

ESTTA Tracking number: **ESTTA228381**

Filing date: **08/05/2008**

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	ICONIX BRAND GROUP, INC.
Granted to Date of previous extension	08/06/2008
Address	1450 Broadway, 4th Floor New York, NY 10018 UNITED STATES

Attorney information	Roberta S. Bren Oblon, Spivak, McClelland, Maier & Neustadt, P.C. 1940 Duke Street Alexandria, VA 22314 UNITED STATES tmdocket@oblon.com, ndyson@oblon.com Phone:703-413-3000
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Applicant Information

Application No	77176965	Publication date	04/08/2008
Opposition Filing Date	08/05/2008	Opposition Period Ends	08/06/2008
Applicant	Icon Brands Group, Inc. 840 East Green St. Ste. 301 Pasadena, CA 91101 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. First Use: 2004/05/31 First Use In Commerce: 2004/05/31 All goods and services in the class are opposed, namely: Brokerage services in the field of consumer product brands of others
Class 045. First Use: 2004/05/31 First Use In Commerce: 2004/05/31 All goods and services in the class are opposed, namely: Intellectual property consultation and licensing services for consumer product brands of others

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
Genericness	Trademark Act section 23
Other	Abandonment

Related Proceedings	91185505 91185507
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Attachments	323829USOPPOSITION.pdf (6 pages)(152486 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Roberta S. Bren/nmd/
Name	Roberta S. Bren
Date	08/05/2008

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

_____)	
Iconix Brand Group, Inc.)	
Opposer,)	
)	
v.)	
)	Appln. Serial No. 77/176,965
Icon Brands Group, Inc.)	Mark: IIKONN BRANDS GROUP
Applicant.)	
_____)	

NOTICE OF OPPOSITION

The Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Commissioner:

In the matter of the application for registration of an alleged trademark IIKONN BRANDS GROUP for “Brokerage services in the field of consumer product brands of others” in International Class 36 and “Intellectual property consultation and licensing services for consumer product brands of others” in International Class 45, Application Serial No. 77/176,965, filed May 9, 2007 which was published in the Official Gazette of the United States Patent and Trademark Office on April 8, 2008.

Iconix Brand Group, Inc. is a corporation organized and existing under the laws of Delaware with a place of business at 1450 Broadway, 4th Floor, New York, NY 10018, and believes that it would be damaged by registration of the mark shown in Serial No. 77/176,965, and hereby opposes same.

As ground for opposition, it is alleged that:

1. Opposer has conducted business as Iconix Brand Group, Inc., since July 1, 2005.
2. Prior to Applicant's filing date, Opposer used the name ICONIX and ICONIX BRAND to identify its company.
3. Applicant seeks to register the alleged mark IIKONN BRANDS GROUP for "Brokerage services in the field of consumer product brands of others" and "Intellectual property consultation and licensing services for consumer product brands of others" (hereinafter "Applicant's services").
4. Upon information and belief, Applicant abandoned its alleged trademark, IIKONN BRANDS GROUP on or in connection with Applicant's services prior to April 2007, with no intent to resume use.
5. Upon information and belief, after abandoning IIKONN BRANDS GROUP and adopting the new alleged mark, "Icon", Applicant again adopted the alleged mark IIKONN BRANDS GROUP and filed application Serial No. 77/176,965 after Applicant's knowledge of Opposer's use of ICONIX prior to Applicant's use of "Icon".
6. Applicant filed a complaint against Opposer in April 2007, alleging, *inter alia*, trademark infringement of its alleged mark ICON by Opposer.
7. The case number for the action filed by Applicant against Opposer is CV07-2568CAS (JCX) (hereinafter "California lawsuit").

8. The first sentence of paragraph 28 of the California lawsuit states: “Continuously since 2004, Plaintiff has used either the name IIKONN Brands Group, Inc. or Icon Brands Group, Inc. to identify itself and its business and to distinguish its services from the service of others, by, among other things, prominently featuring the name on all of its correspondence, contracts, press releases and on its website”.
9. Applicant bases its allegation of infringement in the California lawsuit against Opposer on Applicant’s belief that IIKONN and ICON create the same commercial impression.
10. IIKONN and ICON create different commercial impressions.
11. Alternatively, in the event that IIKONN is understood to mean a symbol, image or representation, then Applicant’s alleged mark IIKONN BRANDS GROUP is merely descriptive of Applicant’s services under Section 2(e)(i) of the Trademark Act or generic and therefore incapable of denoting the origin of Applicant’s services under Sections 1, 2 and 45 of the Trademark Act.
12. Alternatively, in the event that the Trademark Trial and Appeal Board determines that “IIKONN BRANDS GROUP” is capable of protection as a mark, upon information and belief, Opposer has superior, prior trademark rights in ICONIX as a result of Applicant’s prior abandonment of IIKONN BRANDS GROUP.

By reason of the foregoing, Opposer believes and submits that it will be irreparably damaged by the registration of Applicant's alleged mark.

WHEREFORE, Opposer prays that this Opposition be sustained and the application for registration of IIKONN BRANDS GROUP be denied.

POWER OF ATTORNEY

The undersigned hereby appoints **Roberta S. Bren**, and the following attorneys of the law firm of OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C., as its attorneys with full powers of substitution and revocation, to file and prosecute this opposition.

Norman F. Oblon	Jordan S. Weinstein	Eckhard H. Kuesters
Marvin J. Spivak	Kathleen Cooney-Porter*	Robert T. Pous
Gregory J. Maier	Carol L.B. Matthews*	Charles L. Gholz
Arthur I. Neustadt	Beth A. Chapman*	Jean-Paul Lavalleye
David J. Kera	Jeffrey S. Molinoff*	Stephen G. Baxter
Jeffrey H. Kaufman	Christopher I. Donahue	Richard L. Treanor
Brian D. Anderson	Kyoko Imai	Steven P. Weihrouch
Roberta S. Bren	David H. Aleskow*	Richard L. Chinn
Jonathan Hudis	Richard D. Kelly	
	James D. Hamilton	

Members of the Bar of Virginia (except as indicated)

*Member of the Bar other than Virginia

Please address all correspondence to **Roberta S. Bren** at OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C., 1940 Duke Street, Alexandria, Virginia 22314

DESIGNATION OF DOMESTIC REPRESENTATIVE

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C., whose postal address is 1940 Duke Street, Alexandria, Virginia 22314, is hereby designated Applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

We enclose our payment of \$600.00 for the required filing fee for this Opposition. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-2014.

Respectfully submitted

ICONIX BRAND GROUP, INC.

Date: August 5, 2008
RSB/nmd {LAWY\RSB\TTAB\8886-323829US-NOP.DOC}

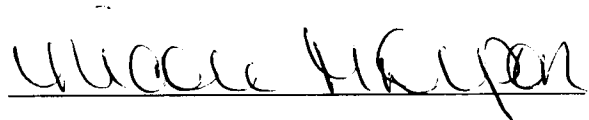
By: *Roberta S. Bren*
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served on counsel for Applicant, this 5th day of August, 2008, by sending same via First Class mail, postage prepaid, to:

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