

ESTTA Tracking number:	ESTTA1333066
Filing date:	01/09/2024

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer information

Name	Fenix International Limited		
Entity	LIMITED LIABILITY COMPANY	Incorporated or registered in	United Kingdom
Address	9TH FLOOR, 107 CHEAPSIDE LONDON, EC2V 6DN UNITED KINGDOM		
Attorney information	JAN TAMULEWICZ MYERS WOLIN, LLC 100 S. JEFFERSON ROAD, SUITE 202 WHIPPANY, NJ 07981-1009 UNITED STATES Primary email: jan.tamulewicz@myerswolyn.com Secondary email(s): michael.sarney@myerswolyn.com, tm@myerswolyn.com 201 232 9891		
Docket no.	FENX 14414		

Applicant information

Application no.	97089822	Publication date	12/12/2023
Opposition filing date	01/09/2024	Opposition period ends	01/11/2024
Applicant	Ross Legacy & Enterprise LLC 5024 CLEAR RIDGE TERRACE MIDLOTHIAN, VA 23112 UNITED STATES		

Goods/services affected by opposition

Class 025. First Use: None First Use In Commerce: None
All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Marks cited by opposer as basis for opposition

U.S. registration no.	7257228	Application date	11/06/2021
Register	Principal		
Registration date	01/02/2024	Foreign priority date	NONE

Word mark	ONLYFANS
Design mark	
Description of mark	NONE
Goods/services	<p>Class 009. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Cell phone cases; Cell phone battery chargers; Protective covers and cases for cell phones</p> <p>Class 010. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Fashion face masks being sanitary masks for protection against viral infection</p> <p>Class 011. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Portable electric fans</p> <p>Class 018. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Handbags; Tote bags</p> <p>Class 020. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Pillows</p> <p>Class 021. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Mugs; Coffee mugs</p> <p>Class 024. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Towels; Bath towels; Beach towels</p> <p>Class 025. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Beanies; Hats; Leggings; Pullovers; Swimwear; T-shirts; Bikinis; Bucket hats; Caps being headwear; Hoodies; Jackets; Sweatshirts; Tank tops; Yoga pants; Knit face masks being headwear</p> <p>Class 035. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 On-line retail store services featuring cell phone cases, cell phone battery chargers, protective covers and cases for cell phones, fashion face masks being sanitary masks for protection against viral infection, portable electric fans, handbags, tote bags, pillows, mugs, coffee mugs, towels, bath towels, beach towels, beanies, hats, leggings, pullovers, swimwear, t-shirts, bikinis, bucket hats, caps being headwear, hoodies, jackets, sweatshirts, tank tops, yoga pants, knit face masks being headwear</p>

U.S. registration no.	7257229	Application date	11/06/2021
Register	Principal		
Registration date	01/02/2024	Foreign priority date	NONE
Word mark	ONLYFANS		
Design mark			
Description of mark	<p>The mark consists of the wording "ONLYFANS" with the word portion "ONLY" in black and the word portion "FANS" in blue. Within the letter "O" is a blue lock design. The color white in the mark is background only and is not being claimed as a feature of the mark.</p>		

Goods/services	<p>Class 009. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Cell phone cases; Cell phone battery chargers; Protective covers and cases for cell phones</p> <p>Class 010. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Fashion face masks being sanitary masks for protection against viral infection</p> <p>Class 011. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Portable electric fans</p> <p>Class 018. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Handbags; Tote bags</p> <p>Class 020. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Pillows</p> <p>Class 021. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Mugs; Coffee mugs</p> <p>Class 024. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Towels; Bath towels; Beach towels</p> <p>Class 025. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 Beanies; Hats; Leggings; Pullovers; Swimwear; T-shirts; Bikinis; Bucket hats; Caps being headwear; Hoodies; Jackets; Sweatshirts; Tank tops; Yoga pants; Knit face masks being headwear</p> <p>Class 035. First use: First Use: Jun 10, 2020 First Use In Commerce: Jun 10, 2020 On-line retail store services featuring cell phone cases, cell phone battery chargers, protective covers and cases for cell phones, fashion face masks being sanitary masks for protection against viral infection, portable electric fans, handbags, tote bags, pillows, mugs, coffee mugs, towels, bath towels, beach towels, beanies, hats, leggings, pullovers, swimwear, t-shirts, bikinis, bucket hats, caps being headwear, hoodies, jackets, sweatshirts, tank tops, yoga pants, knit face masks being headwear</p>
----------------	---

Attachments	FENX 14414 Opposition against US tm application no. 97089822 for ONLY BANDZ and Design.pdf(263979 bytes)
-------------	---

