

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
INFORMAL BRIEF OF APPELLANT Form 14

Case Number: **2024-2271**

Short Case Caption: Messier v. New Orleans Saints, LLC

Name of Appellant: Michel J. Messier; great...grandson of **SAINT** Clotilde and Clovis c. **483** the **Fleur de Lys Family Business an unbroken chain of title** ("UCOT"); including but not limited to Philippe Auguste founder of the Louvre (see helmet exhibit Q), Louis #...VIII and Blanche of Castile (exhibit I) c. **1200** parents of **SAINT** Louis (exhibits K, AA, AK) great...grandsons of dozens of Kings and Queens of France, Spain and England, early French North American explorers, including but not limited to Guyon des Granches members of Jaques Cartier's Crew c. **1534** (exhibit AY, p. 135), Amiot of Champlain Crew c. **1609**, Messier of LaSalle Crew c. **1682**, Pierre LeMoynes II c. **1699** Iberville "**Father of LOUISiana**" (exhibit E) and Bienville "**Father of New Orleans**" c. **1718 (exhibitD)** ...and **21 others Saints** our Family (Business) (Goodwill, Value), genealogy provided, part of Fleur de Lys Family Business Records.

1. Have you ever had another case in this court? Answer: **NO**; not from USPTO or Registration 992210. Not a case specific to this claimed trademark # 992210, and canl# 92083143. But, had 11-2180 US Court of Appeals 2nd Circuit; Messier v. NFL Properties, LLC.

2. Did the agency **incorrectly decide or fail to take into account any facts?** If yes, **what facts?**

Answer: **YES ; 2 A.** see below "Mandatory Settlement and (evidence) Discovery" (3) never happened despite a USPTO "Order" (see exhibit below) Elizabeth Winter, highlights from see [TTABVUE](#) 13, pages 8-9 exhibit below.

Mandatory Settlement and Discovery Planning Conference

During the conference, the following topics must be discussed:

- (1) the nature of and basis for their respective claims and defenses;
- (2) the possibility of settling the case or at least narrowing the scope of claims or defenses, and;
- (3) arrangements relating to disclosures, discovery and introduction of evidence at trial, should the parties not agree to settle the case.

appropriate to require that the parties' **mandatory** discovery conference be conducted with the Board. Specifically, once both parties have filed an appropriate pleading, the parties are **ORDERED** to email the assigned Interlocutory Attorney to arrange for a mutually convenient date on which the Board can facilitate the conference.

V. Proceeding Resumed; Trial Dates Reset

This proceeding is resumed. Petitioner's Amended Petition for Cancellation, as discussed herein, is due not later than **FEBRUARY 25, 2024**. Trial dates are reset as shown in the schedule set forth below:

Time to Answer	3/26/2024
Deadline for Discovery Conference	4/25/2024
Discovery Opens	4/25/2024
Initial Disclosures Due	5/25/2024
Expert Disclosures Due	9/22/2024
Discovery Closes	10/22/2024
Plaintiff's Pretrial Disclosures Due	12/6/2024

⁹ Elizabeth Winter, elizabeth.winter@uspto.gov

2B. The Facts - Evidence - Exhibits ttabvue #23 filed 2/28/2024 were not docketed until after 06/27/2024. Ttabvue #13 was properly filed with ttabvue 23 as supporting evidence but the ETTSA system could not handle/accept the file size. Ordered scheduled discovery due to start 11/15/2023 per ttabvue 2 and 04/25/2024 per ttabvue 13 were both stayed, there has been no discovery of counterparties evidence in this case to date!

10:14

5G UC 34%



USPTO TTABVUE. Tradem...

