

TRADEMARK
3229-N0118A ASC/MJS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**VARSITY SPIRIT CORPORATION;
VARSITY SPIRIT FASHIONS &
SUPPLIES, INC.,**

Opposers,

V.

HEADMASTER, INC.,

Applicant.

Opposition No. _____

1970 1980 1990 2000 2010 2020

03-26-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt #22

**Assistant Commissioner for
Trademarks
BOX TTAB WITH FEE
2900 Crystal Drive
Arlington, VA 22202-3513**

NOTICE OF OPPOSITION

In the matter of trademark application Serial No. 78/198,716, filed December 30, 2002 and published for opposition in the Official Gazette of September 30, 2003:

Certification of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Box TTAB WITH FEE, Assistant Commissioner of Trademarks; 2900 Crystal Drive; Arlington, VA 22202-3513.

March 24, 2004

Barbara North

03/29/2004 JBR000S1 00000034 78198716

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600.00 00

Adjustment date: 04/14/2004 EPINA1
03/29/2004 JBR00KS1 00000034 78198716
01 FC:6402 -600

-600.00 00

04/14/2004 EPINR1 00000017 78198717

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Opposers, Varsity Spirit Corporation, a Tennessee corporation having a business address of 6745 Lenox Center Court, Suite 500, Memphis, TN 38115; and Varsity Spirit Fashions & Supplies, Inc., a Minnesota corporation having a business address of 6745 Lenox Center Court, Suite 500, Memphis, TN 38115 (hereinafter "Varsity" or "Opposers") believe that they will be damaged by and hereby oppose the registration of said trademark. The grounds for opposition are as follows:

1. Applicant Headmaster, Inc. (hereinafter "Applicant") seeks to register "V VARSITY LEGENDS BY HEADMASTER, INC. & Design" as a trademark for use with respect to "clothing and headwear, namely, caps, hats and jerseys" in Class 25, based upon Applicant's intent-to-use the mark in commerce.

2. Opposers are and have for many years been engaged in the business of offering goods and services under the trade name "Varsity."

3. Opposers have used, since at least as early as April 10, 1978, and continue to use in commerce, the mark "VARSITY" for numerous products and services.

4. Long before Applicant's application filing date, Opposers have used the mark "VARSITY," in particular with regard to clothing and headwear.

5. One or more of Opposers are the owners of the following trademark registrations in the United States:

MARK	REG. NO.	DATE	GOODS/SERVICES
JUNIOR VARSITY SPIRIT FASHIONS	1,575,830	01/02/90	Mail order catalog services in the field of cheerleader uniforms for younger age groups
VARSITY SPIRIT FASHIONS	1,680,452	03/24/92	Men's and women's cheerleader and dance team clothing; namely, skirts, sweaters, tops, pants, shoes
V VARSITY DANCE	1,752,630	02/16/93	Pompon squad, dance team, and drill team uniforms
V VARSITY DANCE	2,374,734	8/8/00	Pom pom squad, dance team and drill team uniforms; outfits, namely, pants, gloves, dresses, unitards, vests, leotards, hats, skirts,

			tops, shirts, jackets and caps
VARSITY SPIRIT CORPORATION	1,796,645	10/05/93	Conducting cheerleading, dance teams and gymnastics training camps, clinics, seminars, workshops, competitions, championships and tournaments; performing cheerleading at bowl games; private gymnastics, cheerleader and dance team coaching; clothing; namely, cheerleader and dance team uniforms with pom-poms, gloves, vests, tops, shirts, skirts, jumpers, warm-up suits, pants, sweaters, shoes, socks, sweatshirts, T-shirts, shorts, sweat pants, tights, leotards, unitards, dresses and jackets
VARSITY SPORT	2,293,083	11/16/99	Athletic wear, namely, sports shirts, sports shorts, gloves, vests, tops, skirts, jumpers, warm-up suits, pants, sweaters, athletic shoes, sweatshirts, T-shirts, athletic shorts, sweat-pants, tights, leotards, unitards, dresses, and jackets
V VARSITY DANCE	2,374,734	08/08/00	Pompon squad, dance team and drill team uniforms; outfits, namely, pants, gloves, dresses, unitards, vests, leotards, hats, skirts, tops, shirts, jackets and caps
V VARSITY	2,357,303	06/13/00	Cheerleader uniforms, drill team uniforms and pompon squad uniforms
VARSITY	2,526,564	01/08/02	Athletic shirts, athletic shorts, athletic tops, body suits, dresses, hats, jackets, jerseys, jumpers, leotards, pants, skirts, sweaters, sweat pants, sweat shirts, T-shirts, unitards, and warm-up suits sold to colleges, high schools and school-affiliated teams, clubs, groups and individuals by direct sales through sales representatives or employees of applicant, through mail order catalog services or through campus book stores or other retail outlets located at colleges and high schools; uniforms for cheerleaders, drill teams, pompon squads, pep squads, mascots, bands and booster clubs

