

ESTTA Tracking number: **ESTTA223173**

Filing date: **07/09/2008**

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, a federally recognized Indian Tribe
Granted to Date of previous extension	07/09/2008
Address	17675 S. Muskogee Tahlequah, OK 74464 UNITED STATES

Attorney information	Anthony J. Jorgenson Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C. 320 South Boston Avenue Suite 200 Tulsa, OK 74103 UNITED STATES ajorgenson@hallestill.com
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**Applicant Information**

Application No	78748323	Publication date	03/11/2008
Opposition Filing Date	07/09/2008	Opposition Period Ends	07/09/2008
Applicant	Adams, Tiffany #160 7657 Winnetka Avenue Winnetka, CA 91306 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 041. First Use: 2002/08/00 First Use In Commerce: 2002/08/00 All goods and services in the class are opposed, namely: Entertainment services, namely, providing live and audio and visual recorded performances by an adult entertainment personality; entertainment services, namely, providing live and non-downloadable recorded performances featuring adult entertainment via satellite, cable, radio, and global computer network; radio entertainment services, namely, radio programs featuring performances by a film and video personality broadcast via satellite and radio; entertainment services in the nature of live-action, drama programs, action and animated motion picture films for cable television, satellite and global computer networks; provision of live action theatrical performances; providing a web site featuring videos in the field of adult entertainment, related video and audio clips, photographs, other multimedia materials and providing information in the field of adult entertainment</p>
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**Grounds for Opposition**

Immoral or scandalous matter	Trademark Act section 2(a)
Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHEROKEE		
Goods/Services	governmental, social, educational, and financial services, as well as numerous goods, and membership in the Cherokee Nation, a federally recognized Indian tribe		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHEROKEE NATION		
Goods/Services	governmental, social, educational and financial services, as well as numerous goods, and membership in the Cherokee Nation, a federally recognized Indian tribe		

Attachments	DOC013.PDF ( 7 pages )(111813 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Anthony J. Jorgenson/
Name	Anthony J. Jorgenson
Date	07/09/2008

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

In the matter of Trademark Application Serial No.: 78748323  
For the mark: **CHEROKEE**  
Published in the Official Gazette on: March 11, 2008

**CHEROKEE NATION, a Federally  
Recognized Indian Tribe,**

**Opposer,**

v.

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

**TIFFANY ADAMS,**

**Applicant.**

**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. There are approximately 109,724 citizens who live within Opposer's Tribal Jurisdictional Service Area and approximately 268,761 citizens dispersed throughout the world.

2. Opposer has used the mark **CHEROKEE NATION**, and more generally, the mark **CHEROKEE**, in connection with a wide variety of goods and services for more than two hundred years. Opposer and its citizens have also long used Opposer's marks to indicate membership and/or citizenship in Opposer, a Federally recognized Indian tribe.

3. Since its initial use of its **CHEROKEE NATION** and **CHEROKEE** marks, Opposer has continuously used, advertised, promoted, and offered its goods, services and membership, under the **CHEROKEE NATION** and **CHEROKEE** marks with the result that the marks have become instantly recognizable to the public as exclusively denoting Opposer, Opposer's members and/or citizens, and Opposer's goods and services. In addition, Opposer's marks have come to symbolize the culture, heritage, history, beliefs and values of Opposer and Opposer's members and/or citizens. As a result of Opposer's substantial effort, investment, and sacrifice, the goodwill inherent in Opposer's mark is an enormously valuable asset of Opposer and a priceless source of pride and identity to its citizens and/or members.

4. On information and belief, Applicant is an adult entertainer who provides performances of a graphic, sexual nature. On November 7, 2005, Applicant filed an Application for Registration of the mark **CHEROKEE**. The application was assigned Serial No. 78748323, and was published for opposition in the Official Gazette of March 11, 2008, for

Entertainment services, namely, providing live and audio and visual recorded performances by an adult entertainment personality; entertainment services, namely, providing live and non-downloadable recorded performances featuring adult entertainment via satellite, cable, radio, and global computer network; radio entertainment services, namely, radio programs featuring performances by a film and video personality broadcast via satellite and radio; entertainment services in the nature of live-action, drama programs, action and animated motion picture films for cable television, satellite and global computer networks; provision of live action theatrical performances; providing a web site featuring videos in the field of adult entertainment, related video and audio clips, photographs, other multimedia materials and providing information in the field of adult entertainment

in International Class 41 with a claimed date of first use in August of 2002.

5. Applicant's application is unrestricted as to the consumers of or channels of trade for her services. As a result, it is presumed that Applicant's services 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 goods and services are offered under Opposer's **CHEROKEE NATION** and **CHEROKEE** marks.

6. The registration of Applicant's mark, which prominently features the word, "CHEROKEE," for adult entertainment services is inconsistent with Opposer's prior rights in its **CHEROKEE NATION** and **CHEROKEE** marks, and will irreparably damage Opposer's investment and goodwill in its marks.