<https://ttabvue.uspto.gov/ttabvue/>**Cancellation****Number:** 92083143**Status:** Pending Court Appeal**General Contact Number:** 571-272-8500**Interlocutory Attorney:** [MARY CATHERINE FAINT](#)**Paralegal Name:** [NEDRA N GARDNER](#)**Defendant****Name:** [New Orleans Louisiana Saints, L.L.C.](#)**Correspondence:** [KRISTIN H. ALTOFF](#)

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tara.bhupathi@morganlewis.com

Phone: 202-739-3000

Serial #: [72436253](#)[Application File](#)**Application Status:** CANCELLATION PENDING**Plaintiff****Name:** [Michel J. Messier](#)**Correspondence:** [SIR MICHEL J MESSIER ST](#)

104 FOREST ST

RUTLAND, VT 05701

UNITED STATES

mmmxi@gmail.com

Phone: 802-342-9878

Prosecution History

#	Date	History Text
27	08/29/2024	APPEAL TO CAFC
26	08/27/2024	P COMMUNICATION
25	08/14/2024	P REQ FOR RECON DENIED
24	07/26/2024	P COMMUNICATION
23	02/28/2024	P EXHIBITS
22	06/27/2024	P RESP TO BD ORDER/INQUIRY
21	06/26/2024	BD DECISION: CAN DENIED W/PREJ
20	05/21/2024	P OPP/RESP TO MOTION
9	05/21/2024	P OPP/RESP TO MOTION
8	04/23/2024	D REPLY IN SUPPORT OF MOTION
7	04/05/2024	P OPP/RESP TO MOTION
6	03/19/2024	SUSP PEND DISP OF OUTSTNDNG MOT
5	03/16/2024	D MOT TO DISMISS: FRCP 12(B)
4	02/25/2024	P MOT TO AMEND PLEADING/AMENDED PLEADING
3	01/26/2024	D MOT TO DISMISS GRANTED W/ LV TO AMEND; TRIAL DATES RESET
2	12/06/2023	P MOT TO CROSS-EXAMINE D COUNSEL
1	11/30/2023	P SURREPLY TO D MTD
0	11/17/2023	D REPLY IN SUPPORT OF MOTION
	11/14/2023	P MOT TO EXTEND DISCOVERY
	11/06/2023	P OPP/RESP TO MOTION
	10/30/2023	P OPP/RESP TO MOTION
	10/29/2023	DUPLICATE ORDER
	10/29/2023	SUSP PEND DISP OF OUTSTNDNG MOT

2 C. Lanham Act and previous laws provide protections for **the first person to use a trademark in commerce and are awarded “exclusive” rights to it. Our Fleur de Lys (Lis) mark is distinctive, as it identifies goodwill / goods and services as coming from our Fleur de Lys (Lis) Family. Our FDL trademark has been continually and notoriously used in New Orleans since New Orleans was named by our Fleur de Lys Family. Common law trademark rights are limited to the area where the mark is used (value - goodwill created) since c. 1682 in the Mississippi Valley and c 1718 in New Orleans.**

2 D. Our senior mark Fleur de Lys was legally registered using the conventions of the times, including but not limited to the Fleur de Lys were stamped Colonial Era maps and documents in government and commerce that made them legal, as the FDL was from the Courts of the Louis #...XIV per NOLS LLC Frequently Asked Question response. Our Fleur de Lys Family wore them around their necks as The Order of SAINT Louis. exhibits C,D, and E.

1. Of 2 D. Remedies for infringement under the Lanham Act include injunctive relief, damages, accounting for profits, and attorney's fees; Appellant respectfully seeks them all.

2 E. It is readily apparent that the NOLS LLC and its predecessors **did no search** and extremely likely that they knowingly infringed upon Our Family's Fleur de Lys (Lis) mark as they despite 12 months of the USPTO existence never once suggested that they did not take it, infringe upon it. In essence they have admitted that they obtained the Fleur de Lys (Lis) from the Court of Louis XIV. The NOLS LLC also recognized that they do not have “exclusive “ rights to the Fleur de Lys (Lis) on or about in

corresponance with Buddy Caldwell, Louisuana Attorney General during the Fleurty Girl controversy.

