 2012 | NOTIFICATION OF NON-FINAL ACTION E-MAILED | 6325 |
| Nov. 27, 2012 | NON-FINAL ACTION E-MAILED | 6325 |
| Nov. 27, 2012 | NON-FINAL ACTION WRITTEN | 82426 |
| Nov. 27, 2012 | ASSIGNED TO EXAMINER | 82426 |
| Sep. 06, 2012 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Aug. 27, 2012 | NEW APPLICATION ENTERED IN TRAM | |
| ▼ Maintenance Filings or Post Registration Information | | |
| Affidavit of Continued Use: | Section 8 - Accepted | |
| Affidavit of Incontestability: | Section 15 - Accepted | |
| ▼ TM Staff and Location Information | | |
| TM Staff Information - None | | |
| File Location | | |
| Current Location: | TMEG LAW OFFICE 108 | Date in Location: Dec. 06, 2018 |
| ▼ Assignment Abstract Of Title Information - Click to Load | | |
| ▼ Proceedings - Click to Load | | |