

RESPONSE TO OFFICE ACTION

AU Card LLC (“Applicant”) respectfully responds to the Non-Final Office Action dated May 29, 2019, issued against Application Serial No. 88394087 (the “Application”) for the mark NV and Design.

Identification of Goods

Applicant respectfully requests amendment of the identification of goods and services covered by its application to register the mark **NV and Design** in Classes 9 and 36 (“Applicant’s Mark”) as follows:

- Class 9 (no change): *Magnetically encoded credit cards*
- Class 36 (proposed additions in bold): *Financial services, namely, credit card and debit card **transaction processing services, processing of credit and debit card payments***

Likelihood of Confusion

The Examining Attorney refused registration of Applicant’s Mark under section 2(d) of the Trademark Act, 15 U.S.C. 1052(d), based on a likelihood of confusion with two prior registrations:

- i. Registration No. 4304381 for the mark NV5, owned by NV5 Holdings, Inc., for, in relevant part, “*financial asset management consultation*” in Class 36 (the “NV5 Registration”); and
- ii. Registration No. 4595197 for the mark NV MERCURY (Stylized), owned by HK Xiangbang International Investment Co., Ltd, for in relevant part, “*magnetic coded gift cards*” in Class 9 (the “HK Registration”).

Applicant respectfully submits no likelihood of confusion exists with the NV5 Registration and the HK Registration (the “Cited Marks” or “Cited Registrations”) because: (a)

the Cited Marks differ from Applicant's Mark; (b) the services are distinct and offered in different trade channels; (c) a high degree of customer care is taken in selecting the respective goods and services; and (d) coexistence of numerous NV composite marks in the relevant classes establishes that the Cited Marks are subject to a narrow scope of protection.

1. No Likelihood of Confusion with the Cited Registrations




(a) Applicant's Mark is Dissimilar from the Cited Marks

When evaluating the similarity between marks, the principal points of comparison are sight, sound, and meaning or commercial impression. *See In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 1361 (CCPA 1973); TMEP § 1207.01(b)(i). The marks must be compared in their entirety, because the overall commercial impression on the relevant consumer determines whether there is a likelihood of confusion. *See, e.g., Duluth News-Tribune v. Mesabi Publ. Co.*, 84 F.3d 1093, 1097 (8th Cir. 1996) ("Rather than consider the similarities between the component parts of the marks, we must evaluate the impression that each mark in its entirety is likely to have on a purchaser exercising the attention usually given by purchasers of such products."). This anti-dissection rule prevents the evaluation of marks from focusing solely upon a common feature while ignoring other relevant elements. *See In re National Data Corp.*, 753 F.2d 1056, 1058 (Fed. Cir. 1985). Further, likelihood of confusion may not be found even where the marks share identical wording, which is not the case here contrary to the view of the Examining Attorney. *See, e.g., Local Trademark Inc. v. The Handy Boys*, 16 U.S.P.Q. 2d 1156 (T.T.A.B. 1990) (LITTLE PLUMMER and design for advertising services in the plumbing field and LITTLE PLUMBER for liquid drain opener held not confusingly similar).

Applicant's Mark and the Cited Marks are distinctly dissimilar and create very different commercial impressions when viewed in their entirety. The Cited Marks are not identical or

virtually identical to Applicant’s Mark. The NV and Design mark is distinct from the Cited Marks in both sight and sound. The NV5 Registration incorporates the digit “5” and thus is composed of three syllables. The HK Registration also has an entirely different phonetic cadence composed of five syllables and visual appearance compared to Applicant’s Mark NV and Design that incorporates the distinctive term “Mercury”. The marks do not look or sound at all similar when considered in their entireties.

As shown below, Applicant’s NV and Design Mark incorporates a checkmark design with the V, as conjoined with the N forming a unitary design. Meanwhile, the NV5 mark clearly leaves an entirely different impression incorporating the digit 5, and the HK Registration also leaves a distinct impression visually by featuring MERCURY underneath the NV element in the mark.

NV and Design Mark	NV5 Mark	NV MERCURY Mark
		

As applied to financial services and credit cards, Applicant’s Mark connotes security, approval, and acceptance, reflecting the high standards associated with its financial services and products. In contrast, the additional elements in the Cited Marks connote different meanings and leave different impressions associated with the distinctive elements “5” and “Mercury”, respectively. As applied to Applicant’s financial products and services, Applicant’s Mark suggests that Applicant is providing its high net worth consumer base with secure and approved products and services, which creates a commercial impression distinct from the Cited Marks.