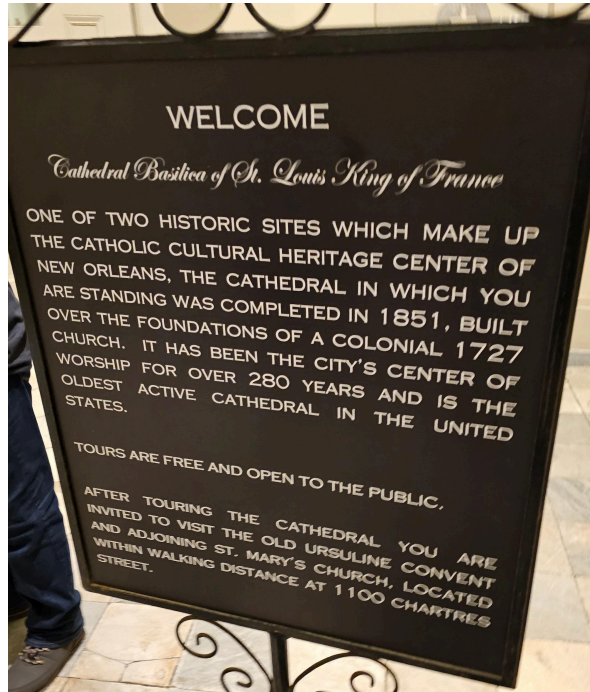
2 F. No evidence has been provided that the NOLS LLC or the USPTO did a trademark search before issuing registration 992210 ! Upon information and belief Our Family Fluer de Lys was displayed prominently for the 200th Anniversary of New Orleans in 1919, and at and in SAINT Louis Cathedral c.1929 including but not limited to stained glass and statues of Saint Louis and Joan d'Arc to name a few examples, exhibits __ , __ .

2 G. Evidence of the First Use of My Family's Fleur de Lys (Lis) was from c. 483-508 AD more than 1,500 years ago Exhibit #1 SAINT Clotilde and Clovis baptism applications of our FDL.

Saint Clotilde, g...gma's husband g...gpa Clovis,
King of Franks baptism c. 508. Note the Fleur de
Lys.



SAINT Louis Cathedral was first built in 1727 AD, applying our Family's labor, capital and goodwill almost 300 years ago, approximately 250 years before the NFL's NOLS LLC.



2 H. Me underneath my Great...grandmother, Blanche of Castille/France instructing her son SAINT Louis IX while he was wearing the Fleur de Lys (LIs) on his shoulders and hips, just the same way the NOLS LLC does on their uniforms, glass c. 1929. He also wears thr Fleur de Lys on his head on statues in the Cathedral.



2 I. The Lanham Act provides for a national system of trademark registration and protects the owner of a federally registered mark against the use of similar marks if such use is likely to result in **consumer confusion, or if the dilution of a famous mark** is likely to occur. Modern trademark law in the U.S. is primarily traced to the **Lanham Act passed in July 1946**, but its foundation lies with the **Commerce Clause of the Constitution (Article I, Section 8, Clause 3)**, which says "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Below are images of our Family Fleur de Lys with Indian Tribes with associated dates.



2 J. See evidence/exhibit 3 images of my great...uncle Jacques Carties and Crew raising the FDL **c. 1534** near the Saint Lawrence - Richelieu - Champlain watershed.

2 K. See evidence **c. 1564** LaFlorida, Florida by Jacques LeMoyne illustrating Our French Family Fleur de Lys (Lis) in the United States.

Items > René Goulaine de Laudonnière and American Natives in Florida



2 L. Our Famous Mark ! Of our Family Business since on or about May 10, 1718 by Jean Baptiste LeMoyné sieur de Bienville on

(Nouvelle) New ORLEANS SAINT(s) Louis 🌸 have been on the map since c. 1718 via Iberville, and Bienville LeMoyné - LeMessier, Louis VIII funding Family Business et al. We (did) Dat !



2 F. “A common law trademark is an unregistered trademark that protects a symbol, logo, product name, or other words or marks that identify the source of goods or services. Common law trademark rights are developed through use of a mark and are not governed by statute. **They are governed by state law and a judicially created scheme of rights.**”

2 G. “Common law trademark rights are limited to the geographic area in which the mark is used.” New Orleans, LOUISiana, Louisiana, the Mississippi Valley (Watershed), the Gulf Coast (Watershed), LaLouisiane, New France, Canada, LaFloride.

