

ESTTA Tracking number: **ESTTA622312**

Filing date: **08/19/2014**

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	Entrepreneur Media, Inc.
Granted to Date of previous extension	08/24/2014
Address	2445 McCabe Way Irvine, CA 92626 UNITED STATES

Attorney information	Patrick C. Justman Latham & Watkins LLP 12670 High Bluff Drive (027788-0059) San Diego, CA 92130 UNITED STATES ipdocket@lw.com
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### Applicant Information

Application No	86075051	Publication date	02/25/2014
Opposition Filing Date	08/19/2014	Opposition Period Ends	08/24/2014
Applicant	TURN3 CREATIVE, INC. 122 E. FOOTHILL BLVD. STE A #122 ARCADIA, CA 91006 UNITED STATES		

### Goods/Services Affected by Opposition

<p>Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Business education and training services, namely, developing and facilitating customized leadership and executive development programs, providing executive coaching services, and providing business education programs to employees and executives; Business education and training services, namely, developing customized in-company leadership and executive development programs, providing executive coaching services, and providing public and in-company keynote presentations to business leaders; Business training in the field of entrepreneurship, family businesses, and succession planning; Life coaching services in the field of dynamics of family businesses, life-work balance for entrepreneurs; Peer to peer coaching services in the field of entrepreneurship, family businesses, and succession planning; Personal coaching services in the field of entrepreneurship, family businesses, and succession planning; Professional coaching services in the field of entrepreneurship, family businesses, and succession planning</p>
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1453968	Application Date	05/14/1985
Registration Date	08/25/1987	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1983/05/19 First Use In Commerce: 1983/05/19 COMPUTER PROGRAMS AND PROGRAMS USER MANUALS ALL SOLD AS A UNIT</p> <p>Class 016. First use: First Use: 1978/05/02 First Use In Commerce: 1978/05/02 PAPER GOODS AND PRINTED MATTER; NAMELY MAGAZINES, BOOKS AND PUBLISHED REPORTS PERTAINING TO BUSINESS OPPORTUNITIES</p>		

U.S. Registration No.	2263883	Application Date	11/13/1995
Registration Date	07/27/1999	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1992/07/00 First Use In Commerce: 1992/07/00 Advertising and business services, namely, arranging for the promotion of the goods and services of others by means of a global computer network and other computer online services providers; providing business information for the use of customers in the field of starting and operating small businesses and permitting customers to obtain information via a global computer network and other computer online service providers and; web advertising services, namely, providing activelinks to the websites of others</p>		

U.S. Registration No.	2502032	Application Date	11/06/2000
Registration Date	10/30/2001	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1991/10/18 First Use In Commerce: 1991/10/18 Arranging And Conducting Trade Show Exhibitions In The Field Of Entrepreneurial Activities, Namely The Start-Up And Operation Of Small Business Enterprises</p> <p>Class 041. First use: First Use: 1991/10/18 First Use In Commerce: 1991/10/18 Educational Services, Namely, Conducting Seminars On The Development And Operation Of Businesses, And Conducting Work Shops On Computer Technology, Telecommunications, Marketing, Financing Options, Real Estate Management, Tax Planning And Insurance</p>		

U.S. Registration No.	4260948	Application Date	04/25/2012
Registration Date	12/18/2012	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2007/08/00 First Use In Commerce: 2007/08/00 streaming of video and digital material on the Internet		

U.S. Registration No.	4345424	Application Date	04/25/2012
Registration Date	06/04/2013	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2008/06/00 First Use In Commerce: 2008/06/00 downloadable computer software and software for mobile devices for the reproduction, display and distribution of digitized content		

U.S. Registration No.	3519022	Application Date	07/10/2007
Registration Date	10/21/2008	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2002/09/00 First Use In Commerce: 2002/09/00 Downloadable podcasts in the field of business, current events, lifestyle issues, and developments in science and technology</p> <p>Class 035. First use: First Use: 2002/09/00 First Use In Commerce: 2002/09/00 Providing business information and advice via a web site on a global computer network</p> <p>Class 038. First use: First Use: 2002/09/00 First Use In Commerce: 2002/09/00 Broadcasting programs via a global computer network; and streaming of audio and video material via the Internet; telecommunications services, namely, transmission of podcasts</p>		

U.S. Registration No.	3470064	Application Date	07/16/2007
Registration Date	07/22/2008	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR PRESS		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 016. First use: First Use: 1999/04/00 First Use In Commerce: 1999/04/00 Paper goods and printed matter, namely, books, manuals, prepared reports, work books, study guides, legal and business forms, and newsletters concerning advice and information relating to the subjects of starting, running and operating a business, and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public</p> <p>Class 035. First use: First Use: 1999/04/00 First Use In Commerce: 1999/04/00 [ On-line ordering services featuring printed and electronically downloadable publications, namely, books, study guides, legal and business forms, and newsletters, concerning advice and information relating to the subjects of starting, running and operating a business and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public ]</p>

