

ESTTA Tracking number: **ESTTA123829**

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
Granted to Date of previous extension	02/07/2007
Address	17675 S. Muskogee Tahlequah, OK 74464 UNITED STATES

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	doc079.PDF ( 4 pages )(185795 bytes )
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Signature	/Anthony J. Jorgenson/
Name	Anthony J. Jorgenson
Date	02/07/2007

**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**

v.

**Opposition No.** \_\_\_\_\_

**SOUTHERN CHEROKEE NATION**

**NOTICE OF OPPOSITION**

Cherokee Nation, a federally recognized Indian Tribe  
17675 S. Muskogee  
Tahlequah, OK 74464

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 federally recognized Indian tribe that provides governmental, social, financial, educational, and other services to tribal members. There are approximately 90,000 members who live within Opposer's Tribal Jurisdictional Service Area and approximately 140,000 additional members dispersed throughout the United States.

2. Opposer has used the mark **CHEROKEE NATION** in conjunction with its governmental, social, financial, educational, and other services since at least 1791 (Treaty of Holston, July 2, 1791), Opposer's first treaty with the United States of America. Opposer's

current governmental structure was established under the 1975 constitution, which was ratified by the Cherokee voters and was approved by the Secretary of Interior.

3. Since its initial use of its **CHEROKEE NATION** mark, Opposer has continuously used, advertised, promoted, and offered its governmental, social, financial, educational and other services under the **CHEROKEE NATION** mark with the result that individuals have come to know and recognize Opposer's **CHEROKEE NATION** mark and to associate the same with Opposer and/or Opposer's services.

4. 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 on 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.

5. 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 class of individuals as Opposer's services are offered under Opposer's **CHEROKEE NATION** mark.

6. Applicant's **SOUTHERN CHEROKEE NATION** mark so closely resembles Opposer's **CHEROKEE NATION** 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.

7. Applicant's **SOUTHERN CHEROKEE NATION** mark so closely resembles Opposer's **CHEROKEE NATION** 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.

8. 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)).

9. 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** 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.

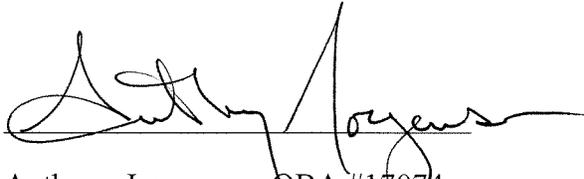
10. Applicant's **SOUTHERN CHEROKEE NATION** mark is not entitled to registration because Applicant's use of the **SOUTHERN CHEROKEE NATION** has been insufficient and therefore the mark has not acquired sufficient distinctiveness under Section 2(f) of the Trademark Act of 1946 (15 U.S.C. § 1052(f)).

11. 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** mark.

WHEREFORE, and in view of Opposer's prior use of the mark **CHEROKEE NATION** 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 7<sup>th</sup> day of February, 2007.



Anthony Jorgenson, OBA #17074  
**HALL, ESTILL, HARDWICK, GABLE,  
GOLDEN & NELSON, P.C.**  
320 South Boston, Suite 400  
Tulsa, OK 74103  
Telephone (918) 594-0400  
Facsimile (918) 594-0505

and

A. Diane Hammons OBA #10835  
Attorney General  
Cherokee Nation  
PO Box 948  
Tahlequah, OK 74465-0948  
Telephone (918) 453-5282  
Facsimile (918) 458-5099

**ATTORNEYS FOR OPPOSER,  
CHEROKEE NATION, A FEDERALLY  
RECOGNIZED INDIAN TRIBE.**