Signature	/Jan Tamulewicz/
Name	Jan Tamulewicz
Date	01/09/2024

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

In the matter of Application No. 97/089,822



Mark:

Filed: October 24, 2021

Fenix International Limited)	
)	
Petitioner,)	
)	
– v –)	Opposition No. _____
)	
Ross Legacy & Enterprise LLC)	U.S. App. No. 97/089,822
)	
Applicant.)	
_____)	

FILED ELECTRONICALLY VIA ESTAA

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 97/089,822 for the mark



, filed October 24, 2021 by Ross Legacy & Enterprise LLC ("Applicant"), pursuant to Section 1(b) of the Trademark Act, for use in connection with "Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms in Class 25" and published for opposition in the U.S. Patent and Trademark Office on December 12, 2023, Fenix International Limited ("Opposer"), a limited liability

company organized and existing under the laws of the United Kingdom, having an address at 9th Floor, 107 Cheapside, London, United Kingdom EC2V 6DN, believes that it will be damaged by registration of this mark and hereby opposes the same.

The grounds for the opposition are as follows:

1. Opposer, by and through its parent and affiliates, is a leading online entertainment provider. Opposer has advertised, promoted and rendered a comprehensive range of goods and services under its famous and federally registered ONLYFANS name and mark that are identical and/or highly related to those identified in the subject Application.

2. In connection with its business, Opposer is the owner of the following federal trademark registrations for its ONLYFANS name and mark, covering a wide range of goods and services that are identical and/or closely related to those identified in the subject Application:

- U.S. Trademark Registration No. 7257228 for the mark ONLYFANS registered January 2, 2024 and claiming a date of first use at least as early as June 10, 2020; and

- U.S. Trademark Registration No. 7257229 for the mark



registered January 2, 2024 and claiming a date of first use at least as early as June 10, 2020 (collectively "ONLYFANS Marks").

3. Opposer's ONLYFANS Marks are valid and subsisting. Additionally, Opposer's registrations provide *prima facie* evidence of Opposer's ownership of its ONLYFANS Marks, of the validity of the marks, and of Applicant's exclusive rights to use the marks in commerce. Electronic certificates of registration concerning the pleaded registrations from the USPTO's TESS database are attached hereto as Exhibit A.

4. Due to Opposer's use in commerce of ONLYFANS Marks consumers have come to recognize goods and services identified by the ONLYFANS name and mark as originating only with Opposer.

5. Since Opposer's initial use of its ONLYFANS Marks, Opposer has continually used, advertised, promoted and offered Opposer's goods and services bearing its ONLYFANS Marks to the public, with the result that members of the relevant consuming public have come to know and recognize Opposer's ONLYFANS Marks and associate them with Opposer and the goods and services offered and provided by Opposer. Opposer has established goodwill in connection with the advertising, marketing, promotion, and rendering of its goods and services under its ONLYFANS Marks.

6. Since prior to Applicant's filing date or any priority date that may be claimed by Applicant, Opposer has continuously used, and is now using the ONLYFANS Marks in connection with identical and/or closely related goods and services offered and provided by Opposer in commerce.

7. After the adoption and use by Opposer of its ONLYFANS Marks, Applicant filed the subject Application seeking registration of the mark



for use on and in connection with ""Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms in Class 25."




8. Applicant's mark highly resembles Opposer's ONLYFANS Marks and is confusingly similar to Opposer's ONLYFANS Marks, within

the meaning of the Trademark Act of 1946, 15 U.S.C. Section 1052(d), as amended.

9. Applicant's  mark is substantially similar visually, aurally, and in overall commercial impression to Opposer's ONLYFANS Marks.

10. Any minor differences between Applicant's mark and ONLYFANS Marks are not likely to be perceived by the consumers given the close similarities between the Applicant's mark and Opposer's ONLYFANS Marks.

11. The goods covered by Applicant's  application are either identical or highly related to those offered by Opposer under its ONLYFANS Marks, namely, Beanies; Hats; Leggings; Pullovers; Swimwear; T-shirts; Bikinis; Bucket hats; Caps being headwear; Hoodies; Jackets; Sweatshirts; Tank tops; Yoga pants; Knit face masks being headwear


12. Upon information and belief, Applicant promotes and offers for sale, or intends to promote and offer for sale its goods to the same and/or highly related general classes of consumers to which Opposer promotes and sells its goods in connection with its ONLYFANS Marks.


13. Members of the relevant consuming public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods and services

marketed under Applicant's purported  mark, and misled into

believing that such goods and services are produced and rendered by, emanate from, or are in some way associated with Opposer, to the damage and detriment of Opposer and its reputation and the good will associated with its ONLYFANS Marks.