2 H. Common law” trademark rights are acquired automatically when a business uses a name or logo in commerce, and are enforceable in state courts.

2 I. Messier summarily claims his Family's Fancy Fleur de Lys (Lis) common law trademark in New ORLEANS, LOUISiana et al.

2 J. The NOLS LLC had institutional knowledge of this Court of Louis XIV, therefore submitted a fraudulent application.to the USPTO.

2 K. Appallent therefore has a right to enforce, right to sue for treble damages.

2 L. The (Le)Messier-LeMoyne-Louis VIII (father of SAINT Louis) Founding French Family (Business) are the indisputable owners of the Fancy Fleur de Lys Common Law Trademark predating the Lantham Act by ~ 240 years therefore have the right to cancel the NOLS LLC registration and the right to treble damages.

2 M. The USPTO in its mission statement references International cooperation and the Madrid (Compact).

2 O. Our Fleur de Lys Family has property rights to the Fleur de Lys per a Paris Court of Appeals ruling.

2 P. The FDL was First - Used in New Orleans Louisiana on or about May 10, 1718.

2 Q. Buddy Caldwell sent the SAINTS Letters dated on or about that the Saints agreed to the fact that they did not have “exclusive” rights.

2. R. Louis V

First royal symbol; *France Ancient*

Louis VI (r. 1108–1137) and Louis VII (r. 1137–1180) of the [House of Capet](#) first started to use the emblem, on [sceptres](#) for example. Louis VII ordered the use of *fleur-de-lis* clothing in his son Philip's coronation in 1179,^[39] while the first visual evidence of clearly heraldic use dates from 1211: a [seal](#) showing the future Louis VIII and his shield strewn with the “flowers”.^[40]

CITATION

[40] Pastoureau, Michel (1997). *Heraldry: Its Origins and Meaning*. 'New Horizons' series. Translated by Garvie, Francisca. London: Thames & Hudson. p. 100. ISBN 0-500-30074-7.

2 S. Our Family Fleur de Lys is STRONG, First, Famous, Founders - Family - Messier is the Predecessor-in-interest...

2 T. The Fleur de Lys can be estimated to have a of value of approximately ~ \$ 24 Billion US dollars.

2 U. Our Fleur de Lys is FAMOUS valuable reputation and goodwill.

2V __It is indisputable that our (Le)Messier - LeMoyne - Louis VIII (father of Saint Louis IX) Family has the Common Law Trademark rights to the Fleur de Lys geographically since c. 1718, c. 1534 internationally since c. 483.

A. Our Common Law Trademark pre-existed their trademark application.

- B. Our RFFFDL existed 1,500 years before the NOLS LLC trademark application
- C. Our RFFFDL has been continually used, since c. 1718 in New Orleans, Louisiana geographic area.
- D. The USPTO apparently never reviewed the NOLS LLC for previous trademarks, despite the fact that it was well known, common knowledge that the RFFFDL was used in c. 1718 forward in NOLA.
- E. Louis XIV had a Family.
- F. In part Louis XIV Family is Appellant.
- G. Louis VIII, father of SAINT Louis was great...grandfather of Louis XIV and Appellant.
- H. The RFFFDL that the NOLS LLC applies was from the Court Of Louis XIV.
- I. Paris Court of Appeals Ruled it was Property of Our Family.
- J. Appellant evidenced continual use and confusion, including but not limited to in football, Stirling Castle, MSJ...to name a few...
- K. Religious costumes at games...

