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

Proceeding	91197038
Party	Plaintiff Cherokee Nation; and Cherokee Nation Entertainment, L.L.C.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**CHEROKEE NATION, a federally
recognized Indian tribe, and CHEROKEE
NATION ENTERTAINMENT, L.L.C.,**

Opposers,

v.

Opposition No. 91197038

SONJA TAYLOR,

Applicant.

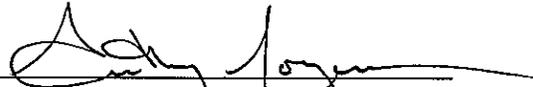
OPPOSERS' MOTION FOR SUMMARY JUDGMENT

Opposers, the Cherokee Nation and Cherokee Nation Entertainment, LLC, pursuant to Federal Rule of Civil Procedure 56, moves the Trademark Trial and Appeal Board to enter summary judgment in its favor sustaining Opposition No. 91197038. This Motion is made on the grounds that there are no genuine issues of material fact and that Opposers are entitled to judgment in their favor as a matter of law as set forth in the accompanying Opposers' Brief in Support of Motion for Summary Judgment.

WHEREFORE, Opposers respectfully request that the Board enter summary judgment in their favor and against Applicant, Sonja Taylor, and sustain Opposition No. 91197038. Opposers further respectfully request that the Board suspend all further proceedings in this Opposition pending the Board's ruling on Opposers' Motion for Summary Judgment, including all remaining discovery, testimony and trial dates and deadlines, pursuant to 37 C.F.R. § 2.127(d) and T.B.M.P. § 528.03.

DATED this 20th day of June, 2011.

Respectfully submitted,

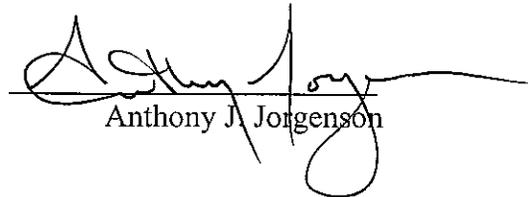


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**ATTORNEYS FOR OPPOSERS,
CHEROKEE NATION AND CHEROKEE
NATION ENTERTAINMENT, LLC**

CERTIFICATE OF FILING

I, Anthony J. Jorgenson, hereby certify that a copy of the foregoing Opposers' Motion for Summary Judgment is being filed with the Electronic System for Trademark Trial and Appeals ("ETTS") of the U.S. Patent and Trademark Office on this 20th day of June, 2011.

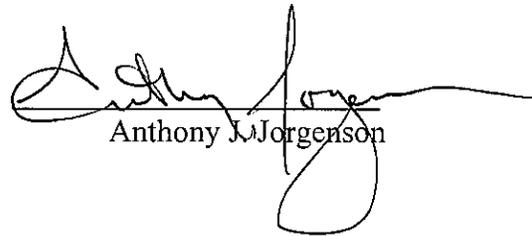


Anthony J. Jorgenson

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 20th day of June, 2011, a true and correct copy of the above and foregoing OPPOSERS' MOTION FOR SUMMARY JUDGMENT was served upon Applicant by first class mail, proper postage prepaid, at the following address:

Ms. Sonja Taylor
80515 Elliott Road
Bush, LA 70431


Anthony J. Jorgenson

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

**CHEROKEE NATION AND CHEROKEE
NATION ENTERTAINMENT, LLC,**

Opposers,

v.

Opposition No. 91197038

SONJA TAYLOR,

Applicant.

OPPOSERS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Opposers, Cherokee Nation and Cherokee Nation Entertainment, LLC (collectively "Opposers"), by and through their undersigned attorney, have moved the Trademark Trial and Appeal Board (the "Board"), pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 2.127 of the Trademark Rules of Practice, for summary judgment in their favor and sustaining Opposition No. 91197038. As set forth herein, there are no genuine issues of material fact and Opposers are entitled to judgment as a matter of law on their claims that Applicant's proposed mark, **CHEROKEE ARABIANS**, is confusingly similar to Opposers' marks, and falsely suggests a connection to Opposers. Accordingly, the Opposition should be sustained and Applicant denied registration of her claimed mark.

INTRODUCTION

The law does not allow the registration of marks on the Principal Register where those marks are likely to cause confusion with virtually identical marks that are already registered or where a prior user of virtually identical marks is likely to be harmed by their registration. See 15 U.S.C. § 1052(a). Opposer Cherokee Nation owns prior use rights in its marks, **CHEROKEE** and **CHEROKEE NATION**, to, among other things, indicate membership in the Cherokee Indian tribe. The Cherokee Nation and its members are renowned for their horse breeding skills.

Applicant is not a member of the Cherokee Nation. Yet, she seeks to register the mark **CHEROKEE ARABIANS** for use in connection with horse breeding services. Thus, Applicant's claimed mark falsely suggests an affiliation with Opposer and consumers are likely to be confused as to the source of Applicant's horse breeding services.

Similarly, Opposer Cherokee Nation Entertainment, LLC ("CNE") owns several registrations for marks incorporating the word **CHEROKEE** for use in conjunction with its goods and services. Among other marks, CNE owns registrations for the marks **CHEROKEE CASINO WILL ROGERS DOWNS**, U.S. Registration No. 3835089, and **BLUE RIBBON DOWNS**, U.S. Registration No. 2893642, for horse track and horse racing services. Applicant's attempt to register the mark **CHEROKEE ARABIANS** for use in connection with her closely-related horse breeding and stud services is likely to cause confusion among consumers as to the source of Applicant's services.

Notwithstanding Opposers' obvious and long-standing prior rights, Applicant's attempt to register her proposed mark should be summarily refused. Applicant's proposed mark makes it likely, if not probable, that the mark will be confused with Opposers and/or Opposers' marks. Clearly, the average consumer is likely to be confused as to the source of Applicant's services. Moreover, although Applicant admits that she has no connection or affiliation with Opposers, Applicant's proposed mark, and the manner in which that mark is promoted, create the false impression that Applicant is somehow affiliated with, or sponsored by Opposers. For these reasons, Applicant's application to register the mark, **CHEROKEE ARABIANS**, should be refused.

STATEMENT OF UNDISPUTED MATERIAL FACTS

A. THE CHEROKEE NATION

1. The **CHEROKEE NATION** is a federally recognized Indian tribe that provides governmental, social, financial, educational, and other services to its tribal citizens. There are approximately 109,724 citizens who live within Opposer's Tribal Jurisdictional Service Area and approximately 268,761 citizens dispersed throughout the world. See Notice of Opposition, ¶1, Ex. 1;¹ Answer to Opposition, ¶1, Ex. 2; Cherokee Nation, 2010 Report to the Cherokee People, Ex. 3; Opposer Cherokee Nation's First Requests for Admissions to Applicant, No. 15, Ex. 4 ("Cherokee Requests for Admission").²

2. Opposer has used the mark **CHEROKEE NATION**, and more generally, the mark **CHEROKEE**, in conjunction with its governmental, social, financial, educational, and other services since at least 1791 (Treaty of Holston, July 2, 1791). See Notice of Opposition, ¶2, Ex. 1; Answer to Opposition, ¶2, Ex. 2.

3. Opposer has priority in Opposer's marks over Applicant's claimed priority in the mark, **CHEROKEE ARABIANS**. See Cherokee Requests for Admission, Nos. 11, 14 Ex. 4.

4. Since its initial use of its **CHEROKEE NATION** and **CHEROKEE** marks, Opposer Cherokee Nation has continuously used, advertised, promoted, and offered its governmental, social, financial, educational and other services under the **CHEROKEE**

¹ Pursuant to T.B.M.P. § 528.05(b), the Declaration of Anthony J. Jorgenson attached hereto as Exhibit 29 authenticates those documents and other materials submitted with this brief that are not self-authenticating.

² On March 16, 2011, Opposers served on Applicant their Requests for Admission. See Opposer Cherokee Nation Enterprises, LLC's First Requests for Admissions to Applicant, Ex. 5 ("CNE Requests for Admission"); Cherokee Nation's Requests for Admission, Ex. 4. Applicant's responses to the Requests were due on or before April 21, 2011. To date, Applicant has failed to respond to the Requests for Admissions. Applicant has given no reason or explanation for the failure to timely respond. Further, Applicant has not filed a motion to withdraw or amend the admissions pursuant to Fed. R. Civ. P. 36(b), nor has the Board granted any such motion. Accordingly, Opposer's Requests for Admission are deemed admitted for the purposes of this consolidated proceeding. See T.B.M.P. § 411.02; Fed. R. Civ. P. 36(a)(3).

NATION and **CHEROKEE** marks with the result that individuals have come to know and recognize Opposer's **CHEROKEE NATION** and **CHEROKEE** marks and to associate the same with Opposer and/or Opposer's services. See Notice of Opposition, ¶3, Ex. 1; Answer to Opposition, ¶3, Ex. 2.

5. The term "Cherokee," is defined as:

- (i) A Native American people formerly inhabiting the southern Appalachian Mountains from the western Carolinas and eastern Tennessee to northern Georgia, with present-day populations in northeast Oklahoma and western North Carolina. The Cherokee were removed to Indian Territory in the 1830s after conflict with American settlers over rights to traditional lands;
- (ii) A member of this people.

See Cherokee, thefreedictionary.com, The American Heritage Dictionary of the English Language (4th ed. 2000), <http://www.thefreedictionary.com/p/Cherokee> (accessed June 2, 2011), Ex. 6. The word "Cherokee" is commonly recognized to refer to the American Indian Tribe and its members. See CNE Requests for Admissions, No. 16, Ex. 5; Cherokee Requests for Admissions, No. 16, Ex. 4.

6. Throughout its history, Opposer **CHEROKEE NATION** and its members have bred and used horses. The breeding and use of horses are distinctive and significant attributes of Opposer **CHEROKEE NATION**'s history, culture and heritage. See Choctaw and Cherokee Horses, <http://horsehints.org/Breeds/ChoctawCherokeeHorses.htm> (accessed June 2, 2011), Ex. 7; Cherokee Indians and Horses, <http://horsehints.org/IndianCherokee.htm> (accessed June 2, 2011), Ex. 8; Cherokee Requests for Admissions, No. 33, Ex. 4; CNE Requests for Admissions, No. 30, Ex. 5.

7. **CHEROKEE** Indians are famous and renowned for their horse breeding skills. Id.; Cherokee Requests for Admissions, No. 33, Ex. 4.

8. Applicant's claimed mark, **CHEROKEE ARABIANS**, is intended to convey an affiliation or connection with the horse breeding acumen of Opposer. See Cherokee Requests for Admissions, Nos. 27-28, 34, Ex. 4.

9. By law, membership in the **CHEROKEE NATION** is limited to those direct blood descendants of a Dawes Act³ enrollee. See U.S. Dept. of the Interior, Cherokee Ancestry, <http://www.doi.gov/tribes/cherokee.cfm> (accessed June 2, 2011), Ex. 9.

10. Applicant is not a member of, nor affiliated with, any federally recognized Indian tribe, including Opposer. See Cherokee Requests for Admissions, Nos. 1-2, Ex. 4.

11. After centuries of oppression, the **CHEROKEE NATION** has excelled and has experienced an unprecedented expansion in economic growth, equality, and prosperity for its citizens, with significant business, corporate, real estate, and agricultural interests, including horse racing facilities. See Cherokee Nation, 2010 Report to the Cherokee People, Ex. 3.

12. The **CHEROKEE NATION** employs nearly 8,200 people and had a \$1.3 billion impact on the United States' economy in 2008. Id. at 6. Among other things, Opposer has constructed health clinics throughout Oklahoma, contributed to community development programs, built roads and bridges, constructed learning facilities and universities for its citizens, revitalized language immersion programs for its children and youth, and is a powerful and positive economic and political force. Id. at 2-27.

³ The Dawes Commission was organized in 1893 to accept applications for tribal enrollment between 1899 and 1907 from American Indians of the Five Civilized Tribes who resided in the Indian Territory which later became the eastern portion of Oklahoma. The Five Civilized Tribes consist of the Cherokee, Choctaw, Creek, Seminole and Chickasaw Indians. See U.S. Dept. of the Interior, Information on the Dawes Rolls, <http://www.doi.gov/tribes/dawes.cfm> (accessed June 2, 2011), Ex. 10.

13. Examining Attorneys at the United States Patent and Trademark Office have concluded on at least four prior occasions that federally recognized Cherokee Indian tribes are sufficiently famous so as to warrant protection from marks falsely suggesting a connection to the Cherokee Indian tribe. See In re CHEROKEE PROUD, Office Action, Serial No. 75/506359 at 1-2 (Feb. 11, 1999), Ex. 11; In re CHEROKEE STONEWORKS, Office Action, Serial No. 77/122071 at 3-4 (June 4, 2007), Ex. 12; In re CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830 at 1-2 (April 4, 2008), Ex. 13; In re CHEROKEE MY DOLL, Office Action, Serial No. 77/556,232 at 3-4 (Dec. 10, 2008), Ex. 14.

14. Applicant admits that Opposer **CHEROKEE NATION** is so famous that consumers would presume a connection between her claimed mark, **CHEROKEE ARABIANS**, and Opposer's marks. See Cherokee Requests for Admissions, Nos. 32, 35-37, Ex. 4.