Even if the terms in the Cited Marks and Applicant's Mark were identical (which they are not), shared elements in the marks is not a sufficient basis for refusing registration if the marks create distinctly different commercial impressions. *See e.g., Juice Generation, Inc. v. GS Enters. LLC*, 115 USPQ2d 1671, 1674-75 (Fed. Cir. 2015) (finding PEACE LOVE AND JUICE and PEACE & LOVE marks used for restaurant services sufficiently different when considered as a whole). In making such an assessment, even small variations in marks may be sufficient to overcome a finding that marks are confusingly similar. *See e.g., In re N.A.D. Inc.*, 224 USPQ 969, 971 (Fed. Cir. 1985) (finding no likelihood of confusion between NARKOMED and NARCO marks both used for medical equipment).

(b) *Applicant's Services Are Distinct from the Services Covered by the Cited Registrations and Travel in Different Trade Channels*

Goods or services are compared to determine if they are related or if the activities surrounding their marketing are such that confusion is unlikely. *See In re August Storck KG*, 218 USPQ 823, 825 (TTAB 1983). The comparison must focus on the similarity of the goods and services described in the application with those identified in the prior registration(s). *See Canadian Imperial Bank of Commerce v. Wells Fargo Bank*, 1 USPQ2d 1813 (Fed. Cir. 1987). To support a finding of likelihood of confusion, the Examining Attorney must present evidence showing that the goods and services of the marks are related. *See* TMEP § 1207.01(vi). If the goods or services in question are not related or marketed in a similar manner, confusion is unlikely even if the marks are identical. *See* TMEP § 1207.01(a)(i); *see also Local Trademarks, Inc. v. Handy Boys Inc.*, 16 USPQ2d 1156, 1158 (TTAB 1990) (finding liquid drain opener and advertising services in the plumbing field to be such different goods and services that confusion on their source is unlikely even if they are offered under the same marks).

Applicant is a private banking company providing ultra-high net worth consumers with

personalized credit card and debit card services, including issuing electronic money, payment processing, foreign exchange dealing, and issuance of premier payment cards. Selected printouts from Applicant’s website describing Applicant’s business are attached as **Exhibit A**. Applicant’s Class 36 services, as amended, clarify that Applicant’s business services relate solely to credit and debit card transactions processing and payment processing services. These Class 36 services are entirely distinct from the services identified in the NV5 Registration (“*financial asset management consultation*”). Further Applicant’s Class 9 goods travel in limited trade channels to high net worth individuals whom are consumers of bespoke concierge services, including the prestigious Auras Lifestyle program, which requires membership application fees of \$50,000 and nominal annual dues of \$5,000 per year. These Class 9 goods are entirely distinct from gift cards identified in the NV MERCURY Registration (“*magnetic coded gift cards*”).

Upon information and belief, Registrant NV5 Holdings, Inc. offers construction management services to help public and private sector clients deliver solutions through five business verticals; hence, the significance of the “5” in NV5: Construction Quality Assurance, Infrastructure, Energy, Program Management, and Environment—all services which Applicant does not provide. Selected printouts from the NV5 website are attached as **Exhibit B**. Upon information and belief, Registrant HK Xiangbang International Investment Co., Ltd primarily manufactures cases for smart phones. Selected printouts showing product specimens as submitted by the Registrant to the USPTO are attached as **Exhibit C**. The purpose of Applicant’s products and services is to allow its member customers to use Applicant’s credit and debit cards and related transactions and payment processing services within their trusted and customized private banking and concierge programs. These products and services differ vastly from the goods and services the Registrants provide under the Cited Marks.

Based on the significant differences that exist in the goods and services at issue, which could not be viewed as emanating from the same source, confusion is highly unlikely.

(c) *The High Degree of Customer Sophistication and Care Further Supports a Conclusion of No Likelihood of Confusion*

The customers of NV5, HK, and Applicant are sophisticated and careful when purchasing the respective services and goods, and thus customers are less likely to be confused by similar trademarks labeling the respective services and goods. *See du Pont*, 177 USPQ at 567.