6. One or more of Opposers are the owners of the following pending trademark applications in the United States:

MARK	Ser. No.	FILED	GOODS/SERVICES
VARSITY SPORT	75/976,804	12/20/96	Providing instruction and training in the fields of dance, cheerleading and sports, namely, karate, football, basketball, soccer, volleyball, softball, baseball, gymnastics and tumbling
VARSITY.COM	75/791,750	09/01/99	Cosmetics, namely, lipstick, lip liner, face powder, blush, mascara, eyeliner, eyebrow pencil, & eye shadow; pre-recorded videotapes & compact discs containing music; jewelry; magazines, books; bags, namely, school bags, tote bags, handbags, beach bags, duffel bags, all-purpose sports bags; home furnishings, namely, sofas, chairs, bedroom furniture collectibles; video game tape cassettes; athletic equipment, namely, free weights, dumb bells, exercise gear, balls, bats, helmets, cleats; toys; games, namely, board games, video games, puzzles; candy; live flowers, cut flowers, dried flowers, dried flower arrangements, live flower arrangements, live flower wreaths; online retail store services for the sale of cosmetics, pre-recorded videotapes & compact discs, software, school supplies, jewelry, magazines, books, school bags, tote bags, handbags, beach bags, duffel bags, all-purpose sports bags, home furnishings, collectibles, shoes, athletic uniforms, video game tape cassettes, athletic equipment, toys and games, candy, live flowers, cut flowers, dried flower arrangements, live flower arrangements and live flower wreaths; travel services; travel guide services; camps, namely, children's camps, cheerleading camps, & soccer camps; providing multiple user access to a global computer information network for the transfer & dissemination of a wide range of information with respect to topics of interest to teenage girls; providing information about goods & services via a computer network with respect to topics of interest to teenage girls
VARSITY	75/791,751	09/01/99	Cosmetics, namely, lipstick, lip liner, face powder, blush, mascara, eyeliner, eyebrow pencil, & eye shadow; pre-recorded videotapes & compact discs containing music; jewelry; magazines, books; bags, namely, school bags, tote bags, handbags, beach bags, duffel bags, all-purpose sports bags; home furnishings,

			namely, sofas, chairs, bedroom furniture collectibles; video game tape cassettes; athletic equipment, namely, free weights, dumb bells, exercise gear, balls, bats, helmets, cleats; toys; games, namely, board games, video games, puzzles; candy; live flowers, cut flowers, dried flowers, dried flower arrangements, live flower arrangements, live flower wreaths; online retail store services for the sale of cosmetics, pre-recorded videotapes & compact discs, software, school supplies, jewelry, magazines, books, school bags, tote bags, handbags, beach bags, duffel bags, all-purpose sports bags, home furnishings, collectibles, shoes, athletic uniforms, video game tape cassettes, athletic equipment, toys and games, candy, live flowers, cut flowers, dried flower arrangements, live flower arrangements and live flower wreaths; travel services; travel guide services; camps, namely, children's camps, cheerleading camps, & soccer camps; providing multiple user access to a global computer information network for the transfer & dissemination of a wide range of information with respect to topics of interest to teenage girls; providing information about goods & services via a computer network with respect to topics of interest to teenage girls
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Opposers' trade name, common-law trademarks, trademark applications and trademark registrations are referred to hereinafter as the "VARSITY Family of Marks."

7. By virtue of Opposers' extensive use in commerce of the mark VARSITY in the United States, the relevant trade and public have come to associate goods and services bearing its VARSITY Family of Marks with Opposers.

8. Opposers' first use and/or registration of its VARSITY Family of Marks in connection with goods and services predates Applicant's filing date set forth in its application to register "V VARSITY LEGENDS BY HEADMASTER, INC. & Design" herein opposed.

9. The proposed goods of Applicant and the goods of Opposers, offered under the trademark "Varsity" are identical and/or substantially similar and/or related. Annexed as Exhibit A are copies of photographs of goods identical to those in Applicant's application being offered for sale in Opposer Varsity Spirit Fashion's 2002 catalogue.