B. CHEROKEE NATION ENTERTAINMENT, LLC

15. Opposer Cherokee Nation Entertainment, LLC ("CNE") is a limited liability company organized under the laws of the Cherokee Nation, a federally recognized Indian Tribe. See Notice of Opposition, ¶7, Ex. 1; Answer to Opposition, ¶7, Ex. 2.

16. CNE is wholly owned by Cherokee Nation Businesses, L.L.C., a limited liability company organized under the laws of the Cherokee Nation, which is in turn wholly owned by the **CHEROKEE NATION**. CNE is the gaming and hospitality arm of the **CHEROKEE NATION**. See Notice of Opposition, ¶8, Ex. 1; Answer to Opposition, ¶8, Ex. 2; Cherokee Nation Entertainment, <http://www.cherokeemationbusiness.com/our-industries/hospitality-portfolio/110> (accessed June 2, 2011), Ex. 15.

17. CNE owns and operates the Hard Rock Hotel & Casino, seven Cherokee Casinos, **CHEROKEE CASINO WILL ROGERS DOWNS**, three hotels, two golf courses, and numerous retail operations. CNE employs over 3,200 people and its enterprises provide funding

to the **CHEROKEE NATION** which is used, in turn, to provide vital health care, housing and educational services to **CHEROKEE NATION** members. Id.

18. CNE has used the marks **CHEROKEE NATION ENTERTAINMENT** and/or **CHEROKEE NATION ENTERPRISES** in conjunction with its goods, entertainment services and/or advertising and business services since April 4, 1996. Opposer CNE's use of the marks **CHEROKEE NATION ENTERTAINMENT** and/or **CHEROKEE NATION ENTERPRISES** in conjunction with its goods, entertainment services and/or advertising and business services directly benefits the **CHEROKEE NATION** and its citizens. Id.; see Notice of Opposition, ¶10, Ex. 1; Answer to Opposition, ¶¶10, 12, Ex. 2.

19. CNE also owns of the following U.S. Trademark Registrations: Registration No. 2961563 for the mark **CHEROKEE CASINO RESORT**, issued June 7, 2005; Registration No. 2961562 for the mark **CHEROKEE HILLS GOLF CLUB**, issued June 7, 2005; Registration No. 3426163 for the mark **TEAM CHEROKEE**, issued May 13, 2008; Registration No. 3690437 for the mark **CHEROKEE STAR REWARDS**, issued September 29, 2009; and Registration No. 3693880 for the mark **CHEROKEE STAR REWARDS**, plus design, issued October 6, 2009 (the "Related Registrations"). See Cherokee Casino Resort, TARR Status, Ex. 16; Cherokee Hills Golf Club, TARR Status, Ex. 17; Team Cherokee, TARR Status, Ex. 18; Cherokee Star Rewards, TARR Status, Ex. 19; Cherokee Star Rewards (Plus Design), TARR Status, Ex. 20; Notice of Opposition ¶11, Ex. 1; Answer to Opposition, ¶11, Ex. 2.

20. Additionally, CNE owns and operates two horse-racing facilities, **CHEROKEE CASINO WILL ROGERS DOWNS** and **BLUE RIBBON DOWNS**, and has obtained the following U.S. Trademark Registrations for those marks: Registration No. 3835089, issued

August 17, 2010, and Registration No. 2893642, issued October 12, 2004. See Cherokee Casino Will Rogers Downs, TARR Status, Ex. 21; Blue Ribbon Downs, TARR Status, Ex. 22; Notice of Opposition, ¶¶15-17, Ex. 1; Answer to Opposition, ¶¶15-17, Ex. 2.

21. CNE offers horse racing from March through May and September through November at its **CHEROKEE CASINO WILL ROGERS DOWNS** facility. See Cherokee Nation, The Races, <http://www.Cherokeestarrewards.com/casinos/willrogersdowns/theraces/pages/default.aspx> (last accessed June 9, 2011), Ex. 23; 2011 Race Day Calendar, Ex. 24.

22. Applicant admits that horse breeding is closely related to horse racing and that horses are often bred to participate in horse racing. See CNE's Requests for Admissions, Nos. 26-27, Ex. 5.

23. Applicant further admits that CNE has priority of use in its marks predating Applicant's use of her claimed mark, **CHEROKEE ARABIANS**. See CNE's Requests for Admissions, Nos. 11, 14, Ex. 5.

24. Since its initial use of its **CHEROKEE NATION ENTERTAINMENT** mark and the Related Registrations, Opposer has continuously used, advertised, promoted, and offered its goods, entertainment services and/or advertising and business services under the **CHEROKEE NATION ENTERTAINMENT** mark and the Related Registrations, with the result that individuals have come to know and recognize Opposer's **CHEROKEE NATION ENTERTAINMENT** mark and the Related Registrations and to associate the same with Opposer and/or Opposer's goods and services. See Notice of Opposition, ¶12, Ex. 1; Answer to Opposition, ¶12, Ex. 2.

C. APPLICANT'S PROPOSED MARK

25. On February 4, 2009, Applicant filed an Application for Registration of the mark **CHEROKEE ARABIANS**. The application was assigned Serial No. 77/663,620, and was

published for opposition in the Official Gazette of June 22, 2010, for “breeding and stud services for horses” in International Class 44. See Notice of Opposition, ¶13, Ex. 1; Applicant’s Answer to Opposition, ¶13, Ex. 2.

26. Applicant admits that the dominant component of her claimed mark is the word, “Cherokee,” and that the wording contained in the **CHEROKEE ARABIANS** mark closely resembles the wording contained in Opposers’ marks. See CNE’s Requests for Admissions, Nos. 17, 19, Ex. 5; Cherokee Requests for Admissions Nos. 17, 19, Ex. 4.

27. Applicant is not a member of, or affiliated with, the **CHEROKEE NATION**. See CNE’s Requests for Admissions, Nos. 1-2, Ex. 5; Cherokee Requests for Admissions, Nos. 1-2, Ex. 4. In fact, Applicant is not a member of nor affiliated with any federally recognized Indian tribe. Id. No. 1; CNE’s Requests for Admissions, No. 1, Ex. 5.

28. Applicant’s mark is not used in connection with or by enrolled members of the **CHEROKEE NATION**. Id. No. 4; Cherokee Requests for Admission, No. 4, Ex. 4.

29. Although she is not a member of the **CHEROKEE NATION**, Applicant stated in her response to the Examining Attorneys’ Office Action that the “Cherokee Arabians” brand reflects the adaptation of the Cherokee people’s tradition in breeding ethics to the separate ‘Arabian’ breed of horses.” See Response to Office Action, October 31, 2009, Ex. 25.

30. Applicant emphasized this attempt to affiliate her goods and services to Opposers when, in her response to the Examining Attorney’s Office Action, Applicant attached photographs, “showing the applicant dressed in Cherokee clothing with the Arabian horses, [to] document the distinctive description of the Cherokee people in connection with Arabian horses.” Id.; see also CNE’s Requests for Admissions, Nos. 5-9, Ex. 5; Cherokee Requests for Admissions, Nos. 5-9, Ex. 4.

31. In fact, Applicant routinely attempts to associate her claimed mark with the **CHEROKEE NATION** through her marketing and promotion of that mark. Applicant's website depicts Applicant promoting her claimed mark dressed in traditional Native American attire and features links to videos she has posted on the Internet at YouTube.com using the **CHEROKEE ARABIANS** mark while riding a horse dressed in traditional Native American dress. See Cherokee Arabians-Home, <http://cherokeearabians.com/default.htm> (accessed June 2, 2011), Ex. 26;⁴ Cherokee Arabians - Videos & Links, <http://cherokeearabians.com/page3.html> (accessed June 2, 2011), Ex. 27; CNE Requests for Admissions, Nos. 5-9, 21-24, Ex. 5; Cherokee Requests for admissions, Nos. 5-9, 21-23, Ex. 4.

32. Applicant's screen name on her YouTube.com channel is "Indianprincess7." As evidenced by the comments posted by viewers of her YouTube.com videos, third-parties have been confused regarding Applicant's affiliation with the **CHEROKEE NATION**. See CNE Requests for Admissions, Nos. 21-24, Ex. 5; Cherokee Requests for Admissions, Nos. 21-23, Ex. 4.

33. Although Applicant is in no way affiliated with the **CHEROKEE NATION**, Applicant has made no effort to inform third parties of that fact. Instead, Applicant perpetuates this confusion by identifying herself as "Cherokee" or "part Cherokee." See CNE Requests for Admissions, Nos. 1-2, 23-24, 40, Ex. 5; Cherokee Requests for Admissions, Nos. 1-2, 22-23, 38, Ex. 4; American Paint Horse at the PARADE OF BREEDS 2007, http://www.youtube.com/all_comments?v=aEcRE_8101 (accessed June 2, 2011), Ex. 28.

⁴ Although Applicant admits that her claimed mark is not registered, Applicant modified her website to falsely indicate that **CHEROKEE ARABIANS** is a federally registered trademark. See Cherokee Requests for Admissions, Nos. 41-43, Ex. 4; CNE Requests for Admission, Nos. 41-43, Ex. 5.

34. The wording in Applicant's mark closely resembles that of Opposers' marks. CNE Requests for Admissions, Nos. 17, 19, Ex. 5; Cherokee Requests for Admissions, Nos. 17, 19, Ex. 4.

35. Applicant's mark is advertised and promoted in the same channels of trade as Opposers' marks. See CNE Requests for Admissions, No. 25, Ex. 5; Cherokee Requests for Admissions, No. 24, Ex. 4.

36. Applicant's mark is used in conjunction with goods and/or services similar to those offered by Opposers. See CNE Requests for admissions, Nos. 26-27, Ex. 5.

37. The fame or reputation of the **CHEROKEE NATION** is of such a nature that a connection with the **CHEROKEE NATION** may be presumed when Applicant's mark is used in connection with horse breeding services. See CNE Requests for Admission, Nos. 20-22, 29-32, 36-39, Ex. 5; Cherokee Requests for Admissions, Nos. 16, 20-21, 26-28, 32-38, Ex. 4.

38. Opposers are in no way connected with Applicant or Applicant's mark. Id. No. 31; CNE Requests for Admissions, No. 35, Ex. 5.

39. Consumers may believe that goods offered for sale or sold by Applicant originated or are affiliated with Opposers. See CNE Requests for Admission, Nos. 20-22, 29-32, 36-39, Ex. 5; Cherokee Requests for Admissions, Nos. 16, 20-21, 26-28, 32-38, Ex. 4.

40. There is a likelihood of confusion between Opposers' marks and Applicant's proposed mark. Id. No. 25; CNE Requests for Admission, No. 28, Ex. 5.

41. Applicant's mark is misrepresentative of some affiliation, connection, sponsorship, and/or association with Opposers and Opposers' marks. Id. Nos. 29, 31, 37; Cherokee Requests for Admissions, Nos. 26-28, 31-37, Ex. 4.

ARGUMENTS AND AUTHORITIES

I. THE STANDARD FOR SUMMARY JUDGMENT

Rule 56 of the Federal Rules of Civil Procedure provides that summary judgment shall be granted where, after drawing all reasonable inferences in favor of the non-moving party, there remains no genuine issue of material fact. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). The Supreme Court emphasized “[s]ummary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed ‘to secure the just, speedy and inexpensive determination of every action.’” Id. at 327 (quoting Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574 (1986)). See also Pure Gold, Inc. v. Syntex (U.S.A.), Inc., 739 F.2d 624, 222 U.S.P.Q. 741 (Fed. Cir. 1984); Levi Strauss & Co. v. Genesco, Inc., 742 F.2d 1401, 222 U.S.P.Q. 939 (Fed. Cir. 1984).

A non-moving party cannot rest on its pleadings or merely show that there is “some metaphysical doubt as to the material facts;” “rather, the non-moving party must come forward with specific facts showing that there is a genuine issue for trial.” Matsushita, 475 U.S. at 586-87; see Celotex, 477 U.S. at 322. If the evidence purporting to raise a genuine issue of material fact is “merely colorable” or “not significantly probative,” summary judgment is appropriate. Id. at 324.

Opposers seek to preclude registration of Applicant’s Mark on the grounds that registration is likely to cause confusion, mistake and deception and that registration will falsely suggest a connection with Opposers. “Whether a likelihood of confusion exists is ‘a question of law based on underlying facts.’” In re Dixie Restaurants, Inc., 105 F.3d 1405, 1406, 41 U.S.P.Q.2d 1531, 1533 (Fed. Cir. 1997) (quoting Lloyd’s Food Products, Inc. v. Eli’s, Inc., 987

F.2d 766, 767, 25 U.S.P.Q.2d 2027, 2028 (Fed. Cir. 1993)).⁵ In Pure Gold, the Board's grant of summary judgment in an opposition proceeding was affirmed. There, citing Exxon Corp. v. National Foodline Corp., 579 F.2d 1244, 1246, 198 U.S.P.Q. 407, 408 (C.C.P.A. 1978), the Federal Circuit explained that the basic purpose of summary judgment is that of judicial economy. It is against the public interest to conduct useless trials, and where the time and expense of a full trial can be avoided by the summary judgment procedure, such action is favored. Pure Gold, 222 U.S.P.Q. at 744. Where, as in the instant proceeding, the undisputed facts establish that the moving party is entitled to judgment as a matter of law, summary judgment is appropriate.

