

ESTTA Tracking number: **ESTTA123825**

Filing date: **02/07/2007**

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	Cherokee Nation Enterprises, L.L.C.
Granted to Date of previous extension	02/07/2007
Address	777 West Cherokee Street Catoosa, OK 74015 UNITED STATES
Party who filed Extension of time to oppose	Cherokee Nation Enterprises, Inc.
Relationship to party who filed Extension of time to oppose	Opposer is a limited liability company organized under the laws of the Cherokee Nation, a federally recognized Indian Tribe. Opposer was formerly organized as a corporation under the laws of the Cherokee Nation. Cherokee Nation Enterprises, L.L.C. is the successor-in-interest to Cherokee Nation Enterprises, Inc.

Attorney information	Anthony J. Jorgenson Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. 320 S. Boston Ave. Suite 400 Tulsa, OK 74103 UNITED STATES ajorgenson@hallestill.com Phone:(918) 594-0631
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Applicant Information

Application No	78758494	Publication date	10/10/2006
Opposition Filing Date	02/07/2007	Opposition Period Ends	02/07/2007
Applicant	The Southern Cherokee Nation 7919 Pleasant Hill Road Henderson, KY 42429 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 1893/01/01 First Use In Commerce: 1893/01/01 All goods and services in the class are opposed, namely: association services, namely, promoting the interests of The Southern Cherokee Nation
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Attachments	doc078.PDF (5 pages)(234289 bytes)
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Signature	/Anthony J. Jorgenson/
Name	Anthony J. Jorgenson

Date	02/07/2007
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No.: 78758494
For the mark: SOUTHERN CHEROKEE NATION
Published in the Official Gazette on: October 10, 2006

**CHEROKEE NATION ENTERPRISES,
LLC (formerly Cherokee Nation
Enterprises, Inc.)**

v.

Opposition No. _____

SOUTHERN CHEROKEE NATION

NOTICE OF OPPOSITION

Cherokee Nation Enterprises, LLC (formerly Cherokee Nation Enterprises, Inc.)
777 West Cherokee Street
Catoosa, OK 74015

The above-identified opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a limited liability company organized under the laws of the Cherokee Nation, a federally recognized Indian Tribe. Opposer was formerly organized as a corporation under the laws of the Cherokee Nation and is the successor- in-interest to such corporation.
2. Opposer is wholly owned by Cherokee Nation Businesses, LLC, a limited liability company organized under the laws of the Cherokee Nation, which is in turn wholly owned by the

Cherokee Nation. Opposer's principal purpose is to help in the management of business affairs and/or commercial functions of the Cherokee Nation.

3. Opposer operates six casinos, two golf courses, a 236-acre horse racetrack, two convenience stores, seven retail tobacco shops, and two gift shops. Opposer employs over 2,800 persons. Twenty-five percent of Opposer's net profits are paid to the Cherokee Nation to fund governmental and other services to members of the Cherokee Nation.

4. The Cherokee Nation is a federally recognized Indian Tribe that provides governmental services to tribal members. There are approximately 90,000 members who live within the Cherokee Nation's Tribal Jurisdictional Service Area and approximately 140,000 additional members dispersed throughout the United States.

5. Opposer has used the mark **CHEROKEE NATION ENTERPRISES** in conjunction with its goods, entertainment services and/or advertising and business services since April 4, 1996. Opposer's use of the mark **CHEROKEE NATION ENTERPRISES** in conjunction with its goods, entertainment services and/or advertising and business services directly benefits the Cherokee Nation and its members.

6. Opposer is also the owner of the following U.S. Trademark Registrations: Registration No. 2961563 for the mark **CHEROKEE CASINO RESORT**, issued June 7, 2005; and Registration No. 2961562 for the mark **CHEROKEE HILLS GOLF CLUB**, issued June 7, 2005. These registrations operate as prima facie and/or conclusive evidence of Opposer's ownership of the marks set forth therein in exclusive right to use same in connection with the goods and/or services listed in those registrations. 15 U.S.C. §§ 1065 and 1115(b).

