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Filing date: **08/03/2023**

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	Volkswagen Aktiengesellschaft		
Entity	joint stock company	Citizenship	Germany
Address	BERLINER RING 2 WOLFSBURG, 38440 GERMANY		

Attorney information	REBECCA GAN MUNCY, GEISSLER, OLDS & LOWE, P.C. 125 S. ROYAL ST. ALEXANDRIA, VA 22314 UNITED STATES Primary email: rgan@mg-ip.com Secondary email(s): cemonid@mg-ip.com, mailroom@mg-ip.com 703-621-7140 ext 170		
Docket no.	1000/0432OT1		

**Applicant information**

Application no.	97353701	Publication date	07/04/2023
Opposition filing date	08/03/2023	Opposition period ends	08/03/2023
Applicant	Sector 4 Enterprises LLC 166 MERCER ST, SUITE 6B NEW YORK, NY 10012 UNITED STATES		

**Goods/services affected by opposition**

Class 009. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Downloadable virtual goods, namely, computer programs featuring footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in online virtual worlds
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**Applicant information**

Application no.	97354101	Publication date	07/04/2023
Opposition filing date	08/03/2023	Opposition period ends	08/03/2023
Applicant	Sector 4 Enterprises LLC 166 MERCER ST, SUITE 6B NEW YORK, NY 10012 UNITED STATES		

## Goods/services affected by opposition

Class 041. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Entertainment in the nature of competitions in the field of slot car racing; Entertainment services, namely, providing an on-line virtual environment for trading virtual sports trading cards and tokens; Entertainment services, namely, providing on-line, non-downloadable virtual footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in virtual environments created for entertainment purposes

## Applicant information

Application no.	97354739	Publication date	07/04/2023
Opposition filing date	08/03/2023	Opposition period ends	08/03/2023
Applicant	Sector 4 Enterprises LLC 166 MERCER ST, SUITE 6B NEW YORK, NY 10012 UNITED STATES		

## Goods/services affected by opposition

Class 009. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Downloadable virtual goods, namely, computer programs featuring footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in online virtual worlds

## Applicant information

Application no.	97354795	Publication date	07/04/2023
Opposition filing date	08/03/2023	Opposition period ends	08/03/2023
Applicant	Sector 4 Enterprises LLC 166 MERCER ST, SUITE 6B NEW YORK, NY 10012 UNITED STATES		

## Goods/services affected by opposition

Class 041. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Entertainment in the nature of competitions in the field of slot car racing; Entertainment services, namely, providing an on-line virtual environment for trading virtual sports trading cards and tokens; Entertainment services, namely, providing on-line, non-downloadable virtual footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in virtual environments created for entertainment purposes

## 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.	5202310	Application date	04/28/2016
Register	Principal		
Registration date	05/16/2017	Foreign priority	10/28/2015

		date	
Word mark	ATLAS		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 012. First use: First Use: None First Use In Commerce: None Automobiles; automobile engines</p> <p>Class 028. First use: First Use: None First Use In Commerce: None Scale model automobiles</p> <p>Class 035. First use: First Use: None First Use In Commerce: None [ Retail and wholesale store services for automobiles and their parts and fittings, excluding vehicle seats and tires; retail and wholesale store services for mail-order businesses featuring automobiles and their parts and fittings, excluding vehicle seats and tires; business services, namely, negotiation of contracts for the benefit of others, namely, contracts related to the sale and purchase of automobiles ]</p> <p>Class 037. First use: First Use: None First Use In Commerce: None Reconstruction, repair, dismantling and maintenance of automobiles in the nature of automotive repair in the course of vehicle breakdown service, cleaning, servicing, namely, repairing, washing and polishing, and varnishing of vehicles</p>		

U.S. registration no.	6069863	Application date	11/15/2017
Register	Principal		
Registration date	06/02/2020	Foreign priority date	NONE
Word mark	ATLAS CROSS SPORT		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 012. First use: First Use: Jan 23, 2020 First Use In Commerce: Jan 23, 2020 Automobiles</p>		