II. APPLICANT'S PROPOSED MARK IS LIKELY TO CAUSE CONFUSION WITH OPPOSERS' MARKS

Opposers challenge Applicant's registration under Section 2(d) of the Trademark Act. Thus, the Board's determination is based on an analysis of all the probative facts in evidence that are relevant to the factors bearing on the issue of likelihood of confusion. See Application of E. I. DuPont DeNemours & Co., 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973). The relevant factors identified in DuPont are as follows:

1. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression;
2. The similarity or dissimilarity and nature of the goods and services as described in the application or in connection with which a prior mark is in use;
3. The similarity or dissimilarity of established, likely-to-continue trade channels;

⁵ See also Olde Tyme Foods, Inc. v. Roundy's, Inc., 961 F.2d 200, 202, 22 U.S.P.Q.2d 1542, 1544 (Fed. Cir. 1992); Giant Food, Inc. v. Nation's Foodservice, 710 F.2d 1565, 1569, 218 U.S.P.Q. 390, 394 (Fed. Cir. 1983); Interstate Brands Corp. v. Celestial Seasonings, Inc., 576 F.2d 926, 929, 198 U.S.P.Q. 151, 153 (C.C.P.A. 1978) (“[T]hat confusion is unlikely to occur’ is a legal conclusion...”).

4. The conditions under which the buyers to whom sales are made, i.e., “impulse” vs. careful, sophisticated purchasing;
5. The fame of the prior mark (sales, advertising, length of use);
6. The number and nature of similar marks in use on similar goods;
7. The nature and extent of any actual confusion;
8. The length of time during and conditions under which there has been concurrent use without evidence of actual confusion;
9. The variety of goods on which a mark is or is not used (house mark, “family” mark, product mark);
10. The market interface between applicant and the owner of a prior Mark;
11. The extent to which applicant has a right to exclude others from use of its mark on its goods;
12. The extent of potential confusion, i.e., de minimums or substantial; and
13. Any other fact probative of the effect of use.

Id. at 1361.

The Board has confirmed on many occasions that there is no mechanical test for determining likelihood of confusion. The issue is not whether the actual goods or services are likely to be confused but, rather, whether there is a likelihood of confusion as to the source of the goods. See In re Shell Oil Co., 992 F.2d 1204, 1208, 26 U.S.P.Q.2d 1687, 1690 (Fed. Cir. 1993). Thus, no single DuPont factor is always determinative, and from time to time each may play a dominant role. Id. at 1362. Moreover, the Board need not consider each factor to evaluate the likelihood of confusion. See Bose Corp. v. QSC Audio Prods., Inc., 293 F.3d 1367, 1370, 63 U.S.P.Q.2d 1303, 1305 (Fed. Cir. 2002) (“Our precedent establishes that the determination of a likelihood of confusion does not require examination and findings as to each and every DuPont

factor.”) (acknowledging reliance on only four factors to reverse Board’s decision). If the Board has any doubt regarding a likelihood of confusion, that doubt should be resolved in favor of the Opposer and prior use of the mark. In re Hyper Shoppes, Inc., 837 F.2d 463, 464-65, 6 U.S.P.Q.2d 1025 (Fed. Cir. 1988); see also MSI DataCorp. v. Microprocessor Systems Inc., 220 U.S.P.Q. 655, 658 (T.T.A.B. 1983).

In this proceeding, the similarity of the marks, the similarity of the goods and services, the similarity of likely-to-continue trade channels, the conditions and manner in which the parties’ respective marks are marketed, the fame of Opposers’ marks, the existence of instances of actual confusion, and Opposers’ long-standing family of marks establish conclusively that Applicant’s mark is likely to cause confusion regarding the source, affiliation, and sponsorship of Applicant’s services. In fact, Applicant admits that there exists a likelihood of confusion between her claimed mark and Opposers’ marks. See Undisputed Material Fact (“UMF”) No. 40. Thus, the Application should be refused registration.

A. The Marks are Similar in Appearance, Sound, Connotation and Commercial Impression.

“The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison, but whether the marks are sufficiently similar that there is a likelihood of confusion as to the source of the goods or services.” T.M.E.P. § 1207.01(b). In evaluating the similarities between marks, the emphasis must be on the recollection of the average purchaser who normally retains a general, rather than specific, impression of trademarks. Sealed Air Corp. v. Scott Paper Co., 190 U.S.P.Q. 106, 108 (T.T.A.B. 1975).

The dominant portion of each of the parties’ marks is the word **CHEROKEE**. See UMF Nos. 2, 18-20, 25-26, 34. “When the dominant portion of the two marks are the same, confusion is likely.” Country Floors, Inc. v. Partnership of Gepner and Ford, 930 F.2d 1056, 1065, 18

U.S.P.Q.2d 1577 (3rd Cir. 1991); see also Lone Star Steakhouse & Saloon, Inc. v. Alpha of Va. Inc., 43 F.3d 922, 936, 33 U.S.P.Q.2d 1481, 1492 (4th Cir. 1995) (finding a strong likelihood of confusion between “Lone Star” and “Lone Star Grill” for restaurant services because the dominant marks were identical); In re Dixie Restaurants, Inc., 105 F.3d at 1406-07 (finding likelihood of confusion between “The Delta Café” and “Delta” for restaurant services, based on the common dominant portion of the marks); Century 21 Real Estate Corp. v. Sandlin, 846 F.2d 1175, 1179, 6 U.S.P.Q.2d 2034, 2036 (9th Cir. 1988) (finding a likelihood of confusion between “Century Investments & Realty” and “Century 21” based on the common dominant feature of the marks).⁶

Applicant admits that the dominant portion of Applicant’s mark closely resembles that of Opposers’ marks. See UMF Nos. 26, 34. Thus, in terms of appearance and sound, the marks are similar. See In re Chatam Intern’l, Inc., 380 F.3d 1340, 1343, 71 U.S.P.Q.2d 1944, 1947 (Fed. Cir. 2004) (affirming Board’s conclusion that JOSE GASPARD GOLD and GASPARD’S ALE were “strikingly similar”).

The conclusion that the marks are confusingly similar is even more apparent considering the connotation and commercial impression of the marks. Applicant uses her claimed mark in conjunction with horse breeding and stud services. See UMF No. 25. Applicant clearly seeks to benefit from the **CHEROKEE NATION**’s fame, reputation and goodwill as skilled horse breeders. See UMF Nos. 29-33. Indeed, Applicant admits that the **CHEROKEE ARABIANS** mark is intended to “reflect[] the adaptation of the Cherokee people’s tradition in [horse] breeding ethics...” See UMF No. 29. Applicant’s marketing and promotion of her mark, including the use of Native American dress and costumes, create the impression that the

⁶ Applicant may contend that the use of the additional word, ARABIANS, serves to distinguish its mark from those of Opposers. However, where the dominant portion of each mark is the same, confusion may be likely notwithstanding peripheral differences. See T.M.E.P. § 1207(b)(iii) (citing cases).

CHEROKEE NATION is the source of the horse breeding services she offers. See UMF Nos. 29-33. Applicant thus falsely suggests a connection with Opposers. See UMF No. 41. There is no doubt that the impression Applicant seeks to convey through the use of the mark, and particularly, the dominant term, “Cherokee,” is that her services emanate from, or are affiliated with, the **CHEROKEE NATION** or its members. See UMF Nos. 29-33.

B. The Marks are Used in Connection with Similar Goods and Services.

In inter partes proceedings, registerability must be determined “on the basis of the identification of goods set forth in the application regardless of what the record may reveal as to the particular nature of an applicant’s goods...” Bose, 293 F.3d at 1377, 63 U.S.P.Q.2d at 1310-11. Furthermore, because “[p]roceedings before the Board are concerned with registerability and not use of a mark the identification of goods/services statement in the registration, not the goods/services actually used by the registrant, frames the issue.” Cunningham v. Laser Golf Corp., 222 F.3d 943, 948, 55 U.S.P.Q.2d 1842, 1846 (Fed. Cir. 2000).

However, in assessing the relatedness of the goods and/or services, the more similar the marks at issue, the less similar the goods or services need to be to cause a likelihood of confusion. In re Shell Oil Co., 992 F.2d at 1207. This is because the issue is not whether the goods will be confused with each other, but rather whether the public will be confused about their source. See Safety-Kleen Corp. v. Dresser Indus., Inc., 518 F.2d 1399, 1404, 186 U.S.P.Q. 476, 480 (C.C.P.A. 1975). Accordingly, it is sufficient that the goods or services of the Applicant and Opposers are so related that the circumstances surrounding their marketing are such that they are likely to be encountered by the same persons under circumstances that would give rise to the mistaken belief that they originate from the same source. See, e.g., On-line Careline Inc. v. America Online Inc., 229 F.3d 1080, 56 U.S.P.Q.2d 1471 (Fed. Cir. 2000) (ON-LINE TODAY for Internet connection services held likely to be confused with ONLINE

TODAY for Internet content); In re Martin's Famous Pastry Shoppe, Inc., 748 F.2d 1565, 223 U.S.P.Q. 1289 (Fed. Cir. 1984) (MARTIN'S for wheat bran and honey bread held likely to be confused with MARTIN'S for cheese); In re Toshiba Medical Systems Corp., 91 U.S.P.Q.2d 1266 (T.T.A.B. 2009) (VANTAGE TITAN for MRI diagnostic equipment held likely to be confused with TITAN for medical ultrasound device); L.C. Licensing, Inc. v. Berman, 86 U.S.P.Q.2d 1883 (T.T.A.B. 2008) (ENYCE for custom automotive accessories held likely to be confused with ENYCE for various clothing items and accessories directed to the urban lifestyle market); In re Corning Glass Works, 229 U.S.P.Q. 65 (T.T.A.B. 1985) (CONFIRM for a buffered solution equilibrated to yield predetermined dissolved gas values in a blood gas analyzer held likely to be confused with CONFIRMCELLS for diagnostic blood reagents for laboratory use); In re Jeep Corp., 222 U.S.P.Q. 333 (T.T.A.B. 1984) (LAREDO for land vehicles and structural parts therefor held likely to be confused with LAREDO for pneumatic tires).

It is apparent from the face of Applicant's identification statement that the goods offered by Applicant using its claimed mark are confusingly similar to Opposers' goods and services. See UMF No. 25. Applicant seeks to register the mark **CHEROKEE ARABIANS** in connection with horse breeding and stud services. Id. The **CHEROKEE NATION** and its members have long bred horses and are renowned for their horse breeding skill and acumen. See UMF Nos. 6-7. Moreover, Opposers parlayed their horse breeding fame into related successful horse racing facilities; namely, **CHEROKEE CASINO WILL ROGERS DOWNS** and **BLUE RIBBON DOWNS**. See UMF Nos. 20-22. The similarity between Opposers' services and Applicant's services are thus obvious.

The similarity between the parties' services is made more apparent by Applicant's marketing strategy. Applicant expressly states that she seeks to provide horse breeding services

in the tradition of the **CHEROKEE** people and to associate herself with **CHEROKEE** horse breeding customs. See UMF Nos. 29-30. Considering the similarity of the marks, the similarity of the services, and Applicant's admitted attempt to associate her services with the **CHEROKEE NATION**, there is no doubt consumers may believe services offered for sale or sold by Applicant originated or are affiliated with Opposers. See UMF Nos. 28-33, 39. Consequently, the second DuPont factor strongly favors a finding of a likelihood of confusion.

C. The Trade Channels for the Parties' Goods and Services are Identical or Overlap.

The third DuPont factor concerns the "similarity or dissimilarity of established, likely-to-continue trade channels." DuPont, 476 F.2d at 1361, 177 U.S.P.Q. at 567. According to the Federal Circuit, where the parties' products are the same, their trade channels are likely to be found to be similar. See Kimberly-Clark Corp. v. H. Douglas Enters., Ltd., 774 F.2d 1144, 1146, 227 U.S.P.Q. 541 (Fed. Cir. 1985) (upholding Board's finding that the parties' trade channels are "precisely the same" where both parties sell diapers sold in the same section of the same retail store); Specialty Brands, Inc. v. Coffee Bean Distribs., Inc., 748 F.2d 669, 672, 223 U.S.P.Q. 1281 (Fed. Cir. 1984). As set forth above, Applicant seeks to market her horse breeding services using the **CHEROKEE ARABIANS** mark and promotes and sells those services via the Internet. See UMF Nos. 31-33, 35. Opposers also market their services, including horse racing, via the Internet. See UMF No. 35. Consequently, the likely to continue channels of trade are identical, and the third DuPont factor is met here.

D. The "Consumers" or "Purchasers" of the Parties' Respective Goods and Services are Likely to be Confused as to the Source and Sponsorship of Applicant's Goods, Services and Activities.

Applicant's prominent use of the term **CHEROKEE** is likely to, and designed to, create confusion among potential consumers as to the source and sponsorship of Applicant's goods.

See UMF Nos. 28-33. Clearly, consumers may believe that the **CHEROKEE NATION**, a federally recognized, successful, and influential Indian tribe known for its horse breeding skill and acumen approves of, or sponsors, Applicant's services. Id. Nos. 39-41. Indeed, although she is not a member of the **CHEROKEE NATION** or any other federally recognized Indian tribe, in the promotion of her proposed mark, Applicant claims to be a Cherokee Indian. See UMF Nos. 27, 33. Applicant perpetuates this myth by advertising and promoting her mark dressed in traditional Native American costumes and regalia such that consumers have demonstrated actual confusion regarding the source of her services. See UMF Nos. 29-33. Thus, Applicant may thereby improperly benefit from the fame, goodwill and reputation of Opposer's marks. See, e.g., San Francisco Arts & Athletics, Inc. v. United States Olympic Committee, 483 U.S. 522, 539, 3 U.S.P.Q.2d 1145 (1987) (where San Francisco Arts & Athletics promoted the "Gay Olympic Games," selling t-shirts, buttons, bumper stickers and other merchandise under that name, the Supreme Court found that the "possibility for confusion as to sponsorship [by the United States Olympic Committee] is obvious" and enjoined the use).