U.S. Registration No.	3204899	Application Date	03/27/2006
Registration Date	02/06/2007	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR'S STARTUPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2006/01/27 First Use In Commerce: 2006/01/27 Paper goods and printed matter; namely, magazines, books, booklets and published reports pertaining to business opportunities</p>		

U.S. Registration No.	4532577	Application Date	08/14/2013
Registration Date	05/20/2014	Foreign Priority Date	NONE
Word Mark	ENTREPRENEUR'S STARTUPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2011/03/08 First Use In Commerce: 2011/03/08 downloadable computer software and software for mobile devices for the reproduction, display, distribution, and sharing of digitized content; downloadable electronic publications, namely, magazines in the fields of business, finance, sales, marketing, current events, lifestyle issues, and developments in science and technology</p>		

U.S. Registration No.	4387158	Application Date	11/15/2012
Registration Date	08/20/2013	Foreign Priority Date	NONE
Word Mark	YOUNG ENTREPRENEUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2007/11/02 First Use In Commerce: 2007/11/02</p>		

	streaming of video and digital material on the Internet
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Attachments	76159837#TMSN.png( bytes ) 85607634#TMSN.png( bytes ) 85607635#TMSN.png( bytes ) 77226387#TMSN.png( bytes ) 76679564#TMSN.png( bytes ) 76657293#TMSN.png( bytes ) 86037794#TMSN.png( bytes ) 85780061#TMSN.png( bytes ) 1829922_1.pdf(56447 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	/Patrick C. Justman/
Name	Patrick C. Justman
Date	08/19/2014



*presentations to business leaders; business training in the field of entrepreneurship, family businesses, and succession planning; life coaching services in the field of dynamics of family businesses, life-work balance for entrepreneurs; peer to peer coaching services in the field of entrepreneurship, family businesses, and succession planning; personal coaching services in the field of entrepreneurship, family businesses, and succession planning; professional coaching services in the field of entrepreneurship, family businesses, and succession planning in Class 41.*

Therefore, in accordance with the provisions of Section 13 of the Trademark Act (15 U.S.C.

§ 1063), EMI hereby opposes the application of Turn3 Creative, Inc. (“Applicant”) for the mark

**ENTREPRENEPOTISM.**

As grounds for the opposition, EMI alleges as follows:

1. EMI owns a family of marks consisting of or incorporating the term ENTREPRENEUR, including all of the following (collectively, the “EMI Marks”):

<b>TRADEMARK</b>	<b>CLASS: GOODS/SERVICES</b>	<b>REG. NUMBER REG. DATE</b>
ENTREPRENEUR	16: Paper goods and printed matter; namely magazines, books and published reports pertaining to business opportunities First Use in Commerce: May 2, 1978	1453968 Aug. 25, 1987
ENTREPRENEUR	35: Advertising and business services, namely, arranging for the promotion of the goods and services of others by means of a global computer network and other computer online services providers; providing business information for the use of customers in the field of starting and operating small businesses and permitting customers to obtain information via a global computer network and other computer online service providers; web advertising services, namely, providing active links to the websites of others First Use in Commerce: July 1992	2263883 July 27, 1999

TRADEMARK	CLASS: GOODS/SERVICES	REG. NUMBER REG. DATE
ENTREPRENEUR	35: Arranging and conducting trade show exhibitions in the field of entrepreneurial activities, namely the start-up and operation of small business enterprises 41: Educational services, namely, conducting seminars on the development and operation of businesses, and conducting work shops on computer technology, telecommunications, marketing, financing options, real estate management, tax planning and insurance First Use in Commerce: October 18, 1991	2502032 Oct. 30, 2001
ENTREPRENEUR	38: Streaming of video and digital material on the Internet First Use in Commerce: August 2007	4260948 Dec. 18, 2012
ENTREPRENEUR	9: Downloadable computer software and software for mobile devices for the reproduction, display and distribution of digitized content First Use in Commerce: June 2008	4345424 June 4, 2013
ENTREPRENEUR.COM	9: Downloadable podcasts in the field of business, current events, lifestyle issues, and developments in science and technology 35: Providing business information and advice via a web site on a global computer network 38: Broadcasting programs via a global computer network; and streamlining of audio and video material via the Internet; telecommunications services, namely, transmission of podcasts First Use in Commerce: September 2002	3519022 Oct. 21, 2008
ENTREPRENEUR PRESS	16: Paper goods and printed matter, namely, books, manuals, prepared reports, work books, study guides, legal and business forms, and newsletters concerning advice and information relating to the subjects of starting, running and operating a business, and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public First Use in Commerce: April 1999	3470064 July 22, 2008
ENTREPRENEUR'S STARTUPS	16: Paper goods and printed matter; namely, magazines, books, booklets and published reports pertaining to business opportunities First Use in Commerce: January 27, 2006	3204899 Feb. 6, 2007
ENTREPRENEUR'S STARTUPS	9: Downloadable computer software and software for mobile devices for the reproduction, display, distribution, and sharing of digitized content; downloadable electronic publications, namely, magazines in the fields of business, finance, sales, marketing, current events, lifestyle issues, and developments in science and technology	4532577 May 20, 2014