10. Applicant's "V VARSITY LEGENDS BY HEADMASTER, INC. & Design" mark, as applied to the goods set forth in the application herein opposed, so resembles Opposers' VARSITY Family of Marks that it is likely to cause confusion, mistake and/or deception.

11. If Applicant is permitted to register "V VARSITY LEGENDS BY HEADMASTER, INC. & Design" for the goods set forth in the application, confusion of the trade and public is likely to result, such confusion resulting in damage and injury to Opposers.

12. Purchasers and potential purchasers, upon seeing Applicant's "V VARSITY LEGENDS BY HEADMASTER, INC. & Design" mark used in connection with its goods are likely to believe, in error, that such goods are offered in association or affiliation with or under license from Opposers.

13. If Applicant is permitted to register its mark for the goods set forth in the application herein opposed, confusion of the relevant trade and public resulting in damage and injury to Opposers would be likely to result. Any persons familiar with the goods of Opposers would be likely to assume that Applicant's goods are sponsored by or produced under license from or otherwise affiliated with Opposers. Furthermore, any objection to or fault found with Applicant's goods provided under its mark would necessarily reflect on and seriously injure the reputation that Opposers have established for its services and products sold under its VARSITY Family of Marks.

14. If Applicant were granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposers.

WHEREFORE, Opposers pray that registration of the mark of application No. 78/198,717 be refused and that this opposition be sustained.

A duplicate copy of this Notice of this Opposition is enclosed herewith.

The filing fee of \$600.00 is enclosed herewith and any additional fees or deficiencies deemed to be due and owing in connection with this opposition may be charged to Deposit Account No. 19-4516 and any overpayment may be credited thereto.

Respectfully submitted,

VARSITY SPIRIT CORPORATION
VARSITY SPIRIT FASHIONS & SUPPLIES, INC.

Date: March 24, 2004

By:



Arlana S. Cohen, Esquire

Mark J. Speciner, Esquire

ST. ONGE STEWARD JOHNSTON & REENS LLC

986 Bedford Street

Stamford, CT 06905

(203) 324-6155

Attorneys for Opposers

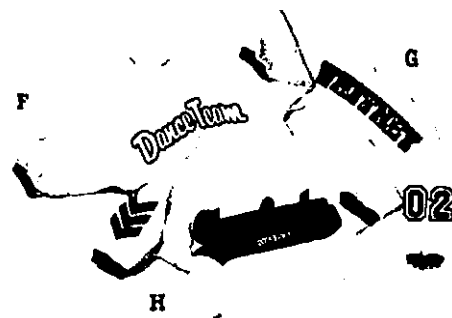
UNIVERSITY

uniforms for cheer, dance, camp and youth!

Exh
A

FREE

AGLE



JERSEY DAY



183

LG

FRENCH TERRY



FRATERNITY JERSEY

White with contrasting cuffs in Black, Bright Gold, Kelly, Maroon, Navy, Purple, Royal, Scarlet, or White. S-2XL. Choose from the following:

F. FRAT JERSEY

FRXSL \$21.95

Jersey with 3" stock word: "Cheerleader", "Dance Team", "Drill Team".

No minimum. Lettering shown: (TTPTSTK-3). Main and 3rd colors always White, select 2nd color. Available Not Shown: (TTPT2000) Select one color for main/3rd color. 2nd color always White.

G. FRAT JERSEY

FRXCL \$29.95

Jersey with one or two letters and any word across banner. MINIMUM ORDER: 12. Lettering shown: (TTPTLBS-3) 8" letter. Additional lettering on back/sleeve (not included in price): (TTNU-3) 3" year date, (TTFBL-3) 2" letters.

