

December 22, 2020

Trademark : FENIX

Country : United States

**In the name of : SHENZHEN LANGHENG ELECTRONIC CO.,LTD
8F,Chungu,Meisheng Huigu Science Park, No.83,Dabao
Rd.,Xinan St.,Baoan Dist., Shenzhen CHINA 518133**

Application no. : 88872482

Dear Sir,

This is a response to the Office Action issued on July 7, 2020 against the applied-for mark “FENIX” (No.88872482) because of the filing date of pending U.S. Application Serial No. 87833687 (FENIX GROUP INTERNATIONAL) precedes applicant’s filing date. If the mark in the referenced application registers, applicant’s mark may be refused registration because of a likelihood of confusion between the two marks.

By detailed comparison, the two marks are found to be different and there is little possibility to cause any confusion among consumers.

Registrant’s mark no.87833687

Applied-for mark



Comparison of marks

From the two marks design, the Mark Literal Elements of the two marks are different.

The literal element of the prior-filed application trademark is "FENIX GROUP INTERNATIONAL", while, the literal element of applied-for trademark is "FENIX", and does not contain "GROUP INTERNATIONAL", besides, the words contained are of different font and style, and take up different portions of the respective marks. The graphic element contained in the two marks are different. Prior-filed application trademark contains an image of a phoenix, while the applied-for trademark contains a four-pointed star image... thus, from the appearance of the compared marks, there is a clear difference between the two trademarks. So it makes them distinguish them from each other. That is to say, it will not cause confusion to customers when both trademarks appear.

Relatedness of goods

Where the goods of the Applicant and Registrant are different, the Examining Attorney bears the burden of showing that Applicant's and Registrant's different goods would commonly be provided by the same source. The goods/services for which the trademark is applied for are different from those for which the trademark was previously registered. The goods of registrant's mark no.87833687 are for goods in class 09, while the applied-for trademark applies for the services in class 35. Therefore, the target consumer groups are different, which means that consumers will not confuse the trademark.

Simultaneously, I search the database of USPTO and find there have lots of trademark consist of "FENIX" while they can also be registered. So I think the refusal to trademark "FENIX" is unconvincing.

In conclusion, these two trademark is totally different from each other and will not cause confusion to customers. And as a result of Applicant's continuous use of the mark since the time of applicant's adoption thereof, the mark has developed significant goodwill among the consuming public and consumer acceptance of the

services offered by Applicant in conjunction with the mark. Such goodwill and widespread usage has caused the mark to acquire distinctiveness with respect to applicant, and caused the mark to become a valuable asset of applicant. So I sincerely wish you can reexamine this application.