As in San Francisco, Applicant seeks to sell her horse breeding services under the **CHEROKEE ARABIANS** mark. See UMF No. 25. Consumers are likely to infer sponsorship of Applicant's services by Opposers based on Applicant's claimed affiliation with the **CHEROKEE NATION**, and the similarity of Applicant's proposed mark to the registered marks of Opposers. See UMF Nos. 39-41. The possibility of confusion as to the source of Applicant's services, and as to the sponsorship of Applicant's activities by Opposers also weigh in favor of the proposition that Applicant's application should be summarily refused.

E. Opposers' Marks are Famous.

Opposer **CHEROKEE NATION** has continuously used, advertised, promoted, and offered its governmental, social, financial, educational, commercial and other services under the

CHEROKEE NATION mark for over 200 years with the result that individuals have come to know and recognize the **CHEROKEE NATION** mark and to associate the same with the Cherokee Nation and/or the Cherokee Nation's services. See UMF Nos. 1-4. The fame of Opposer's mark cannot seriously be contested. Id. Nos. 5-8, 13-14; cf. In re CHEROKEE MY DOLL, Office Action, Serial No. 77/556,232 at 3-4 (Dec. 10, 2008), Ex. 14; In re CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830 at 1-2 (April 4, 2008), Ex. 13; see also B.V.D. Licensing Corp. v. Body Action Design, Inc., 846 F.2d 727, 728, 6 U.S.P.Q.2d 1719 (Fed. Cir. 1988) (taking judicial notice of fame of B.V.D. mark for mens' underwear). In CHEROKEE CHARCOAL, the examining attorney for the United States Patent and Trade Office refused applicant's request for registration of a mark for CHEROKEE CHARCOAL in conjunction with the sale of charcoal products, holding that "[a]lthough not connected with the goods or services applicant provides under the proposed mark, the Cherokee Nation is so famous that consumers would presume a connection." CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830, at 2, Ex. 13. Applicant admits that Opposers' marks are famous. See UMF No. 14.

The fame of Opposer's mark is "a dominant factor in the likelihood of confusion analysis for a famous mark, independent of the consideration of the relatedness of the goods." Recot, Inc. v. Becton, 214 F.3d 1322, 1328, 54 U.S.P.Q.2d 1894, 1898 (Fed. Cir. 2000). The fame of Opposer's mark entitles it to broad protection. See Specialty Brands, 748 F.2d at 675 ("The fame of a trademark may affect the likelihood purchasers will be confused inasmuch as less care may be taken in purchasing a product under a famous name.").

Because Opposer's mark, **CHEROKEE NATION**, is indisputably famous and because an analysis of those other relevant DuPont factors demonstrates conclusively that Applicant's

mark is likely to be confused with Opposers' marks, the Oppositions should be sustained under Trademark Act Section 2(d) and Applicant refused registration of the mark, **CHEROKEE ARABIANS**.

F. Opposers' Marks are Entitled to Heightened Protection Because They Exist as a "Family of Marks".

A trademark owner may claim protection for a common component of a family of marks without a registered trademark in the common component. McDonald's Corp. v. McBagel's Inc., 649 F. Supp. 1268, 1272 (S.D.N.Y. 1986) (extending protection based on a family of marks sharing the "Mc" prefix). A group of marks forms a family when the individual marks share "a recognizable common characteristic, wherein the marks are composed and used in such a way that the public associates not only the individual marks, but the common characteristic of the family, with the trademark owner." J & J Snack Foods Corp. v. McDonald's Corp., 932 F.2d 1460, 1462 (Fed. Cir. 1991); see also Victoria Secret Stores Brand Mgmt., Inc. v. Sexy Hair Concepts, LLC, 2009 WL 959775 at *4, 91 U.S.P.Q. 2d 1671 (S.D.N.Y. 2009); McBagel's, 649 F. Supp. at 1272. The key element in finding that a group of individual marks constitute a family is "a recognition among the purchasing public that the common characteristic is indicative of a common origin of the goods." J & J, 932 F.2d at 1462. Determination that a family of marks exists is a question of fact to be determined by examining (1) whether, prior to the junior user's entry, the marks in the alleged family were used and promoted to create a public perception of the common element as an indication of source, and (2) whether the common element is distinctive. Id. at 1462-64. The J & J Court held that a likelihood of confusion with the McDonald's family of marks for foods prefaced by "Mc" precluded registration of marks for "McPRETZEL" and "McDUGAL McPRETZEL" notwithstanding numerous third-party registrations for various "Mc" names. Id. at 1463-64; see also Motorola, Inc. v. Griffiths

Electronics, Inc., 317 F.2d 397, 400-01 (C.C.P.A. 1963) (holding that the term “Golden” was not descriptive and extending protection on the basis of a distinctive family of marks incorporating the term).

The term “Cherokee,” is commonly recognized to refer to Opposer, the **CHEROKEE NATION**. See UMF Nos. 5, 13; see also CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830, at 2, Ex. 13 (“Cherokee identifies a Native American people currently residing in Oklahoma and North Carolina and the mark would be recognized as such.”). Opposers have used **CHEROKEE** as a common characteristic among numerous marks since at least 1791. See UMF No. 2. The **CHEROKEE NATION** has continuously used, advertised, promoted, and offered its governmental, social, financial, educational and other services under the **CHEROKEE NATION** and **CHEROKEE** marks with the result that individuals have come to know and recognize Opposer’s **CHEROKEE NATION** and **CHEROKEE** marks and to associate the same with Opposer and/or Opposer’s services. Id. Nos. 5, 13. The **CHEROKEE NATION** has further used a variety of associated marks incorporating the signifier **CHEROKEE** such that the public associates the term **CHEROKEE** with Opposer as an indication of source. Id. Nos. 2, 4, 5-7, 18-20, 24. The term **CHEROKEE** is distinctive and used to indicate association with or promotion by Opposers which predate Applicant’s use of her similar mark. Id. Nos. 4, 24.

Applicant’s mark falsely suggests a connection with Opposers **CHEROKEE NATION** and **CNE**. See UMF No. 41. It is likely that persons would infer that Applicant is associated with Opposers **CNE** and **CHEROKEE NATION** by virtue of the shared common characteristic of Applicant’s proposed mark and Opposers’ family of marks, i.e., the work **CHEROKEE**.

As the foregoing makes clear, Applicant's proposed mark is likely to be confused with Opposers' marks. Further, if there is any doubt as to whether there is a likelihood of confusion, that doubt must be resolved in favor of Opposers as the prior registrants. See In re Shell Oil Co., 992 F.2d 1204, 26 U.S.P.Q.2d 1687 (Fed. Cir. 1993); In re Hyper Shoppes (Ohio), Inc., 837 F.2d 463, 6 U.S.P.Q.2d 1025 (Fed. Cir. 1988). Applicant should be refused registration for a mark that is confusingly similar to Opposer's family of marks.

III. APPLICANT'S PROPOSED MARK FALSELY SUGGESTS ASSOCIATION WITH OPPOSERS

Applicant's proposed mark should be refused registration on the additional ground that it consists of, or comprises matter, which may falsely suggest a connection with the Opposer, **CHEROKEE NATION**. Applicant is not a member of, or affiliated with, any federally recognized Indian tribe, including the **CHEROKEE NATION**. See UMF No. 10. Although, as Applicant concedes, Opposer is not connected with, or affiliated with, Opposer in any way, Opposer's **CHEROKEE NATION** mark is so famous that consumers would presume a connection. Id. Nos. 14, 37; see 15 U.S.C. § 1052(a); T.M.E.P. §§ 1203.03, 1203.03(e) and 1203.03(f); CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830, at 2, Ex. 13; see generally University of Notre Dame Du Lac v. J.C. Gourmet Food Imports Co., 703 F.2d 1372, 217 U.S.P.Q. 505 (Fed. Cir. 1983); In re Nuclear Research Corp., 16 U.S.P.Q. 2d 1316 (T.T.A.B. 1990); University of Alabama v. BAMA-Werke Curt Baumann, 231 U.S.P.Q. 408 (T.T.A.B. 1986); In re Cotter & Co., 228 U.S.P.Q. 202 (T.T.A.B. 1985); Buffett v. Chi-Chi's, Inc., 226 U.S.P.Q. 428 (T.T.A.B. 1985).

In order to demonstrate a false connection under Section 2(a):

1. The mark sought to be registered is the same as or a close approximation of the name or identity of a person or institution;
2. The mark would be recognized as such;

3. The person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark; and
4. The fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods services.

In re Nuclear Research Corp., 16 U.S.P.Q.2d 1316 (T.T.A.B. 1990); In re Cotter, 228 U.S.P.Q. at 204; Buffett, 226 U.S.P.Q. at 429.

Opposer, **CHEROKEE NATION**, has satisfied each of the elements of its claim of false association to preclude registration of Applicant's proposed mark. Applicant's proposed mark, **CHEROKEE ARABIANS**, clearly features the name of the American Indian tribe, **CHEROKEE**, as the dominant term in the mark. See UMF Nos. 2-5, 25. The term, "Cherokee," is commonly recognized to refer to Opposer, the **CHEROKEE NATION**. See UMF Nos. 2-5, 13; see also CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830, at 2, Ex. 13 ("Cherokee identifies a Native American people currently residing in Oklahoma and North Carolina and the mark would be recognized as such."). Further, Applicant is not connected or affiliated with the **CHEROKEE NATION** in any way. See UMF No. 27. Finally, the fame or reputation of the **CHEROKEE NATION** is of such a nature that a connection between Opposer and Applicant would be presumed. See CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830, at 2, Ex. 13; UMF Nos. 2-5, 13-14. Thus, it may be presumed that purchasers of the goods would be misled into making a false connection of sponsorship, approval, support or the like with the named party. Id. Nos. 14, 38-41; CHEROKEE CHARCOAL, Office Action, Serial No. 76/683,830, at 2, Ex. 13; In re Cotter, 228 U.S.P.Q. at 204; In re National Intelligence Academy, 190 U.S.P.Q. 570 (T.T.A.B. 1976); In re CHEROKEE

PROUD, Office Action, Serial No. 75/506359 at 1-2 (February 11, 1999), Ex. 11; In re CHEROKEE STONEWORKS, Office Action, Serial No. 77/122071 at 3-4 (June 4, 2007), Ex. 12.⁷

In In re White, 73 U.S.P.Q.2d 1713 (T.T.A.B. 2004), the Board refused registration of APACHE for cigarettes under Section 2(a), finding that the mark falsely suggests a connection between the applicant and federally recognized Apache Indian tribes. As in White, Applicant seeks to register the mark, **CHEROKEE ARABIANS**, to market similar goods and services under the **CHEROKEE** name. As such, Applicant's proposed mark falsely suggests a connection between the citizens of the **CHEROKEE NATION**, a federally recognized Indian tribe, and Applicant's goods, services, and activities. For this additional reason, Applicant's attempt to register the mark, **CHEROKEE ARABIANS**, should be refused.

CONCLUSION

Based upon the foregoing, Applicant's attempt to register the mark, **CHEROKEE ARABIANS**, should be refused on the ground that registration is likely to cause confusion as to the source or sponsorship of Applicant's goods, services and membership and on the ground that the proposed mark falsely suggests a connection or association with Opposers. Therefore, Opposers respectfully request that the Board grant summary judgment in their favor, and against

⁷ Further, as recognized in CHEROKEE PROUD, Office Action, Serial No. 75/506359 at 1-2, Ex. 11, Applicant's goods may violate the Indian Arts & Crafts Act, 18 U.S.C. § 1159(a), which provides that "[i]t is unlawful to offer or display for sale or sell any goods, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States." Applicant has indicated the intent to provide horse breeding services under the mark, **CHEROKEE ARABIANS**. As she admits, Applicant's proposed mark insinuates that the goods are produced by Cherokee Indians or the **CHEROKEE NATION**. Applicant is not a member of nor affiliated with the **CHEROKEE NATION** nor any federally recognized Indian tribe. See UMF Nos. 27, 33. Use of the mark by a non-Indian may constitute a per se violation of the Indian Arts & Crafts Act and Applicant's request for registration should therefore be refused. See In re CHEROKEE PROUD, Serial No. 75/506359 at 1-2, Ex. 11.

applicant, sustaining Opposition No. 91197038, and refusing registration of Applicant's mark,
Serial No. 77/663,620.