Applicant's services are offered at the individual level to member customers of its private banking and affiliated concierge programs seeking bespoke financial services and credit/debit cards: "*Money sent to Nvayo is recorded in an account in the client's name and held on deposit in UK and European banks...Before we open an account or perform a payment transaction for a client, we must satisfy our 'know your customer' and 'know your transaction' checks...*" (See Exhibit A, at pg. 3). Applicant's customers seeking such high-end financial products and services will take great care to purchase the correct products and services for their needs, particularly where they must proactively apply and qualify for such services and products. Similarly, upon information and belief, NV5's services are offered to professionals seeking assistance with management of financial assets in the construction management services field. *See* Exhibit B. Professionals seeking asset management services will use great care to choose the right company to provide the management services designed for their specific needs. Finally, consumers of HK's gift cards would not be confused as to the source of such cards and Applicant's bespoke credit/debit cards, which also require private banking accounts. The relevant consumers exposed to these marks are sophisticated and not likely to be confused as to source of the marks.

(d) The Coexistence of Similar Marks for Overlapping Goods and Services to Registrants' Goods and Services Establishes that Registrants' Marks are Subject to a Narrow Scope of Protection

The strength of a senior user's mark is an important factor in the likelihood of confusion analysis. *J. Thomas McCarthy*, 4 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 24:29 (4th ed. 2010). Evidence of third-party registrations and use of a mark in connection with similar goods and services "is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection." *Id.* (quoting *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005)). Indeed, the Trademark Trial and Appeal Board has given weight to evidence of significant use of third-party marks containing common elements when considering claims of likelihood of confusion. See *Carefirst of Maryland Inc. v. FirstHealth of the Carolinas Inc.*, 77 USPQ2d 1492 (TTAB 2005). The rationale for this determination is that the common presence of elements used in third-party marks may cause purchasers to attribute minimal significance to such elements as source indicia and look to other elements as a means of distinguishing the source of goods and/or services. *Carefirst*, 77 USPQ2d at 1495. Indeed, even arbitrary terms can be considered weak if they are commonly used in the marketplace. *Id.* at 1509 (finding the terms "CARE" and "first" weak when used in connection with services in the health care field where twelve third-party uses in connection with such services were identified).

Applicant submits copies of TESS reports attached in **Exhibit D** as evidence of third-party NV composite marks that are registered and/or accepted with the USPTO. See TMEP 1207.01(d)(iii) (such evidence may be used to show that the mark is relatively weak in the context of the goods and services):

Trademark	Appln/Reg	Status	Relevant Goods / Services	Owner
N&V	App	Registered	INT. CL. 9 BATTERIES, ELECTRIC; BATTERY CHARGERS;	ZHEJIANG XINJING

Trademark	Appln/Reg	Status	Relevant Goods / Services	Owner
	88194701 Reg 5780960		CABINETS FOR LOUDSPEAKERS; CAMERAS; COMPUTER SOFTWARE FOR PROCESSING DIGITAL MUSIC FILES; EARPHONES; MOBILE TELEPHONES; POWER SWITCHES; SPECTACLES; THERMOMETERS, NOT FOR MEDICAL PURPOSES; WIRES, ELECTRIC	IMPORT AND EXPORT CO.,LTD.
NV	App 86091591 Reg 4555181	Registered	INT. CL. 36 REAL ESTATE INVESTMENT SERVICES; AND REAL ESTATE INVESTMENT CONSULTING SERVICES	NV COMPANIES, INC.
NVCOMPANIES	App 86087092 Reg 4550881	Registered	INT. CL. 36 REAL ESTATE INVESTMENT SERVICES; AND REAL ESTATE INVESTMENT CONSULTING SERVICES	NV COMPANIES, INC.
NV	App 86086219 Reg 4834373	Registered	INT. CL. 9 THREE DIMENSIONAL (3D) PRINTERS	NEW VALENCE ROBOTICS, LLC
NV BOTS Disclaims: "BOTS"	App 86086187 Reg 4754156	Registered	INT. CL. 9 THREE DIMENSIONAL (3D) PRINTERS	NEW VALENCE ROBOTICS CORPORATION
NV3 MOBILE CONNECT Disclaims: "MOBILE CONNECT"	App 85761884 Reg 4645655	Registered	INT. CL. 9 COMPUTER SOFTWARE AND HARDWARE USED TO DISPLAY ADVERTISEMENTS ON BILLBOARDS AND KIOSKS; COMPUTER SOFTWARE THAT PROVIDES WEB-BASED ACCESS TO APPLICATIONS AND SERVICES THROUGH A WEB OPERATING SYSTEM OR PORTAL INTERFACE; INTERACTIVE COMPUTER KIOSKS COMPRISING COMPUTERS, COMPUTER HARDWARE, COMPUTER PERIPHERALS, AND COMPUTER OPERATING SOFTWARE, USED FOR RE-CHARGING THE BATTERIES OF PERSONAL ELECTRONICS EQUIPMENT	NV3 TECHNOLOGIES, LLC
NVS	App 76486086 Reg 2855646	Renewed (Registered)	INT. CL. 36 PROVIDING INFORMATION IN THE FIELD OF REAL ESTATE APPRAISAL AND REAL ESTATE VALUATION	NATIONS VALUATIONS SERVICES, INC.
NVS	App 85709035 Reg 4417056	Registered	INT. CL. 9 CARRYING CASES SPECIALLY ADAPTED FOR ELECTRONIC EQUIPMENT, NAMELY, PRINTERS, COMPUTERS, CELL PHONES, TABLET COMPUTERS, LAPTOP COMPUTERS AND PRINTER, COMPUTER, CELL PHONE, TABLET COMPUTER AND LAPTOP COMPUTER CABLES; COMPUTER CARRYING CASES; PROTECTIVE CASES FOR TABLET COMPUTERS; SLEEVES, NAMELY, PROTECTIVE COVERS FOR TABLET COMPUTERS; CARRYING CASES FOR LAPTOP COMPUTERS; PROTECTIVE SLEEVES FOR LAPTOP COMPUTERS; CASES FOR MOBILE PHONES; PROTECTIVE SLEEVES FOR MOBILE PHONES; DISPLAY SCREEN PROTECTORS FOR PROVIDING SHADE AND PRIVACY SPECIALLY ADAPTED TO ELECTRONIC EQUIPMENT DEVICES, NAMELY, LAPTOPS, CELL PHONES, PERSONAL DIGITAL ASSISTANTS; DISPLAY SCREEN PROTECTORS FOR PROVIDING SHADE AND PRIVACY SPECIALLY ADAPTED TO ELECTRONIC DEVICES, NAMELY, TABLET COMPUTERS; DISPLAY SCREEN PROTECTORS FOR	NVS CASES LIMITED