U.S. application no.	90843764	Application date	07/22/2021
Registration date	NONE	Foreign priority date	NONE
Word mark	ATLAS PEAK EDITION		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 012. First use: First Use: None First Use In Commerce: None Automobiles and structural parts therefor; Metal parts for vehicles, namely, automotive exterior and interior metal decorative and protective trim; Plastic parts for vehicles, namely, automotive exterior and interior plastic extruded decorative and protective trim</p>		

Attachments	2023-08-03 Notice of Opposition-ATLAS MOTOWORKS.pdf(305651 bytes )
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Signature	/rgan/
Name	Rebeccah Gan
Date	08/03/2023

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

**VOLKSWAGEN AKTIENGESELLSCHAFT,**

Opposer,

v.

**SECTOR 4 ENTERPRISES LLC,**

Applicant.

Opposition No. \_\_\_\_\_

Application Serial Nos.: 97/353,701;  
97/354,101; 97/354,739; and 97/354,795

Marks: **ATLAS MOTOWORKS** and



**NOTICE OF OPPOSITION**

**Volkswagen Aktiengesellschaft** (hereinafter referred to as the “Opposer”), is an *Aktiengesellschaft (joint stock company)* duly organized in *Germany*, with its principal place of business located at: Berliner Ring 2, 38440 Wolfsburg, Germany.

**Sector 4 Enterprises LLC** (hereinafter referred to as the “Applicant”), is a *limited liability company* duly organized in the *State of Delaware*, with its record-identified principal place of business located at: 166 Mercer St., Suite 6B, New York, New York 10012, United States.

Pursuant to 15 U.S.C. § 1063(a); 37 C.F.R. §§ 2.101 and 2.104; and TBMP §§ 303.01 and 309.03(c) (2023); Opposer believes that it will be damaged by the issuance of trademark

registrations for the “**ATLAS MOTOWORKS**” (in standard characters) and



marks, as identified in U.S. Application Serial Nos. 97/353,701 (“**ATLAS MOTOWORKS**” in International Class 9), 97/354,101 (“**ATLAS MOTOWORKS**” in International Class 41),



97/354,739 (

in International Class 9), and 97/354,795 (



in

International Class 41), filed on April 8, 2022; and, therefore, opposes the same.

As grounds for this opposition, Opposer, through counsel, alleges as follows:

### **FACTUAL BACKGROUND**

1. Opposer is a well-known and established automotive manufacturer and seller of a wide variety of automobiles. Attendant thereto, Opposer provides repair services, and parts and fittings for its automobiles.
2. Opposer and its related companies design, manufacture, and distribute high-quality and design-forward automobiles globally, and within the United States.
3. Opposer is the owner of U.S. Registration No. 5,202,310 for the “**ATLAS**” mark, in standard characters, for use in connection with: “Automobiles; automobile engines,” in International Class 12; and “Reconstruction, repair, dismantling and maintenance of automobiles in the nature of automotive repair in the course of vehicle breakdown service, cleaning, servicing, namely, repairing, washing and polishing, and varnishing of vehicles,” in International Class 37; which registered on May 16, 2017, with a constructive first use date of October 28, 2015, and is an extension of protection of International Trademark Registration No. 1308524, under Section 66(a) of the Trademark Act, 15 U.S.C. § 1141(e).
4. Opposer is the owner of U.S. Registration No. 6,069,863 for the “**ATLAS CROSS SPORT**” mark, in standard characters, for use in connection with: “Automobiles,” in

International Class 12; which registered on June 2, 2020, under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), with a constructive first use date of November 15, 2017, and a claimed first use in commerce date of at least as early as January 23, 2020.

5. Opposer is the owner of prior-pending U.S. Application Serial No. 90/843,764 for the “**ATLAS PEAK EDITION**” mark, in standard characters, for use in connection with (as currently in the record): “Automobiles and structural parts therefor; Metal parts for vehicles, namely, automotive exterior and interior metal decorative and protective trim; Plastic parts for vehicles, namely, automotive exterior and interior plastic extruded decorative and protective trim,” in International Class 12; which was filed on July 22, 2021, under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), with a constructive first use date of July 22, 2021.