2 W.



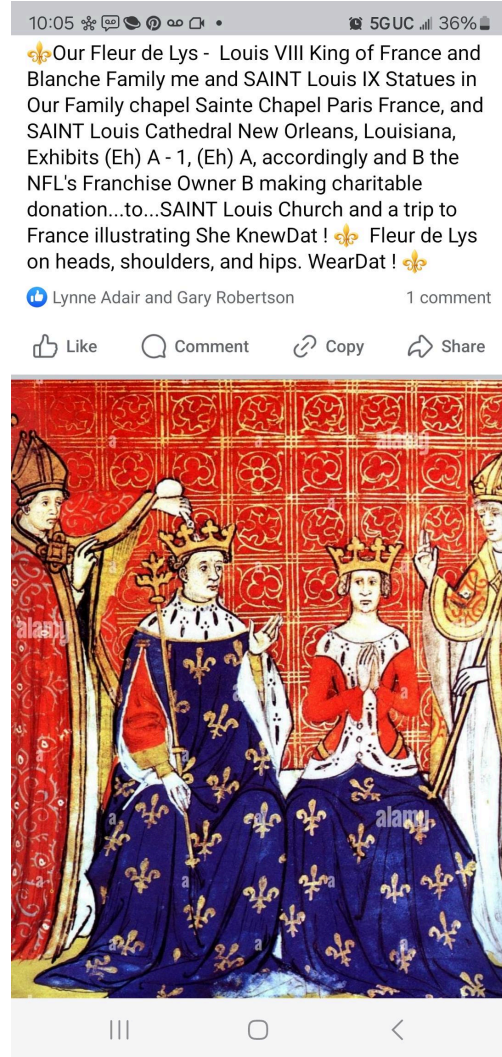
2 X.



2 Y. Weight of evidence overwhelming proves that the Fancy Fleur de Lys was taken from our Family and applied to the for profit NOLS LLC marketing of its football team.

2 Z. A letter from Thomas Jefferson to James Monroe describes hie the documents describing the land of the Louisiana Purchase came from the estate of Governor Messier documents describing the land of the Louisiana Purchase...taken from Governor Messier's estate... Thomas Jefferson to James







The Order of SAINT Louis IX - Capet awarded by cousin Louis XIV to Iberville "Father of Louisiana" and Bienville "Father of New Orleans" LeMoyne-LeMessier. Award established c. 1693. Notice the Fleur de Lys of the FDL - Capet - LeMessier (Louis VIII...) et al Family.



en.m.wikipedia.org

Order of Saint Louis - Wikipedia

Family Fleur de Lys (Lis) Helmet found during renovation of the Louvre, one of my Family's Home (field(s)).




10:03


5G UC 37%


Louis VIII King of France was the father, and great...greatgrandfather of the New ORLEANS SAINTS (Louis IX)! Duke d'ORLEANS g...grandson of Louis VIII, father of SAINT Louis IX...Family Fleur de Lys (crest) on shoulders, hips and staff. He was the Duke d'Orleans in c.1718 when the City was named by his cousin Bienville. How the New Orleans Saint... See more

 Erik Bergendahl and Lynne Adair

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3. Did the agency apply the wrong law? Yes No If yes, what are your arguments concerning those issues? YES

3A. The three cases were ***United States v. Steffens***, ***United States v. Wittemann***, and ***United States v. Johnson***. *Steffens* and *Wittemann* dealt with alleged counterfeiting of marks associated with champagne, while *Johnson* dealt with alleged counterfeiting of a mark associated with whiskey.

3B. The opinion was written by Justice Samuel Freeman Miller.

3C. The Court did not exclude all possibility of Congress regulating trademarks. Congress, however, read the decision very strictly and in a **new trademark law enacted in 1881 regulated only trademarks used in commerce with foreign nations, and with the Indian tribes, areas specified under the Commerce Clause**. It was not until 1905 that Congress would again enact a trademark law generally governing marks in use in the United States, though the 1905 act was also carefully worded to fall within the Commerce Clause. See previous laws above international and when dealing with others.

3D. When a trademark owner is the first to use a mark, they are referred to as the “senior user.” Anyone who starts using a confusingly similar mark thereafter is called the “junior user.” **A senior user of a common law trademark can sue a junior user if the junior user is operating in the same geographic area and using the mark in connection with the same or related goods and/or services.**

