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U.S. Patent & TMOfc/TM Mail Rcpt Dt. #80

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

-----X)	
E-WINGS INC.,)	
Opposer,)	
)	
v.)	Opposition No.
)	
EWINGS TECHNOLOGIES, INC.,)	
Applicant.)	
-----X)	

CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513	
on <u>October 15, 2002</u>	<u>Joan Z. Graham</u>
Date	Signature
<u>JOAN Z. GRAHAM</u>	
Typed or printed name of person signing certificate	

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NOTICE OF OPPOSITION

In the matter of an application for registration of the mark EWINGS, Serial No. 76/125,562, filed September 8, 2000 by Ewings Technologies, Inc. of Plano, Texas and published for Opposition in the Official Gazette of July 30, 2002 at Page TM663.

e-Wings, Inc., a Maryland corporation, having its principal place of business at 4813 St. Elmo Street, Bethesda, MD 20814, believes that it would be damaged by registration of the mark as sought in the foregoing application and hereby opposes the same. The grounds of the opposition are as follows:

1. By the application herein opposed, Applicant seeks to register EWINGS as a trademark for voice portal services in Class 38. A copy of the mark as it was published in the

Official Gazette is attached hereto as Exhibit A. This Opposition opposes the registration of such mark.

2. Opposer is and has been the owner of all right, title, and interest in the mark e-Wings for use in connection with computer software for the organization, management and facilitation of the work of teams in businesses, associations, government agencies and other organizations, telecommunications products and related services. Such products include software products provided to customers and secure access provided to customers for access application service provider (ASP) server software. Such products are used for communication among individuals via inter and intra access, by modem from individual computers, web-enabled telephones and personal data assistants (PDAs), and by teleconferencing and video conferencing. These products have been marketed to and used in the software fields by Opposer and Opposer's customers for over one year before the filing of Applicant's trademark application.

3. The mark e-Wings was adopted by Opposer and has been used by Opposer in connection with the advertising, promotion and offering of software products and related services in interstate commerce and in connection with Opposer's business, continuously for over two years.

4. Opposer's e-Wings trademark is of significant value to Opposer as an identification of source in connection with the promotion and offering of its goods and services and in connection with its business. Opposer's e-Wings mark distinguishes such goods and services from the goods and services of others.

5. Opposer applied for registration of the mark e-Wings (Serial No. 75/700,021, filed May 28, 1999) over fifteen months before the filing of Applicant's trademark application. A Notice of Allowance was issued on August 27, 2002, and the Statement of Use has been filed. Acceptance of the Statement of Use is expected in the near future, followed by issuance of the registration to opposer, with registration issuing with an effective use date of May 28, 1999.

6. The e-Wings mark as used by Opposer and for which registration has been sought by Opposer, and the EWINGS mark as sought to be registered by Applicant are confusingly similar.

7. Upon information and belief, the various software products identified in Applicant's application as shown in Exhibit A are related to the products and services which Opposer sells under the e-Wings trademark. Upon information and belief, Applicant is likely to be marketing its EWINGS computer software to customers and potential customers of Opposer for Opposer's software, such that customers and others in the trade may be confused into believing that there is some connection between Applicant's software products and the well known and well recognized software products and services of Opposer.

8. Through the use and promotion of Opposer's e-Wings trademark in connection with its goods and services for over two years, purchasers and prospective purchasers of such goods and services, and of goods and/or services in the same general class, as well as customers and prospective customers of Opposer have come to associate the e-Wings mark with the goods, services and business of Opposer.

9. It is possible that purchasers and customers, as well as prospective purchasers and customers, familiar with Opposer's goods, services and business identified by the e-Wings trademark may be misled into believing, contrary to fact, that Applicant's goods provided under the EWINGS mark opposed herein, emanate from or are in some way sponsored by Opposer, all to Opposer's irreparable damage through loss and/or dilution of its goodwill as symbolized by the e-Wings mark.

10. Granting of the registration for EWINGS as sought by Applicant, through the application herein opposed, would place Applicant in a position to harass and cause annoyance to Opposer and its customers, to the damage of Opposer. Such registration may future inhibit Opposer in its use of its e-Wings mark in promoting its goods and services and may further inhibit Opposer in its ability to register its marks, causing manifest damage to Opposer.

WHEREFORE, Opposer prays that the application of Serial No. 76/125,562, filed September 8, 2000 for registration of EWINGS in Class 38 be refused and that this Opposition be sustained.

