

ESTTA Tracking number: **ESTTA812158**

Filing date: **04/07/2017**

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	Genesco Brands, LLC
Granted to Date of previous extension	04/09/2017
Address	300 Delaware Ave. 9th Floor Wilmington, DE 19801 UNITED STATES
Attorney information	Rhojonda D.C. Thomas Kilpatrick Townsend & Stockton LLP 1100 Peachtree Street Suite 2800 Atlanta, GA 30309 UNITED STATES tlord@ktslaw.com, rdthomas@ktslaw.com, nchollet@ktslaw.com, jburns@ktslaw.com, tadmin@ktslaw.com Phone:404-815-6500

Applicant Information

Application No	87034532	Publication date	10/11/2016
Opposition Filing Date	04/07/2017	Opposition Period Ends	04/09/2017
Applicant	FIXATE, INC. 41810 McALBY CT. MURRIETA, CA 92562 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: jewelry, namely, rings and bracelets made of silicone
Class 018. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: backpacks and gym bags
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: clothing, namely, hats, shirts and jackets

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1458854	Application Date	02/17/1987
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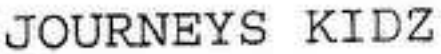
Registration Date	09/22/1987	Foreign Priority Date	NONE
Word Mark	JOURNEYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1986/12/17 First Use In Commerce: 1986/12/17 RETAIL SHOE STORE SERVICES		

U.S. Registration No.	1475093	Application Date	06/15/1987
Registration Date	02/02/1988	Foreign Priority Date	NONE
Word Mark	JOURNEYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1987/02/09 First Use In Commerce: 1987/02/09 SHOES		


U.S. Registration No.	3099876	Application Date	08/11/2005
Registration Date	06/06/2006	Foreign Priority Date	NONE
Word Mark	JOURNEYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 1987/02/09 First Use In Commerce: 1987/02/09 footwear and apparel, namely, shoes, boots, hats, caps, hosiery, shirts, sweat-shirts, sweatpants, coats, jackets, t-shirts, gloves, scarves, shorts, underwear, pants, and skirts</p> <p>Class 035. First use: First Use: 1987/02/09 First Use In Commerce: 1987/02/09 retail store services in the fields of footwear, apparel, luggage, handbags, sports bags, backpacks, jewelry and fashion accessories</p>		


U.S. Registration No.	1558147	Application Date	01/23/1989
Registration Date	09/26/1989	Foreign Priority	NONE

		Date	
Word Mark	JOURNEYS AN ATTITUDE YOU CAN WEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1988/07/15 First Use In Commerce: 1988/07/15 SHOES Class 042. First use: First Use: 1988/07/15 First Use In Commerce: 1988/07/15 RETAIL SHOE STORE SERVICES		


U.S. Registration No.	2952068	Application Date	12/06/2000
Registration Date	05/17/2005	Foreign Priority Date	NONE
Word Mark	JOURNEYS KIDZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 Footwear and apparel, namely, shoes, boots, hats, caps, hosiery, shirts, sweat-shirts, sweatpants, coats, jackets, t-shirts, gloves, scarves, shorts, underwear, pants, and skirts Class 035. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 Retail store services in the fields of footwear, apparel, backpacks, sports bags, jewelry and fashion accessories		

U.S. Registration No.	2957414	Application Date	12/06/2000
Registration Date	05/31/2005	Foreign Priority Date	NONE
Word Mark	JOURNEYS KIDZ		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 Footwear and apparel, namely, shoes, boots, hats, caps, hosiery, shirts, sweat-shirts, sweatpants, coats, jackets, t-shirts, gloves, scarves, shorts, underwear, pants, and skirts Class 035. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 Retail store services in the fields of footwear, apparel, backpacks, sports bags, jewelry and fashion accessories

U.S. Registration No.	2620681	Application Date	06/13/2001
Registration Date	09/17/2002	Foreign Priority Date	NONE
Word Mark	JOURNEYS ZAP CARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2000/11/00 First Use In Commerce: 2000/11/00 financial services in connection with the issuance of stored value cards		

U.S. Registration No.	2501052	Application Date	04/04/2000
Registration Date	10/23/2001	Foreign Priority Date	NONE
Word Mark	JOURNEYS ZAPCARD		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/06/21 First Use In Commerce: 2001/06/21 Providing prepaid payment cards redeemable for purchases in applicant's retail stores		