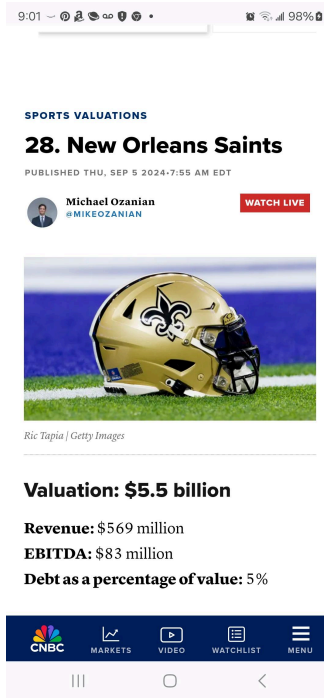
3E. This senior user has shown that (1) the mark was in use prior to the registrant’s filing date, and (2) the senior user acquired common law rights by using the mark before anyone else in that geographic area. As long as the senior user 1) started to sell the goods or services under the mark before the registered trademark owner did, 2) has continuously used the mark, and 3) can prove that the mark is valid, **the senior user can**

preclude the registered trademark owner from using the mark in the geographic area where the business operates.

3F. The evolution of law(s) regarding these (trademark) issues... The Law, Lanham Act was not passed until 1946; 79-489, 60 Stat. 427 enacted July 5, 1946 Congressional Intent; The Lanham Act was enacted by Congress in 1946 to address the lack of uniformity in state trademark laws and to protect trademark owners. The Lanham Act's intent was to: Protect trademark owners The Lanham Act protects trademark owners from the use of similar marks that could confuse consumers or dilute a **famous (fancy fleur de lys (lis)) mark**. FDL had already obtained Common Law (Protected Status) since c. 1718 in The (Geographic Area) of the Mississippi Valley, Gulf Coast, LaLouisiane, Louisiana, by c. 1682.

4. Did the agency fail to consider important grounds for relief? Yes No If yes, on what grounds? YES

4A. Cancellation of (Lantham Era) NOLS LLC Trademark Claim for fraud in the application (obtainment). Jurisdiction; "The Federal Circuit also reviews certain administrative agency decisions, including those from the U.S. Trademark Trial and Appeal Board..."



5. Are there other reasons why the decision was wrong? Yes No If yes, what reasons? **YES the PETITION FOR CANCELLATION should be approved as Appellant / Petitioners believes that he will be further damaged by continued registration trademark (“Respondent’s Mark”) on the Principal Register in International Class # for “Footballs... compartmented information facilities” as shown in U.S. Registration No. As grounds for cancellation, Petitioner alleges as follows: Section 15 of the Trademark Act provides that incontestability is subject to a senior user’s common law rights. Thus, an incontestable registration can still be subject to an injunction by a prior user.**

The senior user of a mark has superior rights as compared to a junior user that is using a confusingly similar mark (a) in connection with the same or similar goods or services (b) within the same geographical area or (in some jurisdictions) within the senior user's natural zone of expansion.

5A. Appellant provides goodwill, goods, and services in direct competition with the NOLS LLC, including but not limited to at SAINT Louis Cathedral.

5B. Petitioner's Family (Business) owns U.S. COMMON LAW (Senior) Trademark, filed on or about c. 508 internationally: July 1609 in what would become the United States, and on or about May 7, 1718 in the Mississippi / New Orleans geographic area with conspicuous, **continual commercial use** having created 1,500 years of **goodwill**, billions in value.

5C. While registering a trademark with the USPTO confers significant benefits to a trademark owner, unregistered trademarks can still provide some degree of protection. Trademark attorneys must consider common law rights when conducting a trademark clearance search.

5D. Senior rights in a trademark are the rights of the first person or entity to use a trademark, also known as the senior user or prior user. Senior rights give the user legal precedence over subsequent users, including those with registered trademarks. Priority Senior users have priority rights over junior users who use a confusingly similar mark in the same or similar goods or services, or in the same geographical area. Common law protection Unregistered senior users are protected by common law trademark rights, which give them legal protection based on prior use. Intent-to-use applications A trademark owner can claim senior rights if they filed an intent-to-use application before the common law user started using the mark. "Priority of use usually prevails even if a later registration becomes incontestable."