6. Together, paragraphs 3-5 are hereinafter also referred to as the “Opposer’s Marks.”

7. Opposer’s Marks are strong and well-known marks with extensive public recognition.

8. Opposer possesses significant common law trademark rights in the “**ATLAS**” mark, by virtue of Opposer’s prior and expansive use in commerce in the United States of the “**ATLAS**” mark since at least as early as 2017.

9. Moreover, as a result of Opposer’s extensive use and significant resources invested in promoting and marketing its well-known “**ATLAS**” mark as the source for its automobile products and attendant services, the “**ATLAS**” mark has become world famous and is closely and uniquely associated with Opposer and the products and related services it offers. The associated goods and services have been available to the public for years. The “**ATLAS**” mark also has been the subject of extensive Internet and social media advertising.

10. As such, Opposer enjoys exceedingly valuable goodwill in connection with Opposer’s goods and services offered in connection with Opposer’s Marks, and consumers and others regard

the “**ATLAS**” mark as symbolizing the goodwill inherent in the mark and associate it exclusively with Opposer.

11. To the best of Opposer’s knowledge, on April 8, 2022, Applicant filed an application to register the “**ATLAS MOTOWORKS**” mark, in standard characters, for the following goods (as currently in the record): “Downloadable virtual goods, namely, computer programs featuring footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in online virtual worlds,” in International Class 9; which is based on intent to use under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), with a constructive first use date of April 8, 2022, and was issued U.S. Application Serial No. 97/353,701.

12. To the best of Opposer’s knowledge, on April 8, 2022, Applicant filed an application to register the “**ATLAS MOTOWORKS**” mark, in standard characters, for the following services (as currently in the record): “Entertainment in the nature of competitions in the field of slot car racing; Entertainment services, namely, providing an on-line virtual environment for trading virtual sports trading cards and tokens; Entertainment services, namely, providing on-line, non-downloadable virtual footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in virtual environments created for entertainment purposes,” in International Class 41; which is based on intent to use under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), with a constructive first use date of April 8, 2022, and was issued U.S. Application Serial No. 97/354,101.



13. To the best of Opposer's knowledge, on April 8, 2022, Applicant filed an application to



register the mark for the following goods (as currently in the record):  
“Downloadable virtual goods, namely, computer programs featuring footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in online virtual worlds,” in International Class 9; which is based on intent to use under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), with a constructive first use date of April 8, 2022, and was issued U.S. Application Serial No. 97/354,739.

14. To the best of Opposer's knowledge, on April 8, 2022, Applicant filed an application to



register the mark for the following services (as currently in the record):  
“Entertainment in the nature of competitions in the field of slot car racing; Entertainment services, namely, providing an on-line virtual environment for trading virtual sports trading cards and tokens; Entertainment services, namely, providing on-line, non-downloadable virtual footwear, apparel, headwear, eyewear, bags, sports bags, backpacks, sports equipment, works of art, toy cars, toy figures and slot car bodies for use in virtual environments created for entertainment purposes,” in International Class 41; which is based on intent to use under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), with a constructive first use date of April 8, 2022, and was issued U.S. Application Serial No. 97/354,795.

15. Together, paragraphs 11-14 are hereinafter also referred to as the “Applicant's Marks.”

16. Applicant's Marks were published for public opposition on July 4, 2023.

**LIKELIHOOD OF CONFUSION AND PRIORITY**

17. Opposer re-alleges and incorporates herein by reference the allegations in paragraphs 1-16 above, as if fully set forth herein.

18. Upon information and belief, Opposer's application, use, constructive first use, and registration dates of Opposer's Marks pre-dates the filing and constructive first use dates of Applicant's Marks. Opposer has been using the "ATLAS" mark in U.S. commerce since at least as early as 2017, whereas Applicant has a constructive first use date of April 8, 2022.

19. Prior to the application filing dates and constructive first use dates for Applicant's Marks, Opposer's Marks had become famous for Opposer's goods and services, and the public has come to associate Opposer's goods and services with the "ATLAS" trademark and trade name.

20. Accordingly, Opposer's Marks have become distinctive and famous, and there is no issue as to Opposer's priority over Applicant.