Trademark	Appln/Reg	Status	Relevant Goods / Services	Owner
			PROVIDING SHADE AND PRIVACY SPECIALLY ADAPTED TO ELECTRONIC DEVICES, NAMELY, LAPTOP COMPUTERS; DISPLAY SCREEN PROTECTORS FOR PROVIDING SHADE AND PRIVACY SPECIALLY ADAPTED TO ELECTRONIC DEVICES, NAMELY, MOBILE PHONES; COMPUTER STYLUS FOR USE WITH COMPUTERS, TABLET COMPUTERS, LAPTOP COMPUTERS AND MOBILE PHONES	
NVMD	App 85794841 Reg 4535657	Registered	INT. CL. 9 BAGS SPECIALLY ADAPTED FOR HOLDING OR CARRYING CALCULATORS; BAGS AND CASES FOR NOTEBOOK COMPUTER; TELEPHONE SET SHEATH, NAMELY, CARRYING CASES SPECIALLY ADAPTED FOR TELEPHONES; BAGS AND CASES FOR CELLULAR PHONES; PHOTOGRAPH APPARATUS BAGS; CASES ESPECIALLY MADE FOR PHOTOGRAPHIC APPARATUS AND INSTRUMENTS; NIGHT VISION GOGGLES; DUST PROTECTIVE GOGGLES AND MASKS; SAFETY GOGGLES; GOGGLES FOR SPORTS; EYEGLASSES; SUNGLASSES; EYEGLASS CHAINS; EYEGLASS FRAMES; EARPHONES; SPORTS HELMETS; CASES FOR ELECTRONIC DIARIES	SAMSUNG C&T CORPORATION
NVMESH	App 86637840 Reg 5078890	Registered	INT. CL. 9 COMPUTER SOFTWARE FOR ACCESSING LOGICAL DISK DRIVES FOR USE IN INFORMATION AND DATA STORAGE	EXCELERO STORAGE LTD
NV TONE Disclaims: "TONE"	App 88361750	Published (Pending)	INT. CL. 9 ELECTRICAL PICKUPS FOR USE WITH MUSICAL INSTRUMENTS	YAROVYI SERHII
NVMEDIRECT	App 86543720	Published (Pending)	INT. CL. 9 COMPUTER PERIPHERALS; COMPUTER HARDWARE, NAMELY, EMBEDDED PROCESSORS, SEMICONDUCTORS, SOFTWARE DRIVERS, HOST CHANNEL ADAPTERS, TARGET CHANNEL ADAPTERS, SWITCHES, ROUTERS, BACKPLANES, COMPUTER DISC DRIVES, HOST BUS ADAPTERS; COMPUTER SOFTWARE FOR SERVER TO SERVER COMMUNICATIONS USED TO TRANSMIT DATA ACROSS A CONNECTION BETWEEN COMPUTERS OR COMPUTER TO STORAGE UNIT, AND USED TO ENABLE COMPUTERS TO ACCESS DATA FROM A STORAGE DEVICE, ALL FOR THE SERVER, COMMUNICATION AND DATA STORAGE; COMPUTER SOFTWARE ACCELERATOR	MELLANOX TECHNOLOGIES, LTD.
NVLINK	App 86248451 Reg 5498022	Registered	INT. CL. 9 COMPUTER HARDWARE; INTEGRATED CIRCUITS, SEMICONDUCTORS AND COMPUTER CHIPSETS; GRAPHICS PROCESSING UNITS (GPUS); COMPUTER SOFTWARE FOR GRAPHICS PROCESSING; COMPUTER SOFTWARE FOR ENHANCING COMPUTER PERFORMANCE, AND FOR OPERATION OF INTEGRATED CIRCUITS, SEMICONDUCTORS AND COMPUTER CHIPSETS; DIGITAL DATA PROCESSING EQUIPMENT AND SOFTWARE; COMPUTER SOFTWARE DEVELOPMENT PROGRAMS AND TOOLS; COMPUTER NETWORKING HARDWARE; COMPUTER NETWORKING SOFTWARE FOR MANAGING, CONTROLLING, DIRECTING	NVIDIA CORPORATION