5E. Messier the senior user has shown that (1) the mark was in use prior to the registrant's filing date, and (2) the senior user acquired common law rights by using the mark before anyone else in that geographic area. As long as the senior user 1) started to sell the goods or services under the

mark before the registered trademark owner did, 2) has continuously used the mark, and 3) can prove that the mark is valid, the senior user can preclude the registered trademark owner from using the mark in the geographic area where the business operates.

5F. Appallent's Fleur de Lys Mark became incontestable in c. 1724 !

5G. This Landmark Trademark case illustrates how an American bad Dream after investing your land, labor, capital and goodwill someone else benefits to the tune of billions a single individual LLC is trying to control your Family's Crown Jewel, the Fleur de Lys. Our Family planted, and nurtured the trademark gets left holding the bag, nothing unless this Trademark Registration is canceled. The Theft of the Crown Jewel, the Fleur de Lys (Lis) in the land of the free and home of the brave in part because of my Fleur de Lys Family's investment in the Revolutionary War, gunpowder, navy, troops.

5H. Even college players now get paid for their images and likenesses.

5J. The Lanham Act and common law both govern trademarks in the United States, but they differ in several ways:

5K. Common law trademark rights are automatically acquired when a business uses a name or logo in commerce. These rights are enforceable in state courts.

5L. The Lanham Act provides federal protection for trademarks registered with the U.S. Patent and Trademark Office. The Lanham Act

also protects against trademark dilution, cybersquatting, and unfair competition.

5M. The Lanham Act was enacted in 1946 to establish a uniform federal system for trademark protection. Before the Lanham Act, trademark protection was largely governed by state statutes and common law principles, which led to a patchwork of inconsistent rules and regulations.

5N. However, any common law rights acquired will remain.”

Without Prejudice...only after due process, other branches and or international governments,

5O. Remand to the USPTO for cancellation of trademark registration # 992210. Remand to the USPTO for updating the schedule (due process) including but not limited to mandatory negotiations.

WHEREFORE, Appellant (Petitioner) prays that Respondent's Registration, shown in U.S. Trademark Registration No. 992210 be canceled and that the Petition for Cancellation 92083143 be granted in favor of Appellant (Petitioner).

Appellant reserves all further rights under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other rights at law or in equity, common law including but not limited to state courts that may now or in the future exist based on discovery and further factual investigation in the

5. Applicant, itself or through its predecessors-in-interest, **used the Fleur de Lys mark at least as early as 508 AD, so it became indisputable by c. 514 AD internationally.**

WHEREFORE, having fully answered the Appeal questions claims respectfully requests that the that Registration 992210 be canceled.

To support a trademark infringement claim in court, a plaintiff must prove that it owns a valid mark, that it has priority (its rights in the mark(s) are "**senior**" to the defendant's), and that the defendant's mark is likely to cause confusion in the minds of consumers about the source or sponsorship of the goods. Appallent has proven that the Fleur de Lys Family owns the FDL mark. The Fleur de Lys Family has priority (its rights in the mark(s) are "senior" to the defendant's), and that the defendant's mark is likely to cause confusion in the minds of consumers about the source or sponsorship of the goods or services offered under the parties' marks. When a plaintiff owns a federal trademark registration on the Principal Register, there is a legal presumption of the validity and ownership of the mark as well as of the exclusive right to use the mark nationwide on or in connection with the goods or services listed in the registration. **These presumptions may be rebutted in the court proceedings.** Generally, the court will consider evidence addressing various factors to determine whether there is a likelihood of confusion among consumers. The key factors considered in most cases are the degree of similarity between the marks at issue and whether the parties' goods and/or services are sufficiently related that consumers are likely to assume (mistakenly) that they come from a common source. Other factors that courts typically consider include how and where the parties' goods or services are advertised, marketed, and sold; the purchasing

conditions; the range of prospective purchasers of the goods or services; whether there is any evidence of actual confusion caused by the allegedly infringing mark; the defendant's intent in adopting its mark; and the strength of the plaintiff's mark.

The particular factors considered in a likelihood-of-confusion determination, as well as the weighing of those factors, vary from case to case. And the amount and quality of the evidence involved can have a significant impact on the outcome of an infringement lawsuit.

