

TTAB

**IN THE UNITED STATES DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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

Opposers, )

vs. )

HEADMASTER, INC. )

Applicant. )



05-28-2004

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #78

**OPPOSITION PROCEEDING NO. 91160147**

Assistant Commissioner for Trademarks  
BOX TTAB  
2900 Crystal Drive  
Arlington, VA 22202-3514

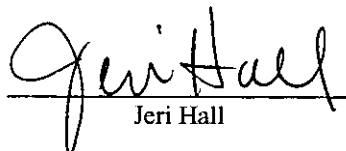
**APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION**

In response to the Notice of Opposition ("Notice") issued by the Board on April 15, 2004, the applicant, Headmaster, Inc. ("Applicant") hereby answers the opposition initiated by Varsity Spirit Corporation and Varsity Spirit Fashions & Supplies, Inc. (collectively "Opposers") follows:

---

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on May 25, 2004.

  
Jeri Hall

1. The averments of paragraph 1 are admitted.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 2, and based thereon denies each and every such averment.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 3, and based thereon denies each and every such averment.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 4, and based thereon denies each and every such averment.
5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 5, and based thereon denies each and every such averment.
6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 6, and based thereon denies each and every such averment.
7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 7, and based thereon denies each and every such averment.
8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 8, and based thereon denies each and every such averment.
9. Applicant is without knowledge or information sufficient to form a belief as to

the truth of the averments set forth in paragraph 9, and based thereon denies each and every such averment.

10. The averments of paragraph 10 are denied.

11. The averments of paragraph 11 are denied.

12. The averments of paragraph 12 are denied.

13. The averments of paragraph 13 are denied.

14. In answer to the averments of paragraph 14, Applicant admits that if it were granted a registration for its mark being opposed in this matter, that it would obtain a *prima facie* exclusive right to use the mark, but denies that such registration would be a source of damage and injury to Opposers.

#### **AFFIRMATIVE DEFENSES**

In further response to the Notice, Applicant asserts that:

15. Opposer has failed to allege grounds sufficient to establish its standing to maintain the present Opposition.

16. Opposer's goods and Applicant's goods are not sold in the same market or to the same group of consumers.

17. Applicant's mark clearly identifies Applicant as the source of goods relating to the mark.

18. The term "Varsity" is a generic term.

19. The term "Varsity" is merely a descriptive term.

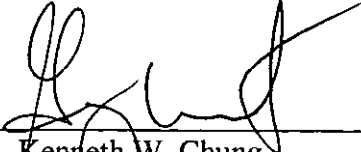
20. Numerous other third parties have trademark registrations and/or pending applications that incorporate the term "Varsity" into their mark.

**RELIEF REQUESTED**

WHEREFORE, Applicant respectfully requests that this opposition proceeding be dismissed and that its registration issue forthwith.

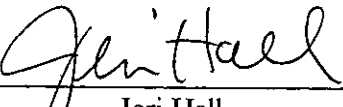
DATED: May 20, 2004

Respectfully submitted,

By:   
Kenneth W. Chung  
Gregory J. Marcot  
KRING & CHUNG, LLP  
38 Corporate Park  
Irvine, CA 92623-9782  
Tel: (949) 261-7700  
Fax: (949) 261-8800  
Attorneys for Applicant Headmaster,  
Inc.

### Proof of Service

The person whose signature appears below confirms that they are over the age of eighteen (18) years and not a party to the within action, that their business address is 38 Corporate Park, P.O. Box 19782, Irvine, California 92623-9782, and that Applicant Headmaster, Inc.'s Answer to Notice of Opposition has been served upon the other parties to this proceeding by transmitting a copy of the document by first-class U.S. Mail to Opposers attorneys of record: Arlana C. Cohen, Esq. and Mark J. Speciner, Esq., of ST. ONGE STEWARD JOHNSTON & REENS LLC, located at 986 Bedford Street, Stamford, CT 06905, which mailing was made on May 25, 2004.

  
\_\_\_\_\_  
Jeri Hall