

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

In re the Application of Kevin Harrington
Serial No.: 78/300,252
Filed: September 15, 2003
Trademark: **VIRTUAL ENTREPRENEUR**
Published: June 1, 2004



06-16-2004
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #78

Entrepreneur Media, Inc.,)
a California corporation,)
)
Opposer,)
v.)
)
Kevin Harrington,)
an individual,)
)
Applicant.)
_____)

OPPOSITION NO.: _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
BOX TTAB -- FEE
2900 Crystal Drive
Arlington, Virginia 22202-3514

Dear Sir or Madam:

Entrepreneur Media, Inc. ("EMI"), a California corporation, with a place of business located at 2445 McCabe Way, Irvine, California 92614, believes that it will be damaged by registration of the mark **VIRTUAL ENTREPRENEUR** for "*general education books for suggestions and ideas on how to make money and self improvement*" in International Class 16, as shown in application No. 78/300,252 referenced above. Therefore, in accordance with the

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provisions of Section 13 of the Trademark Act (15 U.S.C. § 1063), EMI hereby opposes the application of Kevin Harrington ("Applicant") for the mark **VIRTUAL ENTREPRENEUR**.

As grounds for the opposition, EMI alleges as follows:

1. EMI, and its predecessors in interest, have been and are now engaged in the business of developing, creating, distributing, marketing, advertising, and selling magazines, books, catalogs, pamphlets, brochures, and published reports pertaining to business opportunities and news thereof. EMI also offers training seminars, classes, on-line information, computer programs, prerecorded video cassettes and compact discs pertaining to business operation and opportunities, business start-ups, franchise opportunities, home office business opportunities, and related services.

2. Prior to September 2003, the filing date of Applicant's intent-to-use application herein opposed, EMI adopted and used the marks described in Paragraphs 2 and 3 herein in connection with advertising, business, educational, promotional, and public relations services and/or printed goods. EMI first adopted and used the mark **ENTREPRENEUR** for magazines at least as early as May 2, 1978. EMI has used the mark **ENTREPRENEUR** in connection with educational services since at least October 18, 1991 and in connection with advertising, business, promotional, and public relations services since at least July 1992.

3. EMI has numerous federal registrations in International Classes 16 and 41 including, but not limited to, the following: (1) **ENTREPRENEUR**, registered August 25, 1987 in Class 16; (2) **ENTREPRENEUR**, registered May 2, 1995 in Class 41; (3) **ENTREPRENEUR'S HOME OFFICE**, registered July 21, 1998 in Class 16; (4) **ENTREPRENEURIAL WOMAN**, registered September 22, 1998 in Class 16;

(5) **ENTREPRENEUR MAGAZINE'S VIRTUAL EXPO**, registered December 26, 2000 in Class 41; (6) **ENTREPRENEUR PRESS**, registered December 26, 2000 in Class 16; (7) **ENTREPRENEUR MAGAZINE'S VIRTUAL EXPO (Stylized)**, registered March 27, 2001 in Class 41; (8) **ENTREPRENEUR'S NETPRENEUR**, registered April 30, 2002 in Class 16; and (9) **ENTREPRENEUR'S FRANCHISE & BUSINESS OPPORTUNITIES**, registered September 20, 1994 in Class 16 (collectively, the "**ENTREPRENEUR Marks**"). EMI's registrations are valid, unrevoked, uncanceled, and in full force and effect. EMI owns these registrations and the trademarks shown thereby and all the business and goodwill connected with said marks in the United States.

4. Since the adoption and first use of the **ENTREPRENEUR Marks**, EMI has made substantial and continuous use of the **ENTREPRENEUR Marks** in interstate commerce on and in connection with the development, creation, advertisement, promotion, distribution, and sale of magazines, pamphlets, and brochures pertaining to business opportunities and news thereof, as well as arranging and conducting trade show exhibitions in the field of entrepreneurial activities such as the start-up and operation of small business enterprises.