Respectfully submitted,



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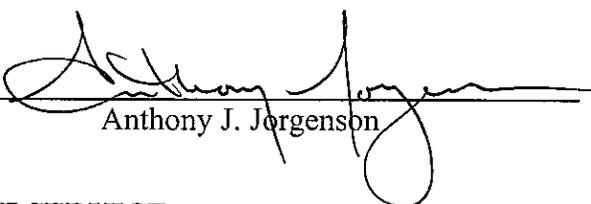
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**ATTORNEYS FOR OPPOSERS,
CHEROKEE NATION AND CHEROKEE
NATION ENTERPRISES, LLC**

CERTIFICATE OF FILING

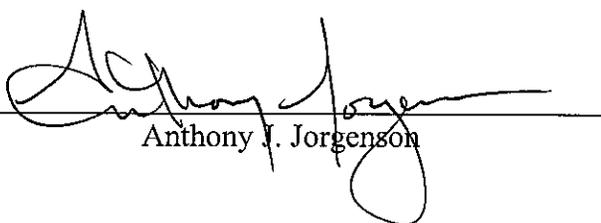
I, Anthony J. Jorgenson, hereby certify that a copy of the foregoing OPPOSERS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT is being filed with the Electronic System for Trademark Trial and Appeals ("ET TSA") of the U.S. Patent and Trademark Office on this 20th day of June, 2011.


Anthony J. Jorgenson

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 20th day of June, 2011, a true and correct copy of the above and foregoing OPPOSERS' BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT was served by first class mail, proper postage prepaid, upon Applicant at the following address:

Ms. Sonja Taylor
80515 Elliott Road
Bush, LA 70431


Anthony J. Jorgenson

1206954.1:231629:02060

Exhibit 1

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

In the matter of Trademark Application Serial No.: 77663620

For the mark: **CHEROKEE ARABIANS**

Published in the Official Gazette on: June 22, 2010

**CHEROKEE NATION, a federally
recognized Indian tribe, and CHEROKEE
NATION ENTERTAINMENT, L.L.C.,**

Opposers,

v.

Opposition No. _____

Sonja Taylor,

Applicant.

NOTICE OF OPPOSITION

Cherokee Nation, a federally recognized Indian tribe 17675 S. Muskogee Tahlequah, OK 74464	Cherokee Nation Entertainment, L.L.C. 777 West Cherokee Street Catoosa, OK 74015
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The above-identified Opposers believe that they will be damaged by registration of the mark shown in the above-identified application, and hereby oppose the same.

The grounds for opposition are as follows:

1. Opposer **CHEROKEE NATION** is a federally recognized Indian tribe that provides governmental, social, financial, educational, and other services to its tribal citizens. There are approximately 109,724 citizens who live within Opposer **CHEROKEE NATION**'s Tribal Jurisdictional Service Area and approximately 268,761 citizens dispersed throughout the world.

2. Opposer **CHEROKEE NATION** has used the mark **CHEROKEE NATION**, and more generally, the mark **CHEROKEE**, 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 **CHEROKEE NATION**'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** and **CHEROKEE** marks, Opposer **CHEROKEE NATION** has continuously used, advertised, promoted, and offered its governmental, social, financial, educational and other services, as well as numerous goods, under the **CHEROKEE NATION** and **CHEROKEE** marks with the result that individuals have come to know and recognize Opposer **CHEROKEE NATION**'s **CHEROKEE NATION** and **CHEROKEE** marks and to associate the same with Opposer **CHEROKEE NATION** and/or Opposer **CHEROKEE NATION**'s goods and services.

4. Opposer **CHEROKEE NATION** is the owner of the mark **CHEROKEE PHOENIX**, Registration No. 3592624. Opposer **CHEROKEE NATION** has used the mark **CHEROKEE PHOENIX** since at least 1828. Opposer **CHEROKEE NATION** registered the mark **CHEROKEE PHOENIX** for the following goods: "newspapers; daily newspaper; newspaper comic strips; newspapers in the field of Native American news and information; brochures about Native American news and information; pens; posters; books in the field of Native American news; history and information." Opposer **CHEROKEE NATION** also registered the mark **CHEROKEE PHOENIX** for the following services: "newspaper publication; newspaper publishing; publication of newspapers; publication of electronic

newspapers accessible via a global computer network (world wide web); news reporting services; publication of brochures; publication of books.”

5. Opposer **CHEROKEE NATION** is also the owner of the design mark, including the word **GWY**, Registration No. 3641872. The English translation of **GWY** on the design mark is “**CHEROKEE**.” Opposer’s Registration No. 3641872 is used in conjunction with the following goods: “coasters, not of paper and other than table linen; cups and mugs; portable beverage coolers; portable coolers” with use dating back to at least July 2007 and “T-shirts; sweat shirts; sweat pants; sweat bands; golf shirts; hoodies; tank tops; bowling shirts; jackets; wind shirts; wind resistant jackets; wind jackets; vests; fleece vests; fleece jackets; aprons; baseball caps” with use dating back to at least September 2006.

6. Since its initial use of its **CHEROKEE NATION**, **CHEROKEE**, **CHEROKEE PHOENIX**, and **GWY** marks, Opposer **CHEROKEE NATION** has continuously used, advertised, promoted, and offered its governmental, social, financial, educational and other services, as well as numerous goods, under the **CHEROKEE NATION**, **CHEROKEE**, **CHEROKEE PHOENIX**, and **GWY** marks with the result that individuals have come to know and recognize Opposer **CHEROKEE NATION**’s marks and to associate the same with Opposer **CHEROKEE NATION** and/or Opposer’s goods and services.

7. Opposer **CHEROKEE NATION ENTERTAINMENT, L.L.C.** (“**CNE**”) is a limited liability company organized under the laws of the **CHEROKEE NATION**, a federally recognized Indian tribe.

8. Opposer **CNE** is wholly owned by Cherokee Nation Businesses, L.L.C., a limited liability company organized under the laws of the **CHEROKEE NATION**, which is in turn

wholly owned by the **CHEROKEE NATION**. Opposer CNE's principal purpose is to help in the management of business affairs and/or commercial functions of the **CHEROKEE NATION**.

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

10. Opposer CNE has used the marks **CHEROKEE NATION ENTERTAINMENT** and/or **CHEROKEE NATION ENTERPRISES** in conjunction with its goods, entertainment services and/or advertising and business services since April 4, 1996. Opposer CNE's use of the marks **CHEROKEE NATION ENTERTAINMENT** and/or **CHEROKEE NATION ENTERPRISES** in conjunction with its goods, entertainment services and/or advertising and business services directly benefits the **CHEROKEE NATION** and its citizens.

11. Opposer CNE is also the owner of the following U.S. Trademark Registrations: Registration No. 2961563 for the mark **CHEROKEE CASINO RESORT**, issued June 7, 2005; Registration No. 2961562 for the mark **CHEROKEE HILLS GOLF CLUB**, issued June 7, 2005; Registration No. 3426163 for the mark **TEAM CHEROKEE**, issued May 13, 2008; Registration No. 3690437 for the mark **CHEROKEE STAR REWARDS**, issued September 29, 2009; and Registration No. 3693880 for the mark **CHEROKEE STAR REWARDS**, plus design, issued October 6, 2009 (the "Related Registrations"). The "Related Registrations" operate as prima facie and/or conclusive evidence of Opposer CNE'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).

12. Since its initial use of its **CHEROKEE NATION ENTERPRISES** mark, more recently its **CHEROKEE NATION ENTERTAINMENT** mark, and the Related Registrations, Opposer **CNE** has continuously used, advertised, promoted, and offered its goods, as well as its entertainment services and/or advertising and business services under the **CHEROKEE NATION ENTERPRISES** and **CHEROKEE NATION ENTERTAINMENT** mark and the Related Registrations, with the result that individuals have come to know and recognize Opposer **CNE's CHEROKEE NATION ENTERPRISES** and **CHEROKEE NATION ENTERTAINMENT** marks and the Related Registrations and to associate the same with Opposer **CNE** and/or Opposer **CNE's** goods and services.

13. On information and belief, on February 4, 2009, Applicant filed an Application for Registration of the mark **CHEROKEE ARABIANS**. The application was assigned Serial No. 77663620, and was published for opposition in the Official Gazette of June 22, 2010, for "breeding and stud services for horses" in International Class 044.

14. Throughout its history, Opposer **CHEROKEE NATION's** members have bred and used horses as part of their cultural heritage. The breeding and use of horses are distinctive and significant attributes of Opposer **CHEROKEE NATION's** history, culture and heritage.

15. Additionally, Opposer **CNE** owns and operates two horse-racing facilities, **CHEROKEE NATION WILL ROGERS DOWNS** and **BLUE RIBBON DOWNS**. The ownership of these facilities demonstrates the continuing importance of horse breeding, training, and racing to the **CHEROKEE NATION's** history, culture and heritage.

16. Opposer CNE is the owner of the mark **CHEROKEE CASINO WILL ROGERS DOWNS**, Registration No. 3835089, for the following goods and/or services: "Entertainment services, namely, conducting horse racing and rodeo events; horse training; horse showing; entertainment services, namely, casino gaming; casinos; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; providing casino facilities," in International Class 041 dating back to at least December 2005.

17. Opposer CNE is also the owner of the mark **BLUE RIBBON DOWNS**, Registration No. 2893642, for the following goods and/or services: "Provision of horse track services, namely, on-track, off-track and inter-track betting and wagering services" in International Class 036 and:

Entertainment services, namely, organizing and conducting live and simulcast horse racing; provision of horse track services, namely conducting horse races, organizing and conducting pre- and post-race activities, namely providing party facilities rental services at racetracks for businesses and organizations; providing pre- and post-race entertainment services in the nature of live music performances at racetracks; providing pre- and post-race entertainment services in the nature of car shows and exhibitions at racetracks; and providing live commentary of horse races

in International Class 041 dating back to at least 1963.

18. In submitting her Application, Applicant has claimed and represented a connection to and affiliation with Opposers, to wit:

The applicant would like to clarify that her "Cherokee Arabians" mark is used for her business in breeding "Arabian" horses, NOT Cherokee horses. The word "Cherokee" refers to her own Heritage. Ms. Taylor is a descendant of the Cherokee Native American people. As such, her "Cherokee Arabians" brand reflects the adaptation of the Cherokee people's tradition in breeding ethics to the separate "Arabian" breed of horses. These Arabian horses are descendants from the desert horses developed over 2000 years ago in the Middle East. This is also evident in the pictures attached to this response that are available at www.CherokeeArabians.com. These pictures, showing the applicant dressed in Cherokee clothing

with the Arabian horses, document the distinctive description of the Cherokee people in conjunction with Arabian horses.

Applicant's Response to Office Action, submitted October 31, 2009.

19. On information and belief, Applicant's goods and 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 Opposers and/or Opposers' goods and/or services are offered under Opposers' **CHEROKEE NATION, CHEROKEE, CHEROKEE PHOENIX, GWY, CHEROKEE CASINO WILL ROGERS DOWNS,** and **BLUE RIBBONS DOWNS** marks.

20. Applicant's **CHEROKEE ARABIANS** mark so closely resembles Opposers' **CHEROKEE NATION, CHEROKEE, CHEROKEE PHOENIX, GWY,** and **CHEROKEE CASINO WILL ROGERS DOWNS** marks that the registration and use of **CHEROKEE ARABIANS** 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 Opposers.

21. Applicant's **CHEROKEE ARABIANS** mark so closely resembles Opposers' **CHEROKEE NATION, CHEROKEE, CHEROKEE PHOENIX, GWY,** and **CHEROKEE CASINO WILL ROGERS DOWNS** marks that the registration and use of **CHEROKEE ARABIANS** by Applicant will falsely suggest a connection with Opposers 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 Opposers.

22. Applicant's **CHEROKEE ARABIANS** mark is misrepresentative of a connection with and/or association with Opposers and is deceptive in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)).

23. Applicant's proposed registration and use of the mark **CHEROKEE ARABIANS** is disparaging to Opposers and Opposer **CHEROKEE NATION**'s members and will bring Opposers' **CHEROKEE NATION, CHEROKEE, CHEROKEE PHOENIX, GWY,** and **CHEROKEE CASINO WILL ROGERS DOWNS** marks 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 Opposers.

24. Applicant's **CHEROKEE ARABIANS** mark is not entitled to registration because Applicant's use of the **CHEROKEE ARABIANS** 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)).

25. The United States government owes a fiduciary trust obligation to federally recognized Indian tribes, including Opposer **CHEROKEE NATION**. Among other things, the federal government is obligated to ensure that Indian property is protected. For the Trademark Office, that obligation means the protection of Indian tribes' specific items of intellectual property -- in this case, the Opposers' rights in the term, **CHEROKEE**. Applicant's proposed appropriation, registration and use of the mark **CHEROKEE ARABIANS** will falsely lead consumers to believe that Applicant's goods and/or services are made by, sponsored by, and/or otherwise affiliated with, Opposers and will prohibit Opposers from using their own names to identify such goods and/or services now or in the future in violation of the federal government's trust obligation to Opposers.

26. Opposers believe that they will be damaged by the registration by Applicant of the **CHEROKEE ARABIANS** mark, as set forth in Applicant's Application, Serial No. 77663620, 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 she is not entitled, to the damage and detriment of Opposers, and their **CHEROKEE NATION, CHEROKEE, CHEROKEE PHOENIX, GWY, and CHEROKEE CASINO WILL ROGERS DOWNS** marks.

WHEREFORE, and in view of Opposers' registration and use of the marks **CHEROKEE NATION, CHEROKEE, CHEROKEE PHOENIX, GWY, and CHEROKEE CASINO WILL ROGERS DOWNS** marks to which Applicant's mark is confusingly similar, Opposers pray that this opposition be sustained and that registration of the mark **CHEROKEE ARABIANS**, based on Applicant's Application Serial No. 77663620, filed February 4, 2009, be refused and denied.