14. Opposer will be damaged by the confusion which will likely result in the

marketplace if the Applicant is permitted to register the  mark for the specified goods in Class 25 and Opposer will suffer damage and/or injury to its reputation and goodwill as a result thereof.

WHEREFORE, Opposer believes that it will be damaged by registration of the  mark, and respectfully requests that the mark shown in U.S. Trademark Application Serial No. 97/089,822 be refused registration in International Class 25 and that this Opposition be sustained.

Respectfully submitted,
MYERS WOLIN, LLC



Jan Tamulewicz
Michael Sarney
100 S. Jefferson Road Suite 202
Whippany NJ 07981
Phone: (201)232-9891
Fax: (866) 864-3947
Email: tm@myerswolin.com
Attorneys for Petitioner

Dated: January 9, 2024

EXHIBIT A

United States of America

United States Patent and Trademark Office

ONLYFANS

Reg. No. 7,257,228

Registered Jan. 02, 2024

Int. Cl.: 9, 10, 11, 18, 20, 21, 24, 25, 35

Service Mark

Trademark

Principal Register

Fenix International Limited (UNITED KINGDOM LIMITED LIABILITY COMPANY)

4th Floor, Imperial House

8 Kean Street

London, UNITED KINGDOM WC2B4AS

CLASS 9: Cell phone cases; Cell phone battery chargers; Protective covers and cases for cell phones

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 10: Fashion face masks being sanitary masks for protection against viral infection

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 11: Portable electric fans

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 18: Handbags; Tote bags

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 20: Pillows

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 21: Mugs; Coffee mugs

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 24: Towels; Bath towels; Beach towels

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 25: Beanies; Hats; Leggings; Pullovers; Swimwear; T-shirts; Bikinis; Bucket hats; Caps being headwear; Hoodies; Jackets; Sweatshirts; Tank tops; Yoga pants; Knit face masks being headwear

Katherine Kelly Vidal

Director of the United States
Patent and Trademark Office



FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 35: On-line retail store services featuring cell phone cases, cell phone battery chargers, protective covers and cases for cell phones, fashion face masks being sanitary masks for protection against viral infection, portable electric fans, handbags, tote bags, pillows, mugs, coffee mugs, towels, bath towels, beach towels, beanies, hats, leggings, pullovers, swimwear, t-shirts, bikinis, bucket hats, caps being headwear, hoodies, jackets, sweatshirts, tank tops, yoga pants, knit face masks being headwear

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

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

OWNER OF U.S. REG. NO. 6253455, 5769267, 5769268

SER. NO. 97-112,244, FILED 11-06-2021

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>.

United States of America

United States Patent and Trademark Office



Reg. No. 7,257,229

Registered Jan. 02, 2024

Int. Cl.: 9, 10, 11, 18, 20, 21, 24, 25, 35

Service Mark

Trademark

Principal Register

Fenix International Limited (UNITED KINGDOM LIMITED LIABILITY COMPANY)

4th Floor, Imperial House

8 Kean Street

London, UNITED KINGDOM WC2B4AS

CLASS 9: Cell phone cases; Cell phone battery chargers; Protective covers and cases for cell phones

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 10: Fashion face masks being sanitary masks for protection against viral infection

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 11: Portable electric fans

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 18: Handbags; Tote bags

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 20: Pillows

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 21: Mugs; Coffee mugs

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 24: Towels; Bath towels; Beach towels

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

Katherine Kelly Vidal

Director of the United States
Patent and Trademark Office



CLASS 25: Beanies; Hats; Leggings; Pullovers; Swimwear; T-shirts; Bikinis; Bucket hats; Caps being headwear; Hoodies; Jackets; Sweatshirts; Tank tops; Yoga pants; Knit face masks being headwear

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

CLASS 35: On-line retail store services featuring cell phone cases, cell phone battery chargers, protective covers and cases for cell phones, fashion face masks being sanitary masks for protection against viral infection, portable electric fans, handbags, tote bags, pillows, mugs, coffee mugs, towels, bath towels, beach towels, beanies, hats, leggings, pullovers, swimwear, t-shirts, bikinis, bucket hats, caps being headwear, hoodies, jackets, sweatshirts, tank tops, yoga pants, knit face masks being headwear

FIRST USE 6-10-2020; IN COMMERCE 6-10-2020

The color(s) black and blue is/are claimed as a feature of the mark.

The mark consists of the wording "ONLYFANS" with the word portion "ONLY" in black and the word portion "FANS" in blue. Within the letter "O" is a blue lock design. The color white in the mark is background only and is not being claimed as a feature of the mark.

OWNER OF U.S. REG. NO. 6253455, 5769267, 5769268

SER. NO. 97-112,247, FILED 11-06-2021

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>.