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

Petition for Cancellation

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Fenix Auto Parts Georgia LLC		
Entity	LIMITED LIABILITY COMPANY	Citizenship	Delaware
Address	860 AIRPORT FWY, SUITE 701 HURST, TX 76054 UNITED STATES		

Attorney information	BRIAN R. MCGINLEY DENTONS US LLP WACKER DRIVE STATION, WILLIS TOWER P.O. BOX 061080 CHICAGO, IL 60606 UNITED STATES Primary Email: trademarks.us@dentons.com Secondary Email(s): brian.mcginley@dentons.com, katie.krutzsch@dentons.com, natasha.labram@dentons.com, heather.strum@dentons.com 816-460-2605
Docket Number	15800146-004

Registration Subject to Cancellation

Registration No.	2909585	Registration date	12/14/2004
Registrant	American Recycling International, Inc. 3333 SOUTH PECK ROAD MONROVIA, CA 91016 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 1976/07/10 First Use In Commerce: 1976/07/10
All goods and services in the class are subject to cancellation, namely: RETAIL STORE SERVICES IN THE FIELD OF USED AUTOMOBILE PARTS

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)

Attachments	PICK-A-PART Petition for Cancellation.pdf(353426 bytes)

Signature	/brm/
Name	Brian R. McGinley
Date	11/06/2020

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

IN THE MATTER OF:

Mark:	PICK-A-PART
Registrant:	American Recycling International, Inc. DBA Pick-A-Part Auto Dismantling, Inc.
Registration No.:	2,909,585
Registration Date:	December 14, 2004

FENIX AUTO PARTS GEORGIA LLC,	:	
	:	
Petitioner,	:	Cancellation No.
	:	
v.	:	
	:	
AMERICAN RECYCLING INTERNATIONAL, INC. DBA PICK-A-PART AUTO DISMANTLING, INC.,	:	
	:	
Respondent.	:	
	X	

PETITION FOR CANCELLATION

Fenix Auto Parts Georgia LLC ("Petitioner"), a limited liability company, with a principal place of business at 860 Airport Fwy, Suite 701, Hurst, Texas 76054, believes it is being damaged by US Trademark Registration No. 2,909,585 for PICK-A-PART, issued December 14, 2004, to American Recycling International, Inc. DBA Pick-A-Part Auto Dismantling, Inc. (the "ARI Registration"), and pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111, through its undersigned attorneys, petitions to cancel the same. As grounds therefor, Petitioner alleges:

1. Petitioner has a bona fide intent to use the marks PIK-A-PART CTV and PIK-A-PART CTV Stylized Mark

("Petitioner's Marks") in commerce with respect

to the services listed in its U.S. Application Nos. 88523597 and 88523639, filed by Petitioner on and accorded a filing date of July 19, 2019 ("Petitioner's Applications"). Those services, as filed, include "retail store services and distributorship in the field of used automobile parts; purchasing agents in the field of used automobiles and automobile parts" in Class 35; "providing warranties on automobile parts manufactured by others" in Class 36; and "automobile salvage services, namely, automobile dismantling for the purposes of reselling the reusable parts and sending the remainder to be processed into scrap metal" in Class 39 (the "Petitioner's Services"). Petitioner's Applications have been filed under sections 1(b) of the Lanham Act, 15 U.S.C. §1051(b).

2. On October 14, 2019 the USPTO issued Office Actions alleging that a likelihood of confusion exists between the Petitioner's Applications and the ARI Registration, covering "retail store services in the field of used automobile parts" in Class 35. Applicant responded on April 10, 2020, however, the objection was maintained by the Examiner and the Examiner issued final Office Actions on May 9, 2020.

3. Upon information, knowledge and belief, Respondent has abandoned use of the "PICK-A-PART" mark covered by the ARI Registration due to nonuse of the same within the meaning of Section 45 of the *Lanham Act*, 15 U.S.C. § 1127.

4. Upon information, knowledge and belief, Respondent has discontinued use of the "PICK-A-PART" mark in connection with the goods covered by the ARI Registration with intent not to resume such use.

5. Petitioner has been and will be harmed by the ARI Registration, in that Petitioner has a bona fide intent to use Petitioner's Marks and has filed Petitioner's Applications, and registration of same has been refused in view of the ARI Registration.

6. Accordingly, US Trademark Registration No. 2,909,585 must be cancelled in its entirety, on the grounds that it has been abandoned.

WHEREFORE, Petitioner prays that US Trademark Registration No. 2,909,585, issued on December 14, 2004, be canceled with prejudice, and for such other and further relief as the Board deems just and proper.

Respectfully Submitted,

DENTONS US LLP

Date: November 6, 2020

/Brian R. McGinley/

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