Respectfully submitted this 20th day of October, 2010.



Anthony J. Jorgenson, OBA #17074
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Tulsa, OK 74103
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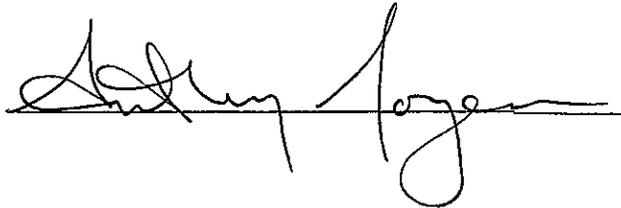
and

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 OPPOSERS,
CHEROKEE NATION, A FEDERALLY
RECOGNIZED INDIAN TRIBE, AND
CHEROKEE NATION
ENTERTAINMENT, LLC.**

CERTIFICATE OF TRANSMISSION

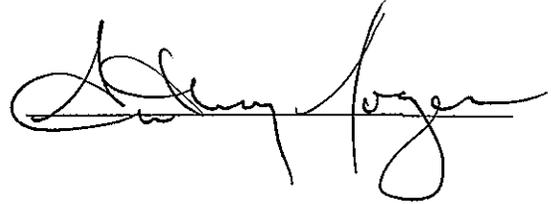
I hereby certify that this correspondence is being electronically transmitted via ESTTA to the United States Patent and Trademark Office on this 20th day of October, 2010.



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 20th day of October, 2010, 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:

Sonja Taylor
Cherokee Arabians
80515 Elliott Rd
Bush LA 70431

A handwritten signature in black ink, appearing to read "Sonja Taylor", written over a horizontal line.

1169075.1:231629:02060



Electronic System for Trademark Trials and Appeals

Receipt

\$600.00 Filing Fee

Your submission has been received by the USPTO. The content of your submission is listed below. You may print a copy of this receipt for your records.

ESTTA Tracking number: ESTTA374333

Filing date: 10/20/2010

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

Cherokee Trademark

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Cherokee Nation
Granted to Date of previous extension	10/20/2010
Address	17675 South Muskogee Tahlequah, OK 74464 UNITED STATES

Name	Cherokee Nation Entertainment, L.L.C.
Granted to Date of previous extension	10/20/2010
Address	777 West Cherokee Street Catoosa, OK 74015 UNITED STATES

Attorney information	Anthony J. Jorgenson Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
----------------------	--

From: estta-server@uspto.gov
Sent: Wednesday, October 20, 2010 5:36 PM
To: Anthony Jorgenson
Subject: ESTTA. Notice of Opposition. confirmation receipt ID: ESTTA374333

Notice of Opposition.

Tracking No: ESTTA374333

ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS Filing Receipt

We have received your Notice of Opposition. submitted through the Trademark Trial and Appeal Board's ESTTA electronic filing system. This is the only receipt which will be sent for this paper. If the Board later determines that your submission is inappropriate and should not have been accepted through ESTTA, you will receive notification and appropriate action will be taken.

Please note:

Unless your submission fails to meet the minimum legal requirements for filing, the Board will not cancel the filing or refund any fee paid.

If you have a technical question, comment or concern about your .ESTTA submission, call 571-272-8500 during business hours or e-mail at estta@uspto.gov.

The status of any Board proceeding may be checked using TTABVUE which is available at <http://ttabvue.uspto.gov> Complete information on Board proceedings is not available through the TESS or TARR databases. Please allow a minimum of 2 business days for TTABVUE to be updated with information on your submission.

The Board will consider and take appropriate action on your filing in due course.

Printable version of your request is attached to this e-mail

ESTTA server at <http://estta.uspto.gov>

ESTTA Tracking number: ESTTA374333
Filing date: 10/20/2010

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

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposer Name: Cherokee Nation
Granted to Date of previous extension: 10/20/2010
Address: 17675 South Muskogee
Tahlequah, OK 74464
UNITED STATES
Opposer Name: Cherokee Nation Entertainment, L.L.C.
Granted to Date of previous extension: 10/20/2010
Address: 777 West Cherokee Street
Catoosa, OK 74015
UNITED STATES

Attorney information:

220 SOUTH BOSTON AVENUE SUITE 200
Tulsa, OK 74103
UNITED STATES
ajorgenson@hallestill.com Phone: (918) 594-0400

Applicant Information:

Application Serial No: 77663620
Publication date: 06/22/2010
Opposition Filing Date:
Opposition Period Ends: 10/20/2010
Applicant: Taylor, Sonja
Address: 110 Eagle Road
Covington, LA 70435
UNITED STATES

Goods/Services Affected by Opposition:

Class 044. First Use: 20000101 First Use In Commerce: 20000101
All goods and services in the class are opposed, namely: Breeding and stud services for horses
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) The mark is merely descriptive, Trademark Act section 2(e)(1) Other Applicant's mark has not acquired sufficient distinctiveness under Trademark Act section 2(f).

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, financial, educational and other services, as well as numerous goods.

U.S. Application/ Registration No.: NONE Application Date: NONE Registration Date: NONE
Word Mark: CHEROKEE NATION

Goods/Services:

Governmental, social, financial, educational and other services, as well as numerous goods.

U.S. Registration No.: 3592624

Application Date: 01/21/2008

Registration Date: 03/17/2009

Word Mark: CHEROKEE PHOENIX

Goods/Services:

Class 016 First Use: 18280200 First Use In Commerce: 18280200

Newspapers; daily newspaper; newspaper comic strips; newspapers in the field of Native American news and information; brochures about Native American news and information; pens; posters; books in the field of Native American news, history and information

Class 041 First Use: 20080800 First Use In Commerce: 20080800

Newspaper publication; newspaper publishing; publication of newspapers; publication of electronic newspapers accessible via a global computer network (world wide web); news reporting services; publication of brochures; publication of books U.S. Registration No.: 3641872 Application Date: 02/02/2008 Registration Date: 06/23/2009 Word Mark: GWY

Goods/Services:

Class 021 First Use: 20070700 First Use In Commerce: 20070700

coasters, not of paper and other than table linen; cups and mugs; portable beverage coolers; portable coolers

Class 025 First Use: 20060900 First Use In Commerce: 20060900

T-shirts; sweat shirts; sweat pants; sweat bands; golf shirts; hoodies; tank tops; bowling shirts; jackets; wind shirts; wind resistant jackets; wind jackets; vests; fleece vests; fleece jackets; aprons; baseball caps U.S. Registration No.: 2961563 Application Date: 04/21/2004 Registration Date: 06/07/2005 Word Mark: CHEROKEE CASINO RESORT

Goods/Services:

Class 041 First Use: 20040908 First Use In Commerce: 20040908

Entertainment services, namely, providing golf course and gaming facilities

Class 043 First Use: 20040908 First Use In Commerce: 20040908

Resort lodging, hotel, restaurant and bar services U.S. Registration No.: 2961562

Application Date: 04/21/2004 Registration Date: 06/07/2005 Word Mark: CHEROKEE HILLS GOLF CLUB

Goods/Services:

CLASSIFICATION APPLICATION DATE: 08/27/2007 REGISTRATION DATE: 09/29/2009 WORD MARK: TEAM CHEROKEE

Goods/Services:

Class 035 First Use: 20060806 First Use In Commerce: 20060806

customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes

Class 041 First Use: 20060806 First Use In Commerce: 20060806

conducting and providing facilities for special events featuring casino and gaming contests and tournaments; gambling services; casinos; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; entertainment services, namely, arranging and conducting of competitions for casinos and gaming events; entertainment in the nature of competitions in the field of casinos and gaming; providing casino facilities; providing facilities for gaming tournaments; entertainment in the nature of gaming tournaments; entertainment services, namely, conducting live poker, blackjack and other Class II and III card game tournaments U.S. Registration No.: 3690437 Application Date: 08/27/2008 Registration Date: 09/29/2009 Word Mark: CHEROKEE STAR REWARDS

Goods/Services:

Class 041 First Use: 20080800 First Use In Commerce: 20080800

Providing casino services featuring stored value membership cards for redeeming cash, discounts and other benefits U.S. Registration No.: 3693880 Application Date: 08/27/2008 Registration Date: 10/06/2009 Word Mark: CHEROKEE STAR REWARDS

Goods/Services:

Class 035 First Use: 20080800 First Use In Commerce: 20080800

arranging and conducting incentive reward programs to promote the sale of gaming, casino, hotel and resort services U.S. Registration No.: 3835089 Application Date: 03/12/2010 Registration Date: 08/17/2010 Word Mark: CHEROKEE CASINO WILL ROGERS DOWNS

Goods/Services:

Class 041 First Use: 20051200 First Use In Commerce: 20051200

Entertainment services, namely, conducting horse racing and rodeo events; horse training; horse showing; entertainment services, namely, casino gaming; casinos; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; providing casino facilities U.S. Registration No.: 2893642 Application Date: 12/04/2003 Registration Date: 10/12/2004 Word Mark: BLUE RIBBON DOWNS

Goods/Services:

Class 036 First Use: 19630000 First Use In Commerce: 19630000

Provision of horse track services, namely, on-track, off-track and inter-track betting and wagering services

Class 041 First Use: 19630000 First Use In Commerce: 19630000

Entertainment services, namely, organizing and conducting live and simulcast horse racing; provision of horse track services, namely conducting horse races, organizing and conducting pre- and post-race activities, namely providing party facilities rental services at racetracks for businesses and organizations; providing pre- and post-race entertainment services in the nature of live music performances at racetracks; providing pre- and post-race entertainment services in the nature of car shows and exhibitions at racetracks; and providing live commentary of horse races U.S. Application/ Registration No.: NONE Application Date: NONE Registration Date: NONE Word Mark: CHEROKEE NATION ENTERPRISES

ENTERPRISES

Goods/Services:

Goods, as well as entertainment services and/or advertising and business services.

U.S. Application/ Registration No.: NONE Application Date: NONE Registration Date: NONE

Word Mark: CHEROKEE NATION ENTERTAINMENT

Goods/Services:

Goods, as well as entertainment services and/or advertising and business services.

Related Proceedings: None

Attachments:

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77957542#TMSN.jpeg (1 page)

Certificate of Service

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

Anthony J. Jorgenson
/Anthony J. Jorgenson/
10/20/2010

Exhibit 2

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

In the matter of Trademark Application Serial No.: 77663620

For the Mark: **CHEROKEE ARABIANS**

Published in the Official Gazette on: June 22, 2010

**CHEROKEE NATION, a federally
recognized Indian tribe, and CHEROKEE
ENTERTAINMENT, LLC**

Oposers,

v.

Opposition No. 91197038

Sonja Taylor,

Applicant.

ANSWER TO OPPOSITION

The Applicant believes that no cause exists for the Opposers Opposition to the Applicant's CHEROKEE ARABIANS mark and provides the following answers to the Opposers claims:

1. Defendant admits that Cherokee Nation is a federally recognized Indian trib. Furthermore, the Defendant asserts that citizens of the Cherokee Nation represent a small minority of the Cherokee people throughout the world.
2. The defendant stipulates the Cherokee Nation has used the mark CHEROKEE NATION for some period. The Defendant denies that the Cherokee Nation has used the mark CHEROKEE lawfully. The CHEROKEE mark is a federally registered mark of Tiffany Adams of Winnetka, CA providing "adult entertainment" services including "live-action"

programs. Furthermore, the defendant asserts that the use of the CHEROKEE mark has damaged her business and related CHEROKEE ARABIANS mark.

3. The defendant stipulates that the CHEROKEE NATION mark has been used by the Opposer. The defendant denies that the Opposer has properly used the CHEROKEE mark.

4. The defendant stipulates that the Opposer owns and has used the CHEROKEE PHOENIX mark for media related goods and services.

5. The defendant stipulates that the Opposer owns and has used the GWY mark for beverage related goods and services. The defendant asserts that any translations and/or interpretations of the GWY mark between languages are immaterial to this proceeding.

6. The defendant stipulates that the Opposer has used various marks for both proper and improper purposes for a number of years.

7. The defendant stipulates that the Opposer operates CNE as a limited liability company under CHEROKEE NATION.

8. The defendant stipulates that the Opposer's CNE company assists CHEROKEE NATION with business affairs.

9. The defendant stipulates that the Opposer's CNE company operates entertainment businesses.

10. The defendant stipulates that the Opposer CNE has used the CHEROKEE NATION ENTERTAINMENT and CHEROKEE NATION ENTERPRISES marks for some period.

11. The defendant stipulates that the Opposer CNE is the owner of the following marks: CHEROKEE CASINO RESORT, CHEROKEE HILLS GOLF CLUB, TEAM CHEROKEE, and CHEROKEE STAR REWARDS.

12. The defendant stipulates that the Opposer CNE has used the following marks in commerce for a period of time: CHEROKEE NATION ENTERTAINMENT, CHEROKEE NATION ENTERPRISES.

13. The defendant admits that she is the owner of the CHEROKEE ARABIANS mark.

14. The defendant stipulates that the breeding and usage of horses are significant attributes of many cultures of people throughout the world. The defendant denies that the breeding and use of horses are distinctive of CHEROKEE NATION's people.

15. The defendant stipulates that the Opposer CNE owns and operates horse-racing facilities. The defendant denies that this ownership grants CHEROKEE NATION unique rights to horse breeding or any other use.

16. The defendant stipulates that the Opposer CNE is the owner of the mark CHEROKEE CASINO WILL ROGERS DOWNS for entertainment services.