Respectfully submitted,



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Dated: October 15, 2002

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CLASS 38—(Continued).

SN 75-903,891. URBAN CABLEWORKS, INC., NEW YORK, NY. FILED 1-27-2000.

CITY CABLEWORKS

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CITY", APART FROM THE MARK AS SHOWN. FOR CABLE TELEVISION BROADCASTING SERVICES (U.S. CLS. 100, 101 AND 104).

SN 75-906,112. ELECTRIC CALIFORNIA WESTERN, INC., SAN DIEGO, CA. FILED 1-31-2000.

MOBILE LINK

SEC. 2(F). FOR SATELLITE TRANSMISSION SERVICES FOR THE PROVISION OF SATELLITE UPLINKS FOR USE IN TELEVISION PRODUCTION (U.S. CLS. 100, 101 AND 104).

FIRST USE 0-0-1995; IN COMMERCE 0-0-1995.

SN 75-981,786. VELOCITEL, INC., IRVINE, CA. FILED 12-12-2000.

VELOCITEL

FOR TRANSMISSION OF VOICE AND DATA COMMUNICATIONS (U.S. CLS. 100, 101 AND 104). FIRST USE 1-8-2001; IN COMMERCE 2-19-2001.

SN 76-012,487. ONE WEST, INC., JACKSON, WY. FILED 3-28-2000.

ONEWEST.NET

FOR PROVIDING MULTIPLE-USER ACCESS TO A GLOBAL COMPUTER INFORMATION NETWORK (U.S. CLS. 100, 101 AND 104).

FIRST USE 2-1-2000; IN COMMERCE 3-15-2000.

SN 76-018,893. ADVANCED TELCOM GROUP, INC., SANTA ROSA, CA. FILED 4-6-2000.

SMART IDEAS FOR SMALL BUSINESS

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SMALL BUSINESS", APART FROM THE MARK AS SHOWN.

FOR TELECOMMUNICATIONS SERVICES, NAMELY, LOCAL AND LONG DISTANCE TELEPHONE SERVICES; HIGH SPEED DATA TELECOMMUNICATIONS SERVICES, NAMELY, ISDN, DSL, AND INTERNET CONTENT DELIVERY SERVICES (U.S. CLS. 100, 101 AND 104).

FIRST USE 3-17-2000; IN COMMERCE 3-17-2000.

CLASS 38—(Continued).

SN 76-055,628. DAVID SAMS INDUSTRIES, INC., AGOURA HILLS, CA. FILED 5-25-2000.



NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TOP 7 COUNTDOWN", APART FROM THE MARK AS SHOWN.

FOR TELEVISION BROADCASTING SERVICES (U.S. CLS. 100, 101 AND 104).

FIRST USE 7-10-1998; IN COMMERCE 7-10-1998.

SN 76-065,593. SCHOOL OF SLEEP MEDICINE, INC., THE, PALO ALTO, CA. FILED 6-8-2000.

SLEEPNET.COM

FOR PROVIDING ON-LINE ELECTRONIC BULLETIN BOARDS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING SLEEP DISORDERS (U.S. CLS. 100, 101 AND 104).

FIRST USE 3-6-1995; IN COMMERCE 3-6-1995.

SN 76-072,793. CITIZENS COMMUNICATIONS COMPANY, STANFORD, CT. BY ASSIGNMENT GLOBAL CROSSING NORTH AMERICA, INC., ROCHESTER, NY. FILED 6-19-2000.

FRONTIERNET LOOKOUT

FOR TELECOMMUNICATIONS SERVICES, NAMELY, CONNECTIVITY SERVICES RELATED TO DATA TRAFFIC ON A GLOBAL COMPUTER NETWORK (U.S. CLS. 100, 101 AND 104).

SN 76-125,562. EWINGS TECHNOLOGIES, INC., PLANO, TX. FILED 9-8-2000.

EWINGS

FOR VOICE PORTAL SERVICES, NAMELY, PROVIDING INSTANT INTERACTIVE VOICE ACCESS TO WEB CONTENT FROM TELEPHONES, CELL PHONES, WIRELESS WEB-ENABLED PHONES AND PAGERS; UNIFIED MESSAGING SERVICES FOR USE IN INTEGRATING E-MAIL, VOICE MAIL AND FACSIMILE MAIL, AND ACCESSING THEM FROM A SINGLE SOURCE (U.S. CLS. 100, 101 AND 104).

FIRST USE 7-0-1999; IN COMMERCE 11-0-1999.