7. Opposer's **CHEROKEE NATION** and **CHEROKEE** marks are exclusively associated with Opposer and have been used continuously by Opposer since a date prior to any date on which Applicant can rely. Applicant's mark is similar in sound, meaning, appearance, and commercial impression to Opposer's marks, and will not only call to mind, but falsely create an association with Opposer's marks.

8. By virtue of its long-standing use of the **CHEROKEE NATION** and **CHEROKEE** marks, the goodwill associated with those marks, and the similarity of Applicant's mark, the registration of Applicant's mark by Applicant is likely to cause confusion, or cause mistake, or to deceive, the public into mistakenly believing that Applicant's services originate from or are otherwise associated with Opposer or its members an/or citizens, or that Applicant's services offered under the mark, **CHEROKEE** are endorsed, sponsored by, or in some way connected with Opposer and/or its citizens and/or members in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. Additionally, Applicant's **CHEROKEE** mark so closely resembles Opposer's **CHEROKEE NATION** and **CHEROKEE** marks that the registration and use of **CHEROKEE**

by Applicant will falsely suggest a connection with Opposer in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

10. Applicant's use of the **CHEROKEE** mark is further misrepresentative of citizenship (membership) in and/or association with Opposer and is deceptive in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

11. Applicant's **CHEROKEE** mark will be used in such a manner that the registration and use of **CHEROKEE** by Applicant will be offensive, scandalous, disreputable, disgraceful to reputation, and disparaging to Opposer, Opposer's members and/or citizens, and Opposer's **CHEROKEE** and **CHEROKEE NATION** marks, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

12. Applicant's **CHEROKEE** mark, including innuendo, consists of or comprises matter that disparages Native American persons, including Opposer and its citizens and/or members, and brings them into contempt, ridicule, and disrepute, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a). Applicant's use of the **CHEROKEE** mark further consists of or comprises scandalous and immoral matter that would expose Native American persons, including Opposer and its citizens and/or members, to disgrace to reputation, and shock their sense of decency or propriety in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

13. Applicant's use of the **CHEROKEE** mark, including innuendo, consists of or comprises matter that would be considered disgraceful, offensive, disreputable, and shocking to the sense of decency or propriety from the standpoint of a substantial composite of the general public.

14. Opposer's **CHEROKEE NATION** and **CHEROKEE** marks are distinctive, have been used in commerce and widely promoted by Opposer for over two hundred years, are instantly recognized by the public as symbols of Opposer, its members and/or citizens, and its goods and services. As a result, Opposer's marks are famous.

15. Applicant's claimed date of first use of **CHEROKEE**, as well as her application to register that mark, occurred long after Opposer's marks became famous.

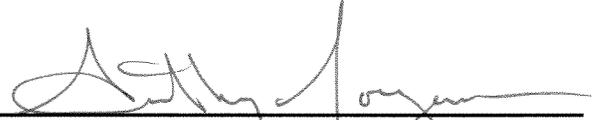
16. Registration of the mark, **CHEROKEE**, by Applicant is likely to dilute, and will dilute, the distinctive quality and attributes of Opposer's marks by lessening the capacity of **CHEROKEE** to identify and distinguish exclusively the goods, services, citizens and/or members of Opposer in violation of Section 2(f) of the Lanham Act, 15 U.S.C. § 1052(f).

17. Registration of the mark, **CHEROKEE**, by Applicant is likely to dilute, and will dilute, the distinctive quality and attributes of Opposer's marks by tarnishing and/or harming the reputation of Opposer's marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

18. For the foregoing reasons, Opposer believes that it will be damaged by the registration by Applicant of the **CHEROKEE** mark, as set forth in Applicant's Application Serial No. 78748323, and that if registration on the opposed application is granted, and the presumptions accorded to such registration are conferred under the Trademark Laws of the United States, as amended, Applicant will receive benefits to which she is not entitled, to the damage and detriment of Opposer, and its **CHEROKEE NATION** and **CHEROKEE** marks.

**WHEREFORE**, Opposer prays that this opposition be sustained and that registration of the mark **CHEROKEE**, based on Applicant's Application Serial No. 78748323, filed November 7, 2005, be refused and denied.

Respectfully submitted this 9th day of July, 2008.



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Anthony J. Jorgenson, OBA #17074  
**HALL, ESTILL, HARDWICK, GABLE,  
GOLDEN & NELSON, P.C.**  
320 South Boston, Suite 200  
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.**

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being electronically transmitted via ESTTA to the United States Patent and Trademark Office on this 9th day of July, 2008.

s/Anthony J. Jorgenson

**CERTIFICATE OF SERVICE**

I, the undersigned, pursuant to Trademark Trial and Appeal Board Rules 2.111 and 2.119, do hereby certify that on the 9th day of July, 2008, a true and correct copy of the above and foregoing NOTICE OF OPPOSITION was sent by U.S. Mail, first-class, with proper postage thereon fully paid, to:

Anna M. Vradenburgh  
Piccionelli & Sarno  
2801 Townsgate Road, Suite 200  
Westlake Village, CA 91361

\_\_\_\_\_  
s/Anthony J. Jorgenson

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