17. The defendant stipulates that the Opposer CNE is the owner of the mark BLUE RIBBON DOWNS for entertainment services.

18. The defendant re-asserts her claims in her application but denies that she claimed any connection to or affiliation with the Opposers.

19. The defendant denies that she does or intends to advertise, promote, or offer goods and services through the same channels of trade or class of individuals as the Opposers.

20. The defendant denies that her CHEROKEE ARABIANS mark closely resembles any of the Opposers marks. This is evident in the establishment and use of numerous marks not owned by either the Opposer or the Defendant. These include, but are not limited to the following: CHEROKEE (adult entertainment), CHEROKEE (cigarettes), CHEROKEE (horse trailers), CHEROKEE (power saws), CHEROKEE (motorcycles), GRANT CHEROKEE, CHEROKEE STATION, CHEROKEE MARINE SERVICES OF NC, BANKCHEROKEE, CHEROKEE HILLS GOLF CLUB, CHEROKEE SKY, CHEROKEE WHOLESALERS, INC., CATCH THE CHEROKEE SPIRIT, CHEROKEE PHARMACEUTICALS A PRWT LIFE SCIENCES COMPANY, and many others.

21. The defendant denies that her CHEROKEE ARABIANS mark closely neither resembles nor implies a connection with any of the Opposers marks. This is evident in the establishment and use of numerous marks not owned by either the Opposer or the Defendant. These include, but are not limited to the following: CHEROKEE (adult entertainment), CHEROKEE (cigarettes), CHEROKEE (horse trailers), CHEROKEE (power saws), CHEROKEE (motorcycles), GRANT CHEROKEE, CHEROKEE STATION, CHEROKEE MARINE SERVICES OF NC, BANKCHEROKEE, CHEROKEE HILLS GOLF CLUB, CHEROKEE SKY, CHEROKEE WHOLESALERS, INC., CATCH THE CHEROKEE SPIRIT, CHEROKEE PHARMACEUTICALS A PRWT LIFE SCIENCES COMPANY, and many others.

22. The defendant denies that her CHEROKEE ARABIANS mark is deceptive or misrepresentative. The defendant's mark is clearly distinctive in the market and solely represents her business and related goods and services. This is evident in the establishment and use of numerous marks not owned by either the Opposer or the Defendant. These include, but are not limited to the following: CHEROKEE (adult

entertainment), CHEROKEE (cigarettes), CHEROKEE (horse trailers), CHEROKEE (power saws), CHEROKEE (motorcycles), GRANT CHEROKEE, CHEROKEE STATION, CHEROKEE MARINE SERVICES OF NC, BANKCHEROKEE, CHEROKEE HILLS GOLF CLUB, CHEROKEE SKY, CHEROKEE WHOLESALERS, INC., CATCH THE CHEROKEE SPIRIT, **CHEROKEE PHARMACEUTICALS A PRWT LIFE SCIENCES COMPANY**, and many others.

23. The defendant denies that her CHEROKEE ARABIANS mark is disparaging to CHEROKEE NATION nor will bring disrepute to Opposer's marks.

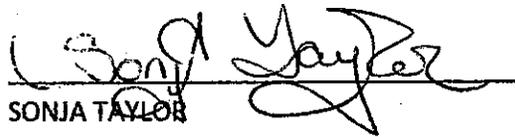
24. The defendant re-asserts her entitlement to the CHEROKEE ARABIANS mark and has sufficiently complied with all Federal and International laws as indicated by her mark's acceptance for publication.

25. The defendant denies that her mark CHEROKEE ARABIANS falsely leads consumers to believe her goods and services are affiliated in any way with the Opposer. Furthermore, the Federal government has a judiciary responsibility to all Americans regardless of decent including the Defendant.

26. The defendant denies that her mark CHEROKEE ARABIANS has or will damage the Opposer in any way.

WHEREFORE, with the lack of evidence and cause brought by the Opposer, the Defendant prays that this opposition be rejected and the **CHEROKEE ARABIANS** mark remain in good standing.

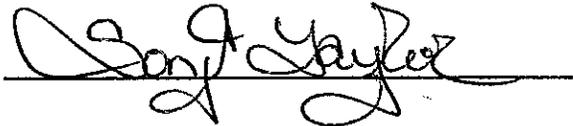
Respectfully submitted this 12th day of January, 2011.



SONJA TAYLOR
CHEROKEE ARABIANS
80515 ELLIOTT RD
BUSH, LA 70431
UNITED STATES

CERTIFICATE OF TRANSMISSION

I HEREBY CERTIFY THAT THIS CORRESPONDANCE IS BEING ELECTRONICALLY TRANSMITTED VIA ESTTA TO THE U.S. PATENT AND TRADEMARK OFFICE ON THIS 12TH DAY OF JANUARY, 2011.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE **FORGOING ANSWER TO OPPOSITION** WAS SENT ON THIS 12TH DAY OF JANUARY, 2011 BY U.S. MAIL, FIRST-CLASS, WITH PROPER POSTAGE PAID TO:

ANTHONY J JORGENSON
HALL ESTILL HARDWICK GABLE GOLDEN & NELSON PC
320 S BOSTON AVE, STE 200
TULSA, OK 74103
UNITED STATES

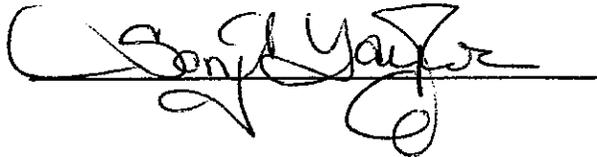


Exhibit 3

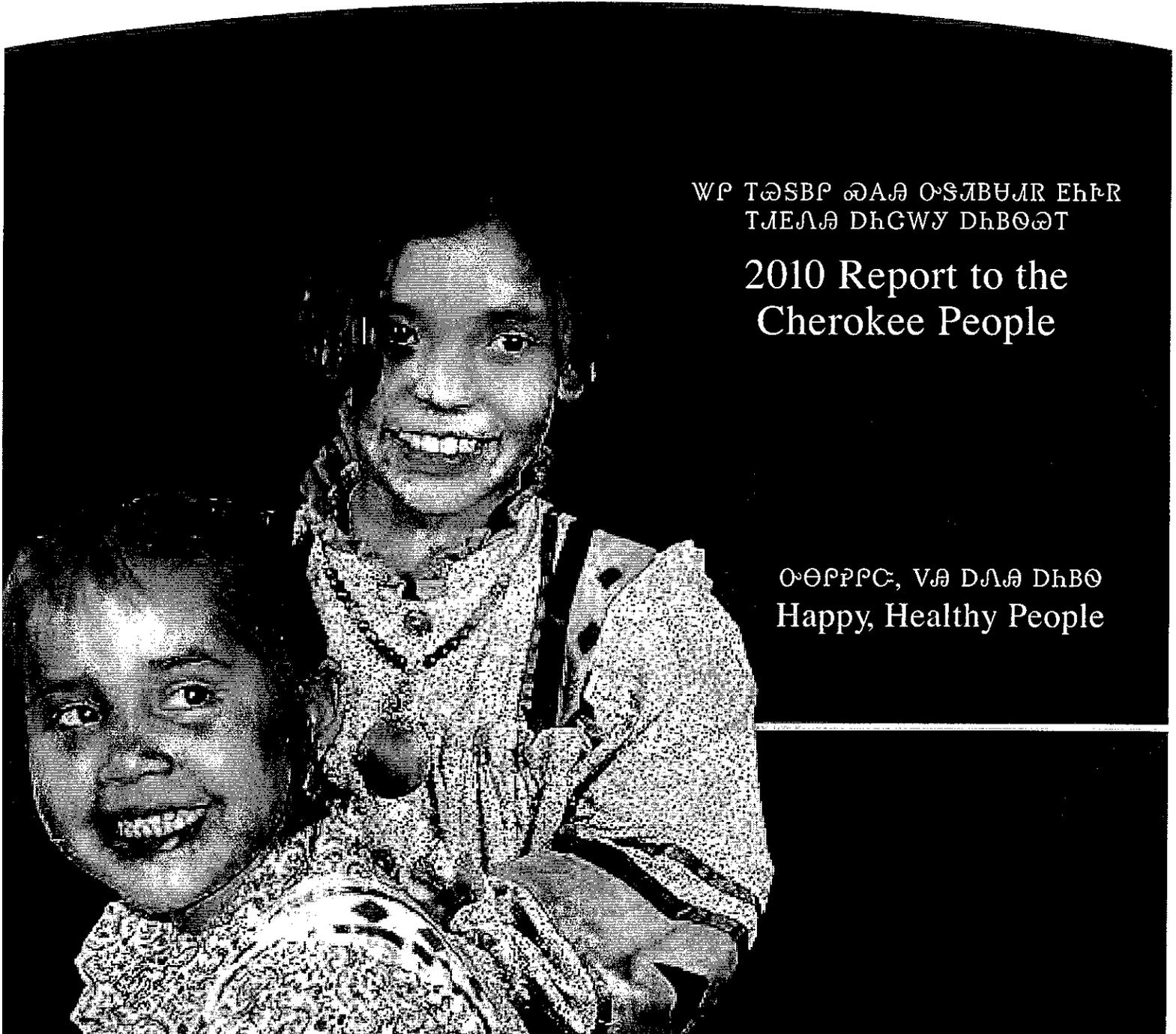


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CHEROKEE NATION®

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2010 Report to the Cherokee People

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Happy, Healthy People



Comprehensive Financial Report & Independent Audit

The following report to the people is a summary of the Cherokee Nation's 2009 Comprehensive Financial Report and Independent Audit. Like fiscal year 2008, the Cherokee Nation has continued to grow to better serve the Cherokee Nation community.

"Transparency of government operations was a goal of mine when I first entered office as Principal Chief, and I am proud to say that we have achieved and maintained a transparent government," said Chad Smith, Principal Chief and head of the Executive Branch of the Cherokee Nation. "We have demonstrated that, as a government, we can be smart business people as well as frugal."

Cherokee Nation is extremely proud to report that for the eighth year in a row, Cherokee Nation has been awarded the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada for our comprehensive annual financial report. Principal Chief Chad Smith was named Tribal Leader of the Year, a financial leadership award, by the Native American Finance Officers Association. He received the award for instituting a policy of financial transparency and for creating more than 5,000 jobs in the mostly rural jurisdictional area of Cherokee Nation.

Cherokee Nation's fiscal year begins on Oct. 1 every year. The Comprehensive Financial Report and Independent Audit are based on Oct. 1, 2008 through Sept. 20, 2009, fiscal year. The financial statements are the responsibility of Cherokee Nation management and the independent auditors. The information presented is based on the audit of the Cherokee Nation's financial statements.

FINANCIAL HIGHLIGHTS – PRIMARY GOVERNMENT

- The Cherokee Nation's assets exceed its liabilities at the end of the fiscal year 2009 by \$207 million (net assets). Of this total amount, \$71 million are unrestricted net assets that may be used to meet the government's ongoing obligations.
- The Cherokee Nation's overall liabilities increased by approximately \$20 million for a total of \$211 million.
- The net assets increased by \$18 million, which is largely attributable to unspent program income in the Self Governance Department of Health and Human Services.

REVENUES IN 2009 EXCEEDED EXPENSES BY \$18 MILLION.

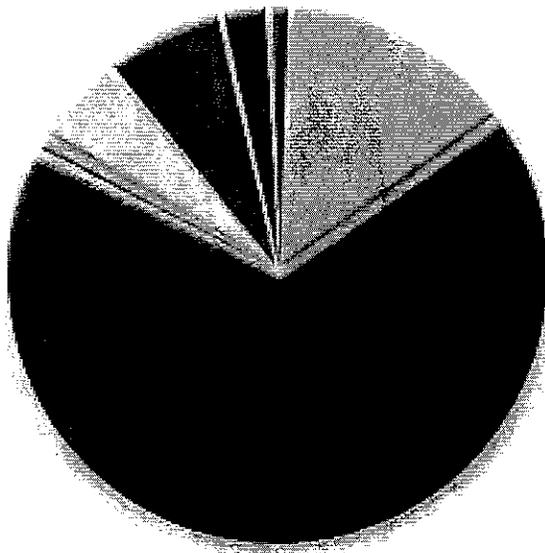
Highlights of General Fund Expenditures for 2009 (Millions)

• Career Services -	
Job Training and Support	\$1.2
• Commerce Services -	
Small Business Development and Assistance	\$0.4
• Community Services -	
Community Organization Support (COTTA)	\$1.1
Community and Youth Grants	\$0.9
Individual Water and Sanitation	\$0.4
Roads and Bridges	\$3.0
Rural Fire Stations	\$0.3
Self-Help Waterlines	\$1.5
Self-Help Emergency Assistance	\$0.4
• Education -	
Immersion Language Classes	\$2.0
Cherokee National Historical Society	\$1.2
Scholarships	\$3.4
• Tax Commission -	
Tag Revenue distributed to Public Schools	\$2.7
• Health Services -	
Contract Health	\$6.2
Vinita Clinic	\$1.1
• Housing Services -	
Housing	\$2.3
• Employee Incentives	\$2.7
• Indian Child Welfare	\$1.9
• Senior Nutrition Sites	\$0.4
• Clothing for Kids	\$0.3

Copies of the Cherokee Nation's Comprehensive Annual Financial Report are available for review on our website at www.cherokee.org.