21. The granting of trademark registrations to Applicant for Applicant's Marks in International Classes 9 and 41 would violate and diminish the prior and superior rights of Opposer.

22. Opposer would be damaged if Applicant's Marks were allowed to register in International Classes 9 and 41, because Applicant would obtain statutory rights in Applicant's Marks for International Classes 9 and 41, in violation and derogation of the established prior rights of Opposer in regards to Opposer's Marks.

23. Opposer alleges, upon information and belief, that Applicant's Marks are likely to be confused with and mistaken for Opposer's goods and services developed and marketed under

Opposer's Marks, because Applicant's Marks are highly confusingly similar in sight and sound to Opposer's Marks.

24. Additionally, Applicant's Marks convey a highly similar and/or legally identical commercial impression to Opposer's Marks.

25. Opposer's "ATLAS," "ATLAS CROSS SPORT," and "ATLAS PEAK EDITION"



marks, and Applicant's "ATLAS MOTOWORKS" and  marks, all contain the identical "ATLAS" wording.

26. Upon information and belief, Applicant's Marks are intended to be used on and in connection with goods and services that are highly related or confusingly similar to those of Opposer, or are within the natural zone of expansion available to Opposer.

27. Upon information and belief, Applicant's target customer and consumer base for its goods and services overlaps with, or are identical to, the customers and consumers of Opposer's goods and services.

28. Applicant's goods and services description currently contains no restrictions or limitations as to Applicant's channels of trade; accordingly, Opposer may assume that Applicant's Marks, like Opposer's Marks, will be used in all accepted channels of trade.

29. Therefore, upon information and belief, Applicant's channels of trade for its goods and services also overlaps with, or are identical to, the channels of trade used for Opposer's Marks, or exists within the natural zone of expansion available to Opposer.

30. If Applicant were permitted to register the “ATLAS MOTOWORKS” and



marks, confusion resulting in damage and injury to Opposer would likely occur.

Persons familiar with Opposer’s Marks, and Opposer’s goods and services, would likely be confused, be mistaken, or be deceived into the belief that Applicant’s goods and services are associated with, affiliated with, or sponsored by Opposer. Such confusion would inevitably result in damage to Opposer.

31. Any defect, objection to, or fault found with Applicant’s goods and services marketed under Applicant’s Marks, would necessarily reflect on and seriously injure the reputation that Opposer has established for its premium goods and services.

32. Opposer’s customers and the relevant public are likely to misperceive Applicant’s Marks as one of Opposer’s marks, rather than as marks of Applicant, and/or believe in error that the goods and services offered and provided under Applicant’s Marks are offered by, provided by, in association with, or under license from Opposer.

33. Applicant’s filing of U.S. Application Serial Nos. 97/353,701; 97/354,101; 97/354,739; and 97/354,795 are without license, authorization, agreement, or permission from Opposer.

34. Applicant’s adoption, intent to use, and any attempted use of the “ATLAS



MOTOWORKS” and marks are also without license, authorization, agreement, or permission from Opposer.

35. Registration of Applicant's Marks would give Applicant *prima facie* evidence of the



validity and ownership of the “**ATLAS MOTOWORKS**” and marks in International Classes 9 and 41, and of Applicant's exclusive right to use Applicant's Marks in International Classes 9 and 41, all to the detriment of Opposer.

36. Accordingly, in view of the foregoing reasons, the grant of trademark registrations for Applicant's Marks in International Classes 9 and 41, as sought in the applications opposed herein, should be denied, as registration would be contrary to the provisions of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), and TBMP § 309.03(c)(1)(1) (2023); and Opposer believes that it would be damaged thereby.

**CONCLUSION**

**WHEREFORE**, by the undersigned counsel, Opposer respectfully requests that this Notice of Opposition be sustained in favor of Opposer, and that registration of U.S. Application Serial Nos. 97/353,701; 97/354,101; 97/354,739; and 97/354,795 be refused.

Dated: August 3, 2023

Respectfully submitted,

Martin R. Geissler, Esq.  
Rebecca Gan, Esq.  
*Counsel for Opposer*

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