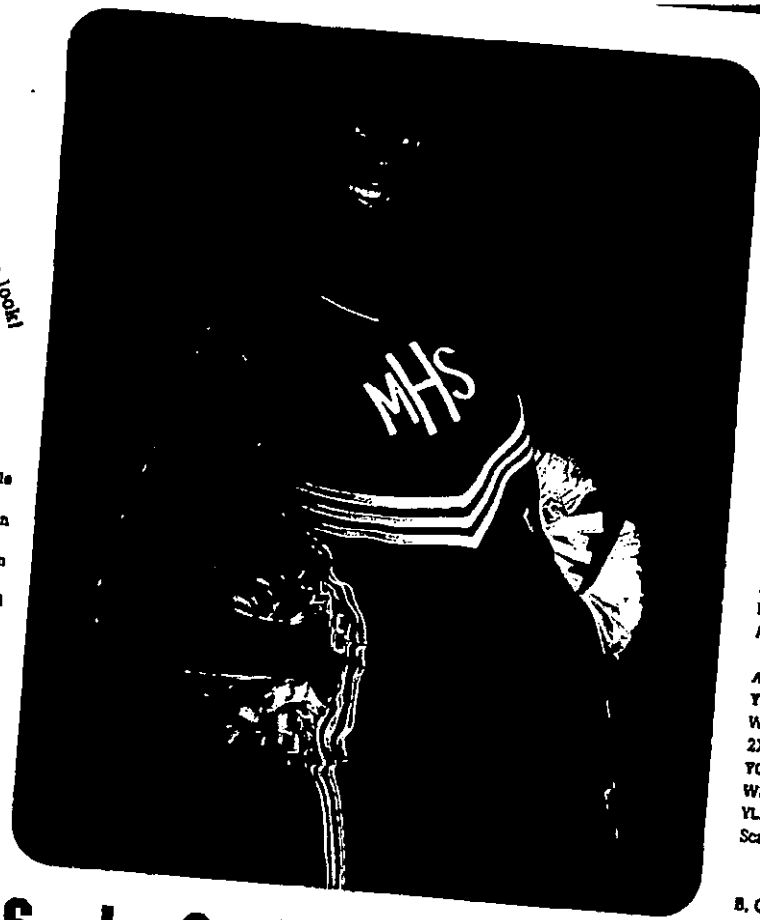
H. FRAT JERSEY

FRX \$19.95

Jersey only. Lettering shown (not included in price): (TTSWTL-2) 3" word, (TTCHV-2) 3" chevrons. Monogram shown: (MNB-1) 1" letters.

ect classic camp look!

available
in
maroon
royal
scarlet
purple
black



A. SHELL TOP
WS-880Q \$40.95
XS-2XL. Black, Maroon,
Purple, Royal or Scarlet.
All with White striping.
Monogram shown:
(MN2001) 4" letters.
SHORT WSH100 \$15.95
2XS-2XL. Polyester
with elastic waist. Black,
Bright Gold, Columbia
Blue, Dark Green, Kelly,
Maroon, Navy, Orange,
Purple, Royal and Scarlet.
All with White striping.

Available Not Shown:
YOUTH SHELL TOP
WS-880QY \$40.95
2XS.
YOUTH SHORT
WSH10QY \$15.95
YL. Black, Royal, and
Scarlet.

B. C. CAP SLEEVE TOP
C500 \$14.95
S-XL. White with Black,
Maroon, Navy, Purple,
Royal, or Scarlet stripes.
B. Lettering shown:
(TTPTSWS-3) 3" word.
SHORT H850 \$20.95
XS-XL.
C. Lettering shown:
(TTPT2000) 3" word.
SHORT SH00 \$12.95
XS-XL.

*For Short and Skirt colors
and sizes, see p. 33.*

CHEER VISOR VC02 \$7.95
Black, Royal, or Scarlet.
DANCE VISOR VD02 \$7.95
Black only.



S S I C M O V E S



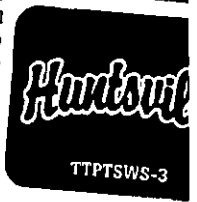
SPECIAL CAMP LETTERING

*Special lettering to add
favorite campwear*

TTPTSW-3 \$11.95
Arch script printed twill
mascot name. Choose
any school colors up to
3. Minimum order 12.



TTPTSWS-3 \$14.95
Arch script printed twill
school name. Choose
any school colors up to
3. Minimum order 12.



TTPTSTK-3 \$8.95
Arch script printed
twill word. Choose
Cheerleader, Dance
Team, or Drill Team.
Main and 3rd colors
always White. Choose
any school color
for 2nd color.



TTPT2000 \$9.95
Arch script printed
twill word. Choose
Cheerleader, Dance
Team, or Drill Team.
2nd color always White.
Choose any school color
for both main and
3rd colors.



TT97CW \$9.95
Two color tackle twill
initials. Center letter 3",
side letters 2".



MN107BL \$16.95
2" two color initials
with 1" word. Choose
up to 4 initials and up
to 9 characters for word.
Minimum order 2.
Main color=initials;
2nd color=shadow
of initials;
3rd color=word.



TTPTBT-3 \$14.95
Bow tie printed twill
word. Choose any
school colors up to 3.
Minimum order 12.



MN107BL \$16.95
Select Cheer or Dance.
Choose 3 colors.
Minimum order 2.

*Additional lettering
styles on pp. 186-190.*

