

ESTTA Tracking number: **ESTTA376306**

Filing date: **11/01/2010**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	E! Entertainment Television, Inc.
Granted to Date of previous extension	10/31/2010
Address	5750 Wilshire Boulevard Los Angeles, CA 90036 UNITED STATES

Attorney information	Michael J. McCue Lewis and Roca LLP 3993 Howard Hughes Parkway, Suite 600 Las Vegas, NV 89169 UNITED STATES TRADEMARKS2-LASVEGAS@LRLAW.COM Phone:(702)949-8200
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**Applicant Information**

Application No	77882190	Publication date	05/04/2010
Opposition Filing Date	11/01/2010	Opposition Period Ends	10/31/2010
Applicant	Tosh Aviation, Inc. 205 Glenwood Drive Chattanooga, TN 37409 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials featuring musical performances, musical videos, related film clips, and photographs of an entertainment nature
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2545008	Application Date	07/10/2001
Registration Date	03/05/2002	Foreign Priority Date	NONE

Word Mark	E!
Design Mark	
Description of Mark	NONE
Goods/Services	Class 038. First use: First Use: 1990/06/01 First Use In Commerce: 1990/06/01 Cable and satellite television broadcasting Class 041. First use: First Use: 1990/06/01 First Use In Commerce: 1990/06/01 Entertainment services in the nature of cable and satellite television programming

U.S. Registration No.	2030152	Application Date	02/06/1996
Registration Date	01/14/1997	Foreign Priority Date	NONE
Word Mark	E! ONLINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1996/01/29 First Use In Commerce: 1996/01/29 providing gossip celebrity news, entertainment news, and movie, television, and music information through an on-line database		

U.S. Registration No.	2600728	Application Date	03/30/2001
Registration Date	07/30/2002	Foreign Priority Date	NONE
Word Mark	E! NETWORKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1999/10/13 First Use In Commerce: 1999/10/13 entertainment in the nature of television broadcasting services		

U.S. Registration No.	3266450	Application Date	04/14/2006
Registration Date	07/17/2007	Foreign Priority Date	NONE
Word Mark	E! EVERYWHERE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2005/03/00 First Use In Commerce: 2005/11/01 Entertainment services, namely, providing entertainment information and news via mobile devices, cellular devices, wireless devices, personal digital assistants (PDAs), radio and satellite radio, television, video-on-demand, public video displays, websites, online streaming video, and online broadband channels

Attachments	76283118#TMSN.gif ( 1 page )( bytes ) 76233583#TMSN.gif ( 1 page )( bytes ) 78861933#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition _E GIRLS_.pdf ( 5 pages )(41501 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael J. McCue/
Name	Michael J. McCue
Date	11/01/2010

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

E! ENTERTAINMENT TELEVISION, INC., a Delaware corporation,  Opposer,  v.  TOSH AVIATION, INC., a Nevada corporation,  Applicant.	Mark                   E GIRLS & Design  Serial No.            77/882190  Published            May 4, 2010
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**NOTICE OF OPPOSITION**

Pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.101, Opposer E! Entertainment Television, Inc., a Delaware corporation (“E! Entertainment”), with its principal place of business at 5750 Wilshire Boulevard, Los Angeles, California 90036, hereby opposes Applicant Tosh Aviation, Inc.’s application to register the E GIRLS & design mark in International Class 41 (Serial No. 77/882190).

As grounds for its opposition, E! Entertainment alleges as follows:

1. E! Entertainment is one of the world’s largest producers and distributors of entertainment news, reality television, talk shows, documentaries and lifestyle-related programming. Among other business activities, E! Entertainment operates the E!-branded television network, a 24-hour television network with programming dedicated to the world of entertainment. The E! network is available to more than 98 million U.S. cable and direct broadcast satellite subscribers.

2. In addition to operating its television network, E! Entertainment operates the E! Online, a web site accessible at <eonline.com>. E! Online features photographs, video, television clips, film clips, and other multimedia works relating to the world of entertainment, including, without limitation, clips of musical performances.

3. E! Entertainment owns several federal trademark registrations for E! and E! formative marks in International Class 41, including, among others:

- (a) E! for entertainment services in the nature of cable and satellite programming (U.S. Reg. No. 2545008);
- (b) E! ONLINE for “providing gossip celebrity news, entertainment news, and movie, television, and music information through an on-line database” (U.S. Reg. No. 2030152);
- (d) E! NETWORKS for “entertainment in the nature of television broadcasting services” (U.S. Reg. No. 2600728); and
- (e) E! EVERYWHERE for “[e]ntertainment services, namely, providing entertainment information and news via mobile devices, cellular devices, wireless devices, personal digital assistants (PDAs), radio and satellite radio, television, video-on-demand, public video displays, websites, online streaming video, and online broadband channels” (U.S. Reg. No. 3266450).

4. Several of E! Entertainment’s federal trademark registrations for E! and E! formative marks are incontestable.

5. E! Entertainment has made substantial and continuous use of E! and E! formative marks for a variety of entertainment-related services since 1990. Based on its continuous and extensive use of such marks, E! Entertainment has developed a family of E! formative marks for entertainment services.

6. Based on its continuous and extensive use of E! and E! formative marks, E! Entertainment has established substantial goodwill in the marks. Upon information and belief, the E! and E! formative marks have become famous.

7. Applicant Tosh Aviation is seeking registration of the E GIRLS & design mark in International Class 41 for “[e]ntertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials featuring musical performances, musical videos, related film clips, and photographs of an entertainment nature.”

8. Applicant’s registration of the E GIRLS mark is likely to cause confusion, to cause mistake or to deceive consumers. Applicant’s E GIRLS mark is confusingly similar to E! Entertainment’s E! and E! formative marks. Applicant’s applied for services are the same as or similar to the services offered by E! Entertainment under the E! and E! formative marks.

9. In addition, Applicant’s registration of the E GIRLS mark is likely to dilute the distinctive of E! Entertainment’s E! and E! formative marks.

10. E! Entertainment will suffer damage including irreparable injury to its reputation and goodwill if Applicant is permitted to register the E GIRLS mark.

WHEREFORE, E! Entertainment prays that the opposition be sustained and that the Board refuse Applicant's application to register the E GIRLS mark.

Pursuant to 37 C.F.R. § 2.6(a)(17), please deduct the opposition fee in the sum of \$300.00, from the Lewis and Roca LLP deposit account no. 504882.

Dated: November 1, 2010

Respectfully submitted,

LEWIS AND ROCA LLP

A handwritten signature in blue ink, appearing to read "Michael J. McCue".

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