7. Since its initial use of its **CHEROKEE NATION ENTERPRISES** mark, Opposer has continuously used, advertised, promoted, and offered its goods, entertainment

services and/or advertising and business services under the **CHEROKEE NATION ENTERPRISES** mark with the result that individuals have come to know and recognize Opposer's **CHEROKEE NATION ENTERPRISES** mark and to associate the same with Opposer and/or Opposer's goods and services.

8. On information and belief, on November 21, 2005, Applicant filed an Application for Registration of the mark **SOUTHERN CHEROKEE NATION**. The application was assigned Serial No. 78758494, and was published for opposition in the Official Gazette of October 10, 2006, identifying the services as "association services, namely, promoting the interests of The Southern Cherokee Nation," in International Class 42. Applicant amended its application on July 27, 2006, to classify the services in International Class 35.

9. On information and belief, Applicant's services are the same and/or similar to Opposer's services and are and/or will be advertised, promoted, and offered through the same and/or similar channels of trade and to the same general classes of individuals as Opposer's services are offered under Opposer's **CHEROKEE NATION ENTERPRISES** mark.

10. Applicant's **SOUTHERN CHEROKEE NATION** mark so closely resembles Opposer's **CHEROKEE NATION ENTERPRISES** mark that the registration and use of **SOUTHERN CHEROKEE NATION** by Applicant is likely to cause confusion, mistake and deception within the meaning of Section 2(d) of the Trademark Act of 1946 (15 U.S.C. § 1052(d)) and will result in irreparable damage and injury to Opposer.

11. Applicant's **SOUTHERN CHEROKEE NATION** mark so closely resembles Opposer's **CHEROKEE NATION ENTERPRISES** mark that the registration and use of **SOUTHERN CHEROKEE NATION** by Applicant will falsely suggest a connection with

Opposer in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)) and will result in irreparable damage and injury to Opposer.

12. Applicant's **SOUTHERN CHEROKEE NATION** mark is misrepresentative of Applicant's services and deceptive in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)).

13. Applicant's **SOUTHERN CHEROKEE NATION** mark is being used in such a manner that the registration and use of **SOUTHERN CHEROKEE NATION** by Applicant will bring the Opposer and Opposer's **CHEROKEE NATION ENTERPRISES** mark into disrepute in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)) and will result in irreparable damage and injury to Opposer.

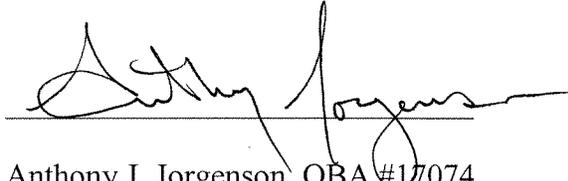
14. Applicant's **SOUTHERN CHEROKEE NATION** mark is not entitled to registration because Applicant's use of the **SOUTHERN CHEROKEE NATION** has been insufficient and therefore the mark has not acquired sufficient distinctiveness under Section 2(f) of the Trademark Act of 1946 (15 U.S.C. § 1052(f)).

15. Opposer believes that it will be damaged by the registration by Applicant of the **SOUTHERN CHEROKEE NATION** trademark, as set forth in Applicant's Application Serial No. 78758494, and that if registration on the opposed application is granted, and the presumptions accorded to such registration are conferred under the Trademark Act of 1946, as amended, Applicant will receive benefits to which it is not entitled, to the damage and detriment of Opposer, and its **CHEROKEE NATION ENTERPRISES** mark.

WHEREFORE, and in view of Opposer's use of the mark **CHEROKEE NATION ENTERPRISES** to which Applicant's mark is confusingly similar thereto, Opposer prays that this opposition be sustained and that registration of the mark **SOUTHERN CHEROKEE**

NATION, based on Applicant's Application Serial No. 78758494, filed November 21, 2005, for association services, namely, promoting the interests of The Southern Cherokee Nation, in International Class 35, be refused and denied.

Respectfully submitted this 7th day of February, 2007.



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**ATTORNEYS FOR OPPOSER,
CHEROKEE NATION ENTERPRISES,
LLC (FORMERLY CHEROKEE NATION
ENTERPRISES, INC.)**