

ESTTA Tracking number: **ESTTA19232**

Filing date: **11/14/2004**

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	Starz Entertainment Group LLC
Granted to Date of previous extension	11/14/2004
Address	8900 Liberty Circle Englewood, CO 80112 UNITED STATES
Party who filed Extension of time to oppose	Starz Encore Group LLC
Relationship to party who filed Extension of time to oppose	In October 2004, Starz Encore Group LLC changed its name to Starz Entertainment Group LLC.

Attorney information	Leslie H. Smith Liacouras & Smith, LLP 1515 Market Street, 9th Floor Philadelphia, PA 19102 UNITED STATES lsmith@liacouraslaw.com
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Applicant Information

Application No	76064970	Publication date	05/18/2004
Opposition Filing Date	11/14/2004	Opposition Period Ends	11/14/2004
Applicant	STARCUT OY UNIONKATU 3 C 16 FIN-00130 HELSINKI, FINLAND		

Goods/Services Affected by Opposition

Class 041.

All goods and services in the class are opposed, namely: ENTERTAINMENT SERVICES RELATED TO FILM, TELEVISION, WIRELESS APPLICATIONS AND THE INTERNET, NAMELY, PROVIDING ENTERTAINMENT NEWS, EDITORIALS, TRAILERS, MOVIES, VIDEO CLIPS, AUDIO CLIPS, MULTIMEDIA MESSAGES AND GAMES VIA THE INTERNET AND WIRELESS TRANSMISSION

Attachments	STARCUT Notice of Opposition Pg 1.TIF (1 page) STARCUT Notice of Opposition Pg 2.TIF (1 page) STARCUT Notice of Opposition Pg 3.TIF (1 page) STARCUT Notice of Opposition Pg 4.TIF (1 page)
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Signature	/Leslie H. Smith/
Name	Leslie H. Smith
Date	11/14/2004

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

In the Matter of Application No. 76/064,970
Published in the Official Gazette on May 18, 2004

Starz Entertainment Group LLC,	:	
	:	
Opposer,	:	Opposition No.
	:	
v.	:	
	:	
Starcut Oy,	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION

Opposer Starz Entertainment Group LLC (formerly Starz Encore Group LLC) (“Starz”), a limited liability company organized and existing under the laws of the state of Colorado, and having a principal place of business at 8900 Liberty Circle, Englewood, Colorado 80112, believes that it will be damaged by registration of the STARCUT mark, shown in the above-identified application Serial No. 76/064,970 (the “Application”), filed by Applicant Starcut, and hereby opposes registration of said Application in International Class 41.

As grounds of its opposition, Starz alleges the following:

1. Starz is engaged in the business of providing premium subscription video broadcasting, programming, and production services throughout the United States, via cable, satellite, and internet platforms.
2. Starz’s cable and satellite television broadcasting and programming services are rendered under Starz’s family of STARZ marks, which includes the following marks for which federal registration has been obtained:

a. STARZ!®, Reg. No. 2,080,515;

b. STARZ! (and design)®, Reg. No. 2,651,265;

c. STARZ! CINEMATHEQUE®, Reg. No. 2,000,191;

d. STARZ! CINEMA®, Reg. No. 2,623,610;

e. STARZ! THEATER®, Reg. No. 2,420,043;

f. STARZ! ON DEMAND®, Reg. No. 2,456,291;

STARZ!®, STARZ! (and design)®, STARZ! CINEMATHEQUE®, and STARZ! CINEMA®,

STARZ! THEATER®, and STARZ! ON DEMAND® are each registered in International Class

38, for services described as “cable and satellite television broadcasting,” and in International

Class 41, for services described as “entertainment services in the nature of cable and satellite

television programming.” All of these registrations are valid and subsisting, and provide prima

facie evidence of Starz’s exclusive right to use these marks in commerce.

3. Starz’s use in commerce of its STARZ! mark commenced at least as early as October, 1993; Starz’s use in commerce of its STARZ! (and design) mark commenced at least as early as January 1994; Starz’s use in commerce of its STARZ! CINEMATHEQUE mark commenced at least as early as March 1, 1996; Starz’s use in commerce of its STARZ! CINEMA mark commenced at least as early as May 1999; Starz’s use in commerce of its STARZ! THEATER mark commenced at least as early as June 1999, with a constructive first use date of April 30, 1999; Starz’s use in commerce of its STARZ! ON DEMAND mark commenced at least as early as November 2000, with a constructive first use date of August 19, 1999. Starz’s use of these marks has been valid and continuous since the respective commencements of such use.

Starz’s family of STARZ marks, including both registered and common law marks, are referred to collectively hereinafter as the “STARZ marks.”

4. Starz has acquired valuable goodwill and consumer recognition in its STARZ marks through years of extensive use, advertising, and promotion.

5. On June 6, 2000, Applicant filed an application for registration of STARCUT, Serial No. 76,064,970, under Section 44(d), based on its European Community Trademark Application filed in April 2000, for STARCUT, for use in connection with, among other things, "entertainment services related to film, television, wireless applications and the internet, namely, providing entertainment news, editorials, trailers, movies, video clips, audio clips, multimedia messages and games via the internet and wireless transmission," in International Class 41.

6. Because Starz's priority dates for its STARZ marks all predate Applicant's priority date for the STARCUT mark that is the subject of the Application, Starz has priority of use.

7. A likelihood of confusion, mistake, and/or deception exists between Applicant's STARCUT mark and Starz's STARZ marks, in view of the similarity of the marks in sight, sound, appearance and overall commercial impression, as well as the fact that the services either directly overlap or are closely related.

8. Applicant's STARCUT mark so resemble Starz's STARZ marks that persons familiar with Starz's services are likely to believe erroneously that Applicant's services are provided or sponsored by, affiliated, associated, or in some way connected with, Starz.

9. Applicant's marks so resemble Starz's STARZ marks that use of Applicant's mark will dilute the goodwill associated with Starz's services.

10. Registration of Applicant's mark is likely to impair the uniqueness and diminish the strength of Starz's STARZ marks.

WHEREFORE, Starz requests that Trademark Application Serial No.

No. 76064970 be refused, that no registration be issued thereon to Starcut Oy, and that

this Opposition be sustained in favor of Starz.

The required filing fee of \$300.00 is enclosed.

Respectfully Submitted,

Dated: November 14, 2004

/Leslie H. Smith/_____
Leslie H. Smith
Gregory L. Liacouras

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Attorneys for Opposer Starz

Entertainment

Group LLC