<b>TRADEMARK</b>	<b>CLASS: GOODS/SERVICES</b>	<b>REG. NUMBER REG. DATE</b>
YOUNG ENTREPRENEUR	38: Streaming of video and digital material on the Internet	4387158 August 20, 2013

2. EMI's registrations of the EMI Marks are valid, unrevoked, uncancelled, and in full force and effect. EMI's three registrations for ENTREPRENEUR (Nos. 1453968; 2263883; 2502032), one registration for ENTREPRENEUR'S STARTUPS (No. 3204899), and one registration for ENTREPRENEUR PRESS (No. 3470064) are incontestable. EMI owns these registrations and the trademarks and all business and goodwill connected therewith. Two copies of the certificates of registration issued in connection with each trademark registration referenced above, along with status printouts from the U.S. Patent and Trademark Office, are attached as exhibits to this Notice.

3. EMI, and its predecessors in interest, have been and are now engaged in the business of developing, creating, distributing, marketing, advertising, and selling a wide variety of goods and services under the EMI Marks, and in particular under its registered trademark ENTREPRENEUR® (the "ENTREPRENEUR Mark"), including the publication and distribution of magazines and books, conducting seminars and other educational events, providing blogs and online business information, and providing online social networking services. In fact, EMI has been using the ENTREPRENEUR Mark in commerce for over thirty years, having first adopted that mark for magazines at least as early as May 2, 1978.

4. Through careful cultivation of its goods and services provided under the EMI Marks, and in particular the ENTREPRENEUR Mark, EMI has developed an outstanding reputation as an innovator in the field of business start-up and strategy and has established an extremely loyal customer following.

5. EMI has received a tremendous amount of public recognition and acclaim for the products and services provided under its EMI Marks, and in particular under the ENTREPRENEUR Mark. Through EMI's widespread and continuous use of its family of EMI Marks, including the ENTREPRENEUR Mark, these marks have acquired extensive goodwill, have developed a high degree of distinctiveness, and have become famous, well-known and recognized as identifying goods and services that originate from EMI.

6. The U.S. District Court for the Central District of California held that:

- “The extensive advertising and public recognition over the past 25 years have established [the ENTREPRENEUR Mark] as a strong mark in the industry”;
- the ENTREPRENEUR Mark “is a strong distinctive mark, deserving of significant protection”; and
- the ENTREPRENEUR Mark “has acquired secondary meaning.”

*Entrepreneur Media, Inc. v. Smith*, No. 98-3607, 2004 U.S. Dist. Lexis 24078, at \*9-10, 13 (C.D. Cal. June 23, 2004).

7. The Ninth Circuit reviewed the District Court's findings and affirmed them on appeal. *Entrepreneur Media, Inc. v. Smith*, 101 Fed. Appx. 212, 215 (9th Cir. 2004).

8. Moreover, both a Magistrate Judge and District Court Judge in the Eastern District of Virginia found the ENTREPRENEUR Mark to be distinctive. *Entrepreneur Media, Inc. v. seattleentrepreneur.com*, No. 11-00409, Docket No. 22 (E.D. Va. Dec. 6, 2011).

9. Similarly, the U.S. District Court for the District of Maryland has twice recognized the EMI Marks as valid, strong, and distinctive. *Entrepreneur Media, Inc. v. JMD Entertainment Group, LLC, et al*, No. RDB-12-1970, Docket No. 30 (D. Md. July 23, 2013); *Id.* Docket No. 47 (April 7, 2014).

10. Applicant seeks to register **ENTREPRENEPOTISM** for services in Class 41.

11. Applicant's mark is confusingly similar to EMI's previously used and registered ENTREPRENEUR Mark and the EMI Marks, and will be used with identical or closely-related services in Class 41 such that there will be a likelihood of confusion or mistake among consumers as to an affiliation, connection, or association between EMI and Applicant, or as to the origin, sponsorship, or approval of Applicant's services, all to the damage of EMI.

12. EMI would be damaged, and its superior rights violated, by the registration of Applicant's mark if granted, in that this registration would: (i) support and assist Applicant in the confusing, misleading, and deceptive use of Applicant's mark; and (ii) give Applicant statutory rights and protections to which Applicant is not entitled.

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

Please recognize the following as attorneys for EMI:

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Please address all communications to Patrick C. Justman of Latham & Watkins LLP.

Dated: August 19, 2014

Respectfully submitted,  
LATHAM & WATKINS LLP



By: \_\_\_\_\_

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Attorneys for Opposer  
Entrepreneur Media, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on August 19, 2014, by mailing said copy on August 19, 2014 via First Class Mail, postage prepaid to:

Turn3 Creative, Inc.  
122 E. Foothill Blvd. Ste A #122  
Arcadia, CA 91006



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Patrick C. Justman