U.S. Registration No.	3406723	Application Date	06/16/2005
Registration Date	04/01/2008	Foreign Priority Date	NONE

Word Mark	SHI BY JOURNEYS		
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/05/08 First Use In Commerce: 2007/05/08 FOOTWEAR AND APPAREL, NAMELY, SHOES, BOOTS, HOSIERY, COATS, SCARVES Class 035. First use: First Use: 2005/11/22 First Use In Commerce: 2005/11/22 RETAIL STORE SERVICES IN THE FILEDS OF FOOTWEAR, APPAREL, HANDBAGS, JEWELRY AND FASHION ACCESSORIES		

U.S. Registration No.	4543914	Application Date	01/23/2012
Registration Date	06/03/2014	Foreign Priority Date	NONE

Word Mark	UNDERGROUND BY JOURNEYS		
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Design Mark	<p style="text-align: center;">UNDERGROUND BY JOURNEYS</p>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2012/05/00 First Use In Commerce: 2012/05/00 Retail store services featuring clothing, footwear, and fashion accessories

Attachments	76644691#TMSN.png(bytes) 76176773#TMSN.png(bytes) 76176492#TMSN.png(bytes) 76270806#TMSN.png(bytes) 76017122#TMSN.png(bytes) 78652161#TMSN.png(bytes) 85522805#TMSN.png(bytes) Notice of Opposition to FOCUSED ON LIFE S GREATEST JOUR- NEYS.pdf(32987 bytes)
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Signature	/R. Thomas/
Name	Rhojonda D.C. Thomas
Date	04/07/2017

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

GENESCO BRANDS, LLC,)
)
 Opposer,)
) Serial No.: 87034532
 v.) Opposition No. _____
)
)
 FIXATE, INC.,)
)
 Applicant.)

NOTICE OF OPPOSITION

Opposer Genesco Brands, LLC (“Opposer”) believes it will be damaged by registration to Applicant Fixate, Inc. (“Applicant”) of the mark FOCUSED ON LIFE’S GREATEST JOURNEYS that is the subject of application Serial No. 87034532 (the “Application”), and opposes the same pursuant to 15 U.S.C. § 1063 and 37 C.F.R. §§ 2.101 and 2.104 . The Application was filed on May 12, 2016, and first published for opposition in the *Official Gazette* on October 11, 2016. Opposer timely filed extensions of time to oppose the Application, and the effective deadline to oppose is April 9, 2017.

The grounds for this opposition are as follows:

1. Opposer Genesco Brands, LLC is the owner and licensor of the trademark JOURNEYS, alone and in conjunction with other words and designs, used in connection with a well-known chain of over seven hundred JOURNEYS and JOURNEYS KIDZ retail stores located in major shopping malls throughout the United States, which are owned and operated by Genesco Brands, LLC’s predecessor and exclusive licensee, Genesco Inc. (Opposer Genesco Brands, LLC, Genesco Inc., and their predecessors are collectively referred to as “Genesco”). The stores operating under the JOURNEYS

trademarks sell a wide range of footwear, clothing, fashion accessories, novelties, bags, backpacks, and other goods in connection with the JOURNEYS marks.

2. Genesco has validly and continuously used the JOURNEYS mark and other marks incorporating the element JOURNEYS in connection with a variety of goods and services since at least as early as December 17, 1986.

3. Genesco owns the following federal registrations for the JOURNEYS mark and marks incorporating the element JOURNEYS (the “JOURNEYS Marks”), all of which are valid and in full force and effect:

Name of Mark	Registration No.	Class	Goods/Services	First Use Date
JOURNEYS	1,458,854	42	Retail shoe store services.	Dec. 17, 1986
JOURNEYS	1,475,093	25	Shoes.	Feb. 9, 1987
JOURNEYS & Design	3,099,876	25, 35	Footwear and apparel, namely, shoes, boots, hats, caps, hosiery, shirts, sweatshirts, sweatpants, coats, jackets, t-shirts, gloves, scarves, shorts, underwear, pants, and skirts Retail store services in the fields of footwear, apparel, luggage, handbags, sports bags, backpacks, jewelry and fashion accessories	Feb. 9, 1987
JOURNEYS AN ATTITUDE YOU CAN WEAR	1,558,147	25, 42	Shoes. Retail shoe store services.	July 15, 1988
JOURNEYS KIDZ	2,952,068	25, 35	Footwear and apparel, namely, shoes, boots, hats, caps, hosiery, shirts, sweatshirts, sweatpants, coats, jackets, t-shirts, gloves, scarves, shorts, underwear, pants, and skirts. Retail store services in the fields of footwear, apparel, backpacks, sports bags, jewelry and fashion accessories.	Aug. 2000
JOURNEYS KIDZ & DESIGN	2,957,414	25, 35	Footwear and apparel, namely, shoes, boots, hats, caps, hosiery, shirts, sweatshirts, sweatpants, coats, jackets, t-shirts, gloves, scarves, shorts,	Aug. 2000