Trademark	Appln/Reg	Status	Relevant Goods / Services	Owner
			AND TRANSFERRING DATA AND INFORMATION; SOFTWARE AND HARDWARE FOR TESTING AND MEASURING THE FUNCTIONALITY OF COMPUTER CHIPS	
NV NUVENTURE FINANCIAL GROUP and Design Disclaims: "FINANCIAL GROUP"	App 88419081	Published (Pending)	INT. CL. 36 ADVICE ON FINANCE DURING RETIREMENT; FINANCIAL ADMINISTRATION OF RETIREMENT PLANS; FINANCIAL CONSULTANCY; FINANCIAL PLANNING AND INVESTMENT ADVISORY SERVICES; FINANCIAL PLANNING FOR RETIREMENT; FINANCIAL PLANNING, NAMELY, ASSISTING OTHERS WITH THE COMPLETION OF FINANCIAL TRANSACTIONS FOR STOCKS, BONDS, SECURITIES AND EQUITIES; INSURANCE BROKERAGE; INVESTMENT MANAGEMENT; AND FINANCIAL PLANNING FOR RETIREMENT PLANNING; FINANCIAL RETIREMENT PLAN CONSULTING SERVICES; FINANCIAL SERVICES, NAMELY, INVESTMENT FUND TRANSFER AND TRANSACTION SERVICES; FINANCIAL SERVICES, NAMELY, WEALTH MANAGEMENT SERVICES; FINANCIAL SERVICES, NAMELY, A TOTAL PORTFOLIO OFFERING FOR HIGH NET WORTH CLIENTS CONSISTING OF BOTH SEPARATE ACCOUNTS AND MUTUAL FUNDS FOR EQUITY AND FIXED INCOME INVESTMENTS; FINANCIAL TRUST OPERATIONS; FINANCIAL TRUST PLANNING; FINANCIAL AND INVESTMENT SERVICES, NAMELY, ASSET AND INVESTMENT ACQUISITION, CONSULTATION, ADVISORY AND DEVELOPMENT; INSURANCE SERVICES, NAMELY, UNDERWRITING LIFE, HEALTH AND DISABILITY INSURANCE; INVESTMENT SERVICES, NAMELY, ASSET ACQUISITION, CONSULTATION, DEVELOPMENT AND MANAGEMENT SERVICES	MISSION FINANCIAL GROUP
NV NETVENDS	App 85680560 Reg 4855929	Registered	INT. CL. 9 ELECTRONIC DEVICES FOR PROVIDING WIRELESS COMMUNICATION TO AND FROM REMOTE LOCATIONS; ELECTRONIC DEVICES FOR MONITORING REMOTE LOCATIONS; SOFTWARE APPLICATIONS FOR USE WITH COMPUTERS AND MOBILE DEVICES FOR MANAGING INFORMATION RECEIVED FROM ELECTRONIC DEVICES MONITORING REMOTE LOCATIONS; SOFTWARE FOR ANALYZING USAGE STATISTICS, INCLUDING PRODUCT USAGE, PRODUCT SHRINKAGE, SALES TRENDS, INVENTORY MANAGEMENT, AND MERCHANDIZING, IN THE FIELDS OF RETAIL, ENTERTAINMENT, BANKING, HOSPITALITY, OFFICE EQUIPMENT AND SUPPLIES, TRANSPORTATION, FOOD SERVICE, MEDICAL, UTILITIES, GOVERNMENT, MILITARY	NETVENDS, LLC
NVANGELS	App 85532078 Reg 4352459	Registered	INT. CL. 36 INVESTMENT SERVICES, NAMELY, INVESTING IN START-UP AND GROWING BUSINESSES; FACILITATING FUNDING FOR START-UP AND GROWING BUSINESSES; PROVIDING INFORMATION, ADVISORY, CONSULTANCY AND RESEARCH SERVICES RELATING TO FINANCE AND INVESTMENTS; SPECIFICALLY ACCESS TO INVESTMENT OF FUNDS FOR OTHERS, NAMELY, VENTURE CAPITAL FUNDING SERVICES TO EMERGING AND START-UP COMPANIES, AND MEZZANINE CAPITAL FUNDING SERVICES TO GROWING	SWITCH, LTD.

