

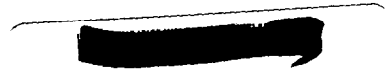
TTAB

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

03 OCT 15 PM 9:30  
TRADEMARK TRIAL AND  
APPEAL BOARD

Esprit IP Limited, )  
)  
Opposer )  
)  
v. )  
)  
Evolution International, LLC )  
)  
Applicant. )  
)  
\_\_\_\_\_ )

Serial No. 75/852,382  
Opposition No. \_\_\_\_\_



09-30-2002  
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #70

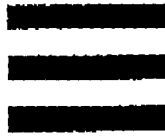
NOTICE OF OPPOSITION

Opposer Esprit IP Limited, a British Virgin Islands corporation with its principal place of business at P.O. Box 957, Offshore Incorporations Centre, Road Town, Tortola, British Virgin Islands ("Esprit"), believes it will be damaged by registration of the application filed by Evolution International LLC, a California limited liability company, with its principal place of business at P.O. Box 2810, Del Mar, CA 92014 ("Applicant"). Esprit therefore opposes registration of this application, the particulars of which are set for below:

Serial No.: 75/852,382

Mark:

10/10/2002 TSMITH 00000087 501649 75852382  
01 FC:377 300.00 CH



Goods: Surfboards and surfboard accessories, namely surfboard leashes, surfboard nose protectors, surfboard decks, surfboard fins, surfboard wax and surfboard equipment bags.

Basis: Intent to use  
Filing Date: November 19, 1999  
Publication Date: May 28, 2002

As ground for its opposition, Esprit alleges as follows:

1. Esprit and its related companies manufacture, distribute and sell throughout the world the well known ESPRIT brand of clothing, shoes, bags, swimwear, athletic wear, athletic shoes, sunglasses and other accessories. ESPRIT products are sold throughout the United States.

2. The quintessential ESPRIT "look" represents youth, energy and vitality. Demonstrating this are printouts from the ESPRIT.COM website, which are attached hereto as Exhibit A. The website shows various images of young people "hanging out" on the beach and wearing swim wear and athletic wear.

3. Esprit owns numerous incontestable registrations for its ESPRIT logo. The ESPRIT logo and the U.S. registrations therefor are set forth below:

**ESPRIT**

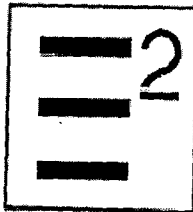
Reg. Nos.: 775408, 1244392, 1287788, 1332184, 1349133, 1351743, 1401275, 1408003,  
1480804, 1481649, 1485327, 1524372, 1532974, 1673462, 1898850, and  
2598201.

4. Esprit (partly through its predecessor in title) uses the E in the ESPRIT logo as a separate trademark to signify the ESPRIT brand. Esprit's "triple bar E" logo is depicted below:



5. Esprit owns an incontestable registration for its triple bar E logo, which is registered for apparel under Reg. No. 1190078.

6. Esprit also owns a pending intent to use application, Serial No. 75/435730, for its "E squared" logo, which covers a wide variety of bags, footwear and other accessories and is depicted below:

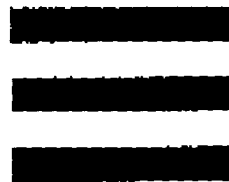


Having a February 17, 1998 filing date, Esprit's E squared logo has priority over Applicant's E logo.

7. The mark represented in the subject application is virtually identical to Esprit's triple bar E logo:



ESPRIT LOGO



EVOLUTION LOGO

8. Registration of Applicant's E logo is going to cause confusion because consumers are likely to think that the surfboards and other accessories sold under the E logo are manufactured by or under the authorization of Esprit, especially since it is common for the same company to sell sporting goods and equipment as well as clothing under the same mark. In addition, many of Esprit's products are intended for use at the beach.

9. Both the triple bar E and ESPRIT logos are famous. Registration of a mark virtually identical to Esprit's triple bar E logo will dilute both the triple bar E and ESPRIT logos owned by Esprit.

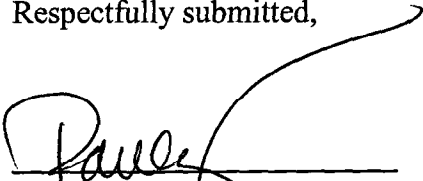
10. Registration of Applicant's E logo therefore is likely to cause confusion or mistake with Esprit's triple bar E, E squared and ESPRIT logos or to deceive, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 10452(d), and will dilute Esprit's triple bar E and ESPRIT logos, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c). The grant of a registration to Applicant for its E (stylized) mark would create statutory rights in Applicant in violation and derogation of the established prior rights of Esprit, and would result in detriment and great damage to Esprit.

WHEREFORE, Esprit prays that application Serial No. 75/852382 for the mark E (stylized) be rejected, no registration thereof be issued to Applicant and this opposition be sustained in favor of Esprit.

A duplicate copy of this notice of opposition is enclosed, and the statutory filing fee of \$300 should be charged to our Deposit Account No. 501-649.

Respectfully submitted,

Dated: 9/25/02

  
\_\_\_\_\_  
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One Prudential Plaza  
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Chicago, IL 60601  
(312) 861-8000

CHIDOC01:346789.1  
DRAFT 09/25/02

I hereby certify that this correspondence is  
being deposited with the U.S. Postal Service  
as first class mail in an envelope addressed to:  
Assistant Commissioner for Trademarks  
2000 Crystal Drive Arlington, VA 22202

On 9/25/02  
\_\_\_\_\_  
PAULA J. KRASNY  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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collection  
sports  
junior  
kids  
bodywear  
timewear  
eyewear  
jewel  
home  
bath+bed



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# ESPRIT



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shops

career openings

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ESPRIT



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ESPRIMO



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timewear  
eyewear  
jewel  
home  
bath+bed



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# ESPRIT

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timewear  
eyewear  
jewel  
home  
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# SPORT



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# ESPRIT

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eyewear  
jewel  
home  
books



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SPORT

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jewel  
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store locator

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