5. The **ENTREPRENEUR Marks** are now and ever since their first use have been applied to magazines, books, packaging materials, and/or product literature. Products and materials so marked are now and have been advertised and promoted and widely shipped, distributed, and sold in interstate commerce. The **ENTREPRENEUR Marks** are strong, well known, and of great value to EMI. In the mind of the trade and of the public, the

ENTREPRENEUR Marks identify and designate EMI's goods and services and distinguish them from the goods and services of others.

6. By the application herein opposed, Applicant seeks to register **VIRTUAL ENTREPRENEUR** for "*general education books for suggestions and ideas on how to make money and self improvement*" in International Class 16.

7. Applicant's mark **VIRTUAL ENTREPRENEUR** so resembles EMI's previously used and registered **ENTREPRENEUR** Marks as to be likely, when used in connection with Applicant's goods and services, to cause confusion, mistake, or deception with consequent injury to EMI and the public.

8. EMI will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing, misleading, and deceptive use of Applicant's mark and would give to Applicant color of exclusive statutory rights to such designation in violation of EMI's superior rights.

WHEREFORE, EMI believes that it will be damaged by the registration of Applicant's mark and prays that it be denied.

Please recognize as attorneys for EMI Perry J. Viscounty, Mark A. Finkelstein, Michele D. Johnson, Julie L. Dalke, and the law firm of Latham & Watkins LLP, 650 Town Center Drive, Suite 2000, Costa Mesa, California 92626-1925. Please address all communications to Mark A. Finkelstein of Latham & Watkins LLP at the address set forth below.

This opposition is hereby submitted in duplicate pursuant to 37 C.F.R. 2.104.

Dated: June 16, 2004

Respectfully submitted,

LATHAM & WATKINS

By: 

Mark A. Finkelstein
650 Town Center Drive, Suite 2000
Costa Mesa, California 92626-1925
(714) 540-1235

Attorneys for Opposer
Entrepreneur Media, Inc.

Rhonda DeLeon
Direct Dial: (714) 755-8057
rhonda.deleon@lw.com

650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
Tel: (714) 540-1235 Fax: (714) 755-8290
www.lw.com

LATHAM & WATKINS LLP

June 16, 2004

CERTIFICATE OF MAILING: I hereby certify that the below listed correspondence and documents are addressed to the Commissioner for Trademarks, BOX TTAB--FEE, 2900 Crystal Drive, Arlington, Virginia, 22202-3514, and are being deposited with the United States Postal Service via Express Mail No.: E653009158745 on June 16, 2004 by:


Holly Scott

VIA EXPRESS MAIL

Commissioner for Trademarks
BOX TTAB--FEE
2900 Crystal Drive
Arlington, Virginia 22202-3514

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TTAB



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U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

Re: Notice of Opposition Filed Against Trademark Application Serial No. 78/300,252
For the Mark: **VIRTUAL ENTREPRENEUR**
Application Filed By: Kevin Harrington
Opposer: Entrepreneur Media, Inc.

Dear Sir or Madam:

Enclosed for filing are the following documents filed on behalf of Opposer, Entrepreneur Media, Inc.:

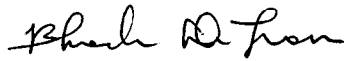
1. Notice of Opposition (original + 2 copies);
2. A check in the amount of \$300, and
3. A stamped, self-addressed postcard to acknowledge receipt.

Please charge Deposit Account No. 500524 for any additional fees which may be required, or credit any overpayment to this account. Should you have any questions regarding the enclosed Notice of Opposition and accompanying documents, please contact Mark A. Finkelstein or me.

LATHAM & WATKINS^{LLP}

Thank you for your assistance.

Very truly yours,



Rhonda DeLeon
Intellectual Property Paralegal

Enclosures

cc: Mark A. Finkelstein, Esq. (with encls.)
Ms. Karen Miyakawa (w/o encls.)