Trademark	Appln/Reg	Status	Relevant Goods / Services	Owner
			COMPANIES	
NVLAND.COM Disclaims: ".COM"	App 77616019 Reg 3642862	Registered	INT. CL. 36 REAL ESTATE BROKERAGE	JAUREGUI, ALBERTO
LUCKYNV	App 87271230 Reg 5237170	Registered	INT. CL. 9 ADDING MACHINES; AUDIO AMPLIFIERS; AUDIO CABLES; AUDIO MIXERS; AUDIO RECORDERS; AUDIO SPEAKERS; CELL PHONE BATTERY CHARGERS FOR USE IN VEHICLES; CELL PHONE CASES; CELL PHONE COVERS; CELL PHONE AUXILIARY CABLES; CELL PHONES; CHARGERS FOR ELECTRIC BATTERIES; DATA CABLES; EARPHONES; HEADPHONES; HEADSETS FOR MOBILE TELEPHONES; HEADSETS FOR USE WITH COMPUTERS; PROTECTIVE COVERS AND CASES FOR TABLET COMPUTERS; PROTECTIVE COVERS FOR SMARTPHONES; SET-TOP BOXES; SMARTWATCHES; SPEAKER ENCLOSURES; STANDS FOR HANDHELD DIGITAL ELECTRONIC DEVICES, NAMELY, CELL PHONES, MP3 PLAYERS, PERSONAL DIGITAL ASSISTANTS; CARRYING CASES, HOLDERS, PROTECTIVE CASES AND STANDS FEATURING POWER SUPPLY CONNECTORS, ADAPTORS, SPEAKERS AND BATTERY CHARGING DEVICES, SPECIALLY ADAPTED FOR USE WITH HANDHELD DIGITAL ELECTRONIC DEVICES, NAMELY, CELL PHONES, MP3 PLAYERS, PERSONAL DIGITAL ASSISTANTS; DIGITAL AUDIO PLAYERS; FITTED PLASTIC FILMS KNOWN AS SKINS FOR COVERING AND PROTECTING ELECTRONIC APPARATUS, NAMELY, MOBILE PHONES, PORTABLE MUSIC PLAYERS, PERSONAL DIGITAL ASSISTANTS; LOUD SPEAKERS; PROTECTIVE CASES FOR AUDIO EQUIPMENT IN THE NATURE OF SPEAKERS, HEADPHONES, AUDIO MIXERS; PROTECTIVE COVERS AND CASES FOR CELL PHONES, LAPTOPS AND PORTABLE MEDIA PLAYERS; WIRELESS HEADSETS FOR SMARTPHONES; WIRELESS INDOOR AND OUTDOOR SPEAKERS	SHENZHEN NAWEI E-COMMERCE CO., LTD.

Such coexistence demonstrates that consumers will be able to differentiate between Applicant's NV and Design Mark when used in connection with its unique credit and debit card services and products—particularly where Registrants' goods and services are used in different trade channels. As the marks in the table above show, there is sufficient coexistence on the registry for NV composite marks for overlapping goods and services to Registrants' goods and services, indicating that the USPTO recognizes that such marks may coexist without confusion.

Accordingly, Applicant's mark should be allowed to coexist and proceed to registration as well.

Conclusion

Applicant respectfully requests this application be approved for publication and subsequent registration.