Name of Mark	Registration No.	Class	Goods/Services	First Use Date
			underwear, pants, and skirts. Retail store services in the fields of footwear, apparel, backpacks, sports bags, jewelry and fashion accessories.	
JOURNEYS ZAP CARD	2,620,681	36	Financial services in connection with the issuance of stored value cards.	Nov. 2000
JOURNEYS ZAPCARD & Design	2,501,052	36	Providing prepaid payment cards redeemable for purchases in Applicant's retail stores.	June 21, 2001
SHI BY JOURNEYS	3,406,723	25, 35	Footwear and apparel, namely, shoes books, hosiery, coats, scarves Retail store services in the fields of footwear, apparel, handbags, jewelry, and fashion accessories	May 8, 2007 (Class 25) Nov. 22, 2005 (Class 35)
UNDERGROUND BY JOURNEYS	4,543,914	35	Retail store services featuring clothing, footwear, and fashion accessories.	May 2012

4. By virtue of the continuous and extensive advertising of the JOURNEYS Marks in connection with Genesco's retail stores and the products sold therein, and of the extensive sales of such goods under the marks for over 30 years, Genesco's JOURNEYS Marks are widely and favorably known by the public throughout the United States.

5. Genesco's JOURNEYS Marks are symbolic of the substantial goodwill and consumer recognition established by Genesco as a result of the outstanding quality and extensive sales of products through its retail stores throughout the United States for many years. Genesco has expended large amounts of money, time, and effort in advertising and promoting its goods and services under the JOURNEYS Marks. By reason of Genesco's extensive use and advertising of the JOURNEYS Marks and resulting favorable public recognition, Genesco's JOURNEYS Marks uniquely identify Genesco and its products and services to the public. As such, Genesco has established extensive common law rights in the JOURNEYS Marks in connection with footwear,

clothing, and other goods, as well as for retail store services.

6. On May 12, 2016, Applicant filed application Serial No. 87034532 for the mark FOCUSED ON LIFE'S GREATEST JOURNEYS ("Applicant's Mark") for use in connection with "jewelry, namely, rings and bracelets made of silicone" in International Class 14; "backpacks and gym bags" in International Class 18; and "clothing, namely, hats, shirts and jackets" in International Class 25.

8. Genesco continuously has used its JOURNEYS Marks since long prior to the filing date of the Application and/or any claimed date of first use in commerce of Applicant's Mark in connection with Applicant's goods.

9. Applicant's Mark is closely similar in sight, sound, appearance, and commercial impression to Genesco's JOURNEYS Marks.

10. Applicant's Mark is proposed to be used with goods that are highly related to and identical to the goods and services Genesco offers under its JOURNEYS Marks.

11. Genesco will be damaged by the registration of Applicant's Mark because the mark so resembles Genesco's JOURNEYS Marks as to be likely to cause confusion, mistake, and deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Consumers familiar with Genesco's JOURNEYS Marks would be likely, erroneously, to believe that Applicant's goods are those of Genesco or are endorsed, sponsored, or licensed by Genesco. Thus, registration of Applicant's Mark on the Principal Register would be inconsistent with Genesco's rights in its JOURNEYS Marks.

Opposer Genesco Brands, LLC therefore requests that application Serial No. 87034532 be refused registration.

The required opposition fee for opposing Applicant's Mark in connection with International Classes 14, 18, and 25 is being electronically processed in connection with this Notice of Opposition. The Director is authorized to debit Kilpatrick Townsend & Stockton's Trademark Deposit Account No. 20-1430 for any deficiency in the required fee.

Dated: April 7, 2017.

Respectfully Submitted:

/R. Thomas/
Tywanda H. Lord
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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being filed electronically through the U.S. Patent and Trademark Office's ESTTA system on April 7, 2017.

BY: /Joseph V. Burns/
Joseph V. Burns
Paralegal