In addition to claiming likelihood of confusion, a trademark owner may claim trademark "dilution," asserting that it owns a famous mark and the use of your mark diminishes the strength or value of the trademark owner's mark by "blurring" the mark's distinctiveness or "tarnishing" the mark's image by connecting it to something distasteful or objectionable-even if there is no likelihood of confusion.

An experienced U.S.-licensed trademark attorney, taking the particular circumstances of your case into consideration, should be able to provide you with an opinion as to the validity and strength of a trademark owner's claims.

In the arena of intellectual property, trademarks serve as important assets for businesses. They embody a company's brand identity and set them apart in the market. Central to trademark law is the distinction between senior and junior trademark rights. These rights hold significant implications for businesses seeking to safeguard their brand assets and navigate potential Unregistered senior trademark rights are established through prior use in commerce. As opposed to formal registration with the United States Patent and Trademark Office (USPTO). Despite lacking a formal registration, **the principle of "first to use" grants significant legal standing to the company who initially adopts and utilizes a mark in connection with goods or services within a specific geographic area.**

Priority Based on Use: Unregistered senior trademark holders maintain priority rights over subsequent users, including those with registered trademarks. The principle of first use grants them legal precedence. This allows them to enforce their rights against junior users who adopt similar marks for related goods or services.

1. **Common Law Protection:** Common law trademark rights, provide unregistered senior trademark holders legal protection based on prior use. Even in the absence of formal registration. This protection extends to geographic areas where the mark is being used in commerce.
2. **Challenges to Registration:** Unregistered senior trademark holders can challenge the registration of junior trademarks with the USPTO if they believe it infringes upon their prior rights. **Such challenges may lead to the refusal or cancellation of the junior trademark.**

Registered junior trademark rights are obtained through formal registration with the USPTO. This occurs after the establishment of senior rights by another party. **Despite being registered, junior trademarks are still subject to challenges and limitations due to the prior rights of unregistered senior users.**

Junior trademark owners should conduct comprehensive searches before registration to assess potential conflicts with unregistered senior trademarks! Additionally, they may need to defend their registration through legal proceedings if challenged by senior users. When conducting a trademark clearance search, attorneys will frequently encounter a mark that is the same or very similar to the mark being searched but that is not registered with the US Patent and Trademark Office. It is important to recognize that even though a mark owner has not registered or applied for a mark with the USPTO, that owner may still have common law rights to a trademark. Common law trademark rights, while not nearly as powerful as a federally registered

trademark, will confer certain rights and will carve out limitations should another owner ultimately register the same or similar mark with the USPTO. An owner may establish rights in a mark without registering the mark, simply by using it in connection with a business or product. These rights are called common law rights, and they provide an owner with the exclusive right to use a mark within a certain geographic area based on their priority use of the mark. When a trademark owner is the first to use a mark, they are referred to as the “senior user.” Anyone who starts using a confusingly similar mark thereafter is called the “junior user.” A senior user of a common law trademark can sue a junior user if the junior user is operating in the same geographic area and using the mark in connection with the same or related goods and/or services.

Signed; /Michel J. Messier/ -St
 Francois-StMichel-**SAINT** Clotilde-**Saint**
 Margeret-(SAINT Louis IX)-LeMoyne,
 great...great grandson of Pierre
 LeMoyne sieur d'Iberville
 Date: September 11, 2024



Great...grandson of Pierre LeMoyne sieur d'Iberville I...and Collin (Le)
 Messier-Anne Couvent-Louis VIII et al...

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellant's Appeal to the United States Court of Appeals Federal Circuit to cancel NOLS LLC "mere infringer's" registration 992210 has been sent by email this 11th day of September 2024 and hardcopy mail postage prepaid to:

Kristin H. Altoff
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave. N.W.
Washington, D.C. 20004

kristin.altoff@morganlewis.com
trademarks@morganlewis.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellant's Appeal to the United States Court of Appeals Federal Circuit to cancel NOLS LLC "mere infringer's" registration 992210 has been sent by email this 11th day of September 2024 and hardcopy mail postage prepaid to the US Court of Appeals.

U.S. Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 20439

