

ESTTA Tracking number: **ESTTA107616**

Filing date: **11/02/2006**

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	Experience Hendrix, L.L.C.		
Entity	Limited Liability Company	Citizenship	Washington
Address	14501 Interurban Avenue South Seattle, WA 98168 UNITED STATES		

Attorney information	Karen Wetherell Davis Elliott, Ostrander & Preston, P.C. 707 SW Washington Street Suite 1500 Portland, OR 97205 UNITED STATES karen@eoplaw.com, bill@eoplaw.com Phone:(503) 224-7112		
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Applicant Information

Application No	78643694	Publication date	10/03/2006
Opposition Filing Date	11/02/2006	Opposition Period Ends	11/02/2006
Applicant	Electric Ladyland, L.L.C. #100 15435 N. Scottsdale Road Scottsdale, AZ 85254 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 014. First Use: 2002/10/25 First Use In Commerce: 2002/10/25 All goods and services in the class are opposed, namely: Jewelry, namely, belt buckles of precious metal, bonnet pins of precious metal, bracelets, brooches, charms, chokers, clip earrings, costume jewelry, cufflinks, diamonds, ear clips, ear studs, earrings, hat ornaments of precious metal, identification bracelets, jewelry chains, jewelry pendants, jewelry watches, key chains of precious metal, lapel pins, neck chains, necklaces, pet jewelry, rings, tiaras, watch bands, and watches</p>
<p>Class 018. First Use: 2002/10/25 First Use In Commerce: 2002/10/25 All goods and services in the class are opposed, namely: Leather and travel goods, namely, all purpose sport, athletic and carrying bags, backpacks, baby carrying bags, beach bags, book bags, briefcases, business card cases, business cases, calling card cases, carryalls, carry-on bags, charm bags, clothing for animals, cosmetic bags sold empty, diaper bags, duffle bags, fur, fanny packs, handbags, gym bags, imitation leather bags, wallets, purses, overnight bags, pet collar accessories, namely, bows and charms, tote bags, traveling bags, and umbrellas</p>
<p>Class 025. First Use: 2002/10/25 First Use In Commerce: 2002/10/25 All goods and services in the class are opposed, namely: Clothing and clothing accessories, namely, blouses, shirts, underwear, t-shirts, sweatsuits, dresses, hosiery, shoes, hats, and belts</p>

Attachments	Notice of Opposition.pdf (5 pages)(123971 bytes)
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	Exhibit A to Notice of Opposition.pdf (1 page)(91253 bytes) Exhibit B to Notice of Opposition.pdf (2 pages)(234037 bytes)
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Signature	/Karen Wetherell Davis/
Name	Karen Wetherell Davis
Date	11/02/2006

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

EXPERIENCE HENDRIX, L.L.C.

Opposer,

v.

ELECTRIC LADYLAND, L.L.C.,

Applicant.

Opposition No.: _____

In re Application Serial No. 78/643,694

Filed: June 3, 2005

Mark: ELECTRIC LADYLAND

Published: October 3, 2006

NOTICE OF OPPOSITION

STANDING

Experience Hendrix, L.L.C., a Washington limited liability company with a principal place of business at 14501 Interurban Avenue South, Seattle, Washington 98168, U.S.A.

(“Opposer”), believes that it will be damaged by registration of the mark in the above identified application (the “Application”) and hereby opposes same. Opposer claims standing under 15 U.S.C. § 1063.

Opposer was established by the father and sole heir of the estate of Jimi Hendrix, and is owned and operated by family members of Jimi Hendrix. Opposer owns trademark rights related to the late Jimi Hendrix, including numerous US and foreign registered trademarks, and has made application for registration of various marks related to Jimi Hendrix’s legacy and music, including the mark “ELECTRIC LADYLAND” (the “Mark”), based on Opposer’s prior and continuous use of the Mark.

GROUNDS

As grounds for opposition, it is alleged that:

(Likelihood of Confusion, 15 U.S.C. § 1052(d))

1. Applicant seeks to register a mark that was first coined by Jimi Hendrix, in 1968, when he wrote and recorded a song entitled “Electric Ladyland” and included the song on an album entitled *ELECTRIC LADYLAND*. Both the song and the album continue to be of worldwide renown. The song and the album are sold and licensed throughout the world by Opposer and are two of Jimi Hendrix’s most famous works. The album has been certified as double platinum by the Recording Industry Association of America. The album has been released over 100 times in various media throughout the world under the Mark.
2. Opposer further sells items of merchandise under the Mark, including without limitation printed materials, key chains, plaques, and boxes. Opposer sells these goods through its own catalog and website sales, and licensee sales to retailers.
3. Since at least as early as 1968, Opposer (including its predecessors in interest) has been, and is now, using the mark “ELECTRIC LADYLAND” in connection with the sale of goods. Opposer’s use has been valid and continuous, and has not been abandoned. The Mark is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer has filed numerous applications for registration of the Mark with the United States Patent and Trademark Office (Serial Nos. 77/010,863; 77/011,673; 77/011,650; 77/011,655; 77/011,653; 77/011,675; 77/010,830; 77/011,677).

4. Opposer owns and enjoys common law trademark rights in the Mark “ELECTRIC LADYLAND,” throughout the United States and worldwide. These rights are prior to and superior to any rights that Applicant may claim in and to the same or similar mark.

5. Applicant has applied to register the identical Mark as that owned by Opposer, for numerous goods including the following: jewelry, key chains, bags, and clothing. Applicant’s goods and services are similar to the goods provided by Opposer under the Mark, are sold through retail stores and a website, and are likely to be purchased by the same class of purchasers and enter the same channels of trade as Opposer’s goods. In view of the fact that Applicant proposes to register a mark identical to Opposer’s Mark, and the related nature of the goods and services and channels of trade and class of purchasers, it is alleged that Applicant’s mark so resembles Opposer’s Mark as to be likely to cause confusion, or to cause mistake or to deceive. Applicant’s specimen of use enclosed with its application, with its distinctive styling and font, is likely to further cause confusion, or to cause mistake or to deceive. Compare Exhibit A (Applicant’s specimen of use) with Exhibit B (Opposer’s specimen of use since 1968).

6. If Applicant is granted the registration herein opposed, it would thereby obtain at least *prima facie* exclusive right to the use of its Mark, and such registration would damage Opposer.

(False Designation of Origin/False Connection, 15 U.S.C. § 1052(a))

7. Opposer realleges paragraphs 1 through 6, as set forth above.

8. In view of the identical marks used and sought to be registered by Opposer and Applicant, and the similarity of the uses thereof, which are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant’s goods, services, or commercial

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