NOTE: This report discusses 2008 actual figures, and the graph includes 2009 budgeted figures.

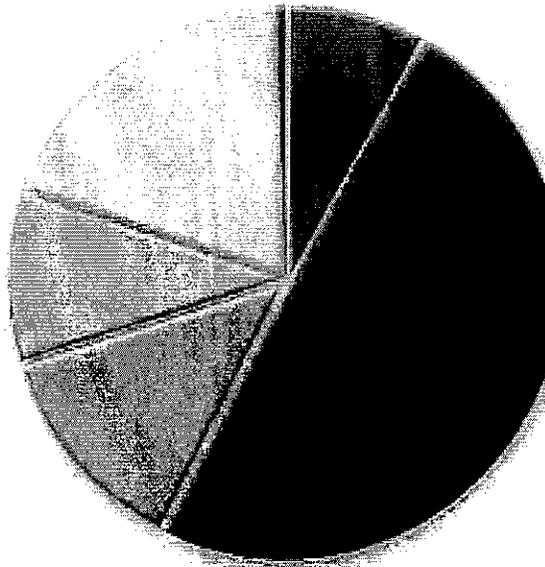
Where the Money Comes From - 2010 Budget



- Operating Grants/Contributions – 68.31%
- Capital Grants/Contributions – 0.53%
- Taxes – 5.77%
- *Dividends from Component Units – 6.99%
- Grants and Contributions Not Restricted to Specific Programs – 2.75%
- Unrestricted Investment Earnings – 0.61%
- Charges for Services and Miscellaneous – 15.05%

*Cherokee Nation's dividend revenue, which comes from gaming and other businesses, makes up only 6.99% of the total annual budget.

Where the Money Goes - 2010 Budget Uses



- Health Services – 49.5%
- Education Services – 12.7%
- Human Services – 10.0%
- Community Services – 19.3%
- Interest on Long-term Debt – 0.4%
- Tribal Government – 8.1%

Community Spirit and Partnerships

The H1N1 virus was widespread in Oklahoma during the fall and winter, but Cherokee Nation worked with the state and counties to take strong preventive measures, providing 9,300 people in Adair, Cherokee, Craig, Delaware, Mayes, Muskogee, Nowata, Sequoyah and Washington Counties access to the new vaccine and reducing the risks of infection.

Cherokee Nation employees, I am proud to say, are a generous, caring group, and they often volunteer their time and expertise. For instance, employees of Cherokee Nation and its business entities recently joined forces with community volunteers to complete the Eucha Community Center in Delaware County.

When disasters struck outside of our area, Cherokee Nation employees offered help. A Cherokee Nation physician, Dr. Anna Miller, was among a team of medical professionals that traveled to Florida to provide care to refugees arriving from Haiti after that country's devastating earthquake.

Each year since we began offering car tags to tribal citizens the Cherokee Nation has contributed 38 percent of those revenues to Oklahoma school districts that fall within the tribe's boundaries. This year's \$2.8 million brought the total contribution amount to more than \$19 million since 2002.

As Cherokees, we value and honor our veterans. Cherokee Nation held several dinners this past year honoring our veterans with a good meal and fellowship. You may have noticed some activity in the area next to our Warriors Memorial where we are planning a Veterans Center. There is growing anticipation among our citizens who want to help with this volunteer project.

In Nowata, we are gearing up to build a new food distribution center, elderly nutrition site and other tribal offices.

Sharing and Preserving Cherokee Language and Culture

We opened the doors on the Cherokee National Supreme Court Museum this spring. Originally built in 1844, it is

Oklahoma's oldest public building and Cherokee Nation's first wholly owned and operated museum. I hope our citizens will take some of the tours of our historic sites, including our newly designated Cherokee Hills Cultural Byway, an 84-mile route that extends from Gore to West Siloam Springs.

We also awarded grants for 12 community gardens as part of an effort to use traditional foods for good health and disease prevention in our communities.

Our Immersion School expanded to offer fourth grade classes, and into a new space. The students there are employing modern technology to communicate in our Native language, including the use of a new high-tech keypad.

American Reinvestment and Recovery Act Projects

As many other governments have done this past year, Cherokee Nation applied for and received federal stimulus funds under the ARRA. Some of the exciting things we have been able to accomplish with those funds include critical infrastructure repairs to community roads, bridges, waterlines and water treatment facilities in Adair, Cherokee, Delaware, Mayes, Muskogee and Sequoyah Counties, as well as housing rehabilitation projects in nearly all of our counties. One ARRA project is helping community members start or expand child care businesses. Another is helping us meet our Reduce, Reuse, Recycle Act goals by providing us with the means to begin offering natural gas fueling stations for our tribal vehicles and those of other agencies.

In this document, the 2010 Report to the Cherokee People, I am proud to share with you our government's accomplishments.



Chad Smith

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Cherokee Nation Executive Branch



Chad Smith
Principal Chief



Joe Grayson, Jr.
Deputy Principal Chief



Melanie Knight
Secretary of State



Diane Hammons
Attorney General



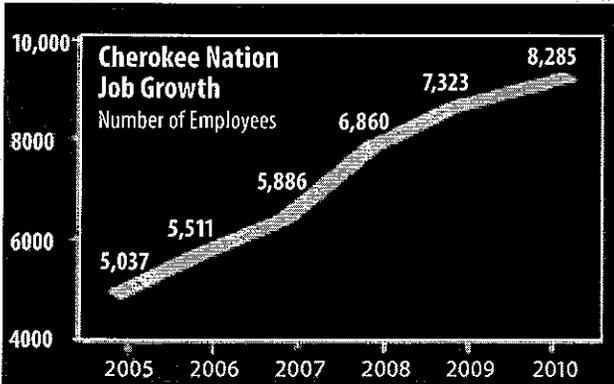
Callie Catcher
Treasurer



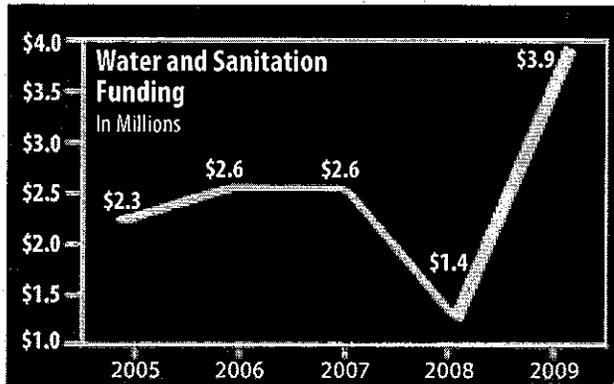
Sharon Wright
Marshal

Cabinet Officers

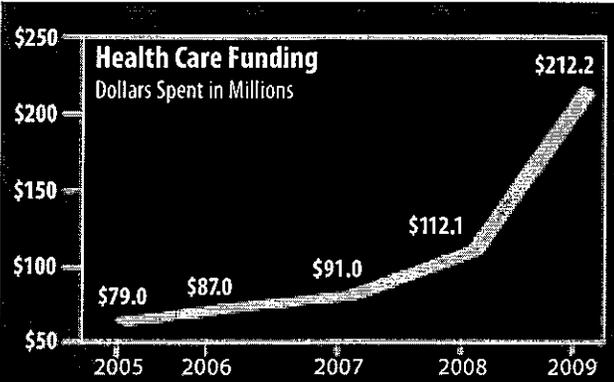
\$1.3 Billion Economic Impact



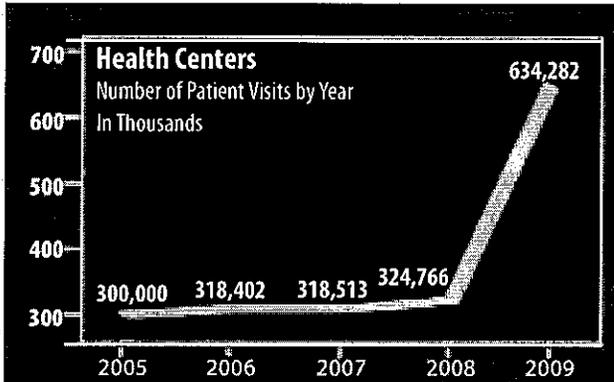
With more than 8,200 employees, Cherokee Nation has become an economic powerhouse in eastern Oklahoma. The Nation has continued to see job growth through expansion of its services and businesses, including Cherokee Nation Businesses, which encompasses Cherokee Nation Entertainment and Cherokee Nation Industries among others.



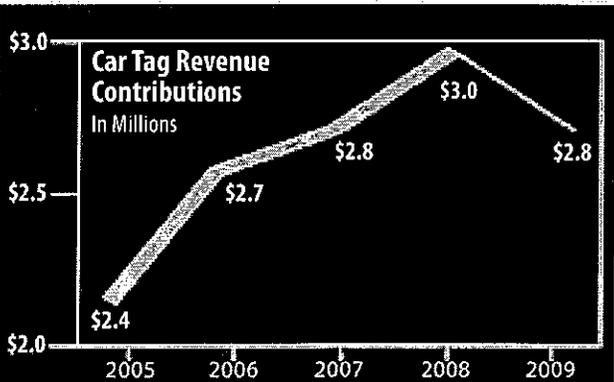
Since 2005, Cherokee Nation has invested more than \$12.8 million in projects that provide Cherokee Nation citizens and community members with clean, fresh water. Additionally, in 2009 the Nation used \$3.5 million in American Reinvestment and Recovery Act stimulus funds for community water and sanitation improvement projects.



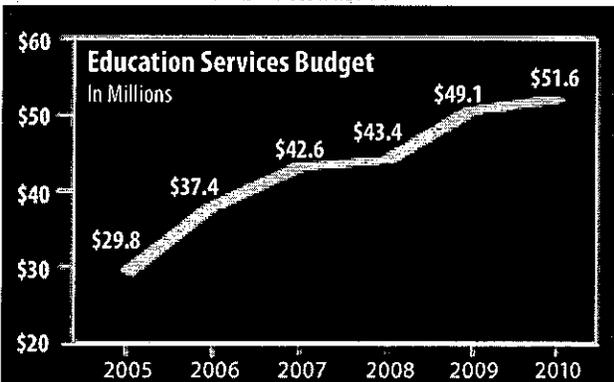
In 2000, Cherokee Nation's health funding was \$49 million. Today it stands at \$212.2 million, an increase of more than 333 percent, a reflection of the tribe's dedication to providing citizens the highest level of health care possible, despite rising health care costs.



With the addition of W.W. Hastings Hospital, Cherokee Nation's health system saw a dramatic increase in patient visits during the past year. An expansion at Salina Amo Health Center and a planned new health center in Vinita will bring even more quality health care services to Cherokee Nation citizens.



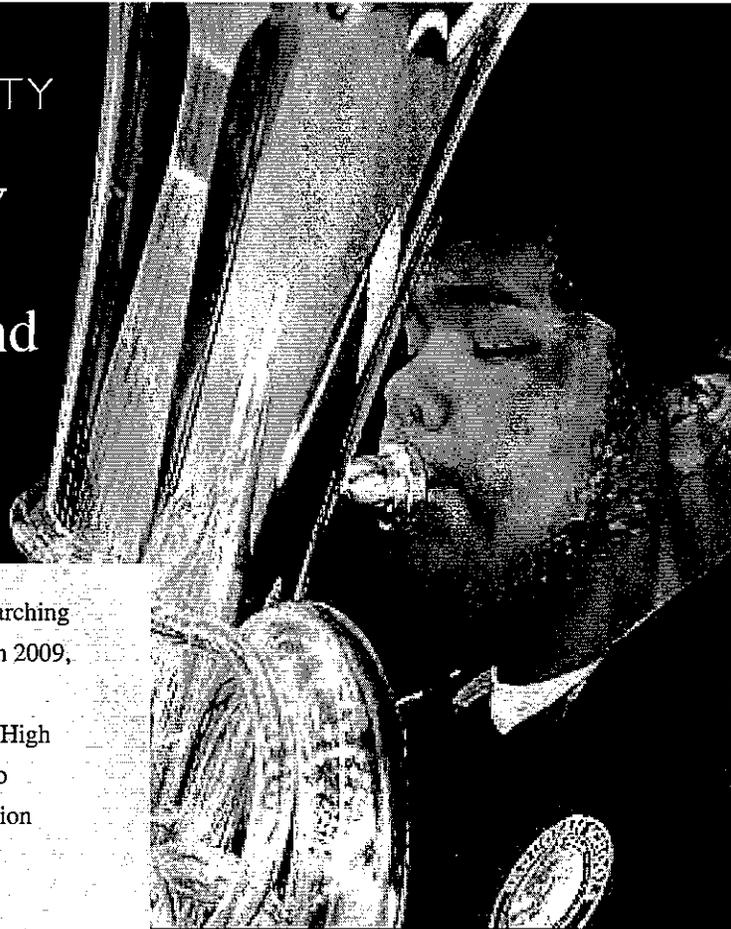
Cherokee Nation sets aside 38 percent of its vehicle tag sales revenue for education funding. Since 2002, when the program started, the Nation has contributed over \$19 million to more than 100 local school districts. While the amount contributed is based on the number of Cherokee students in a school district, all students benefit.



Since 2005, Cherokee Nation has increased its budget for education services by more than 73 percent, reflecting the Nation's commitment to educating Cherokee students. Scholarship amounts have doubled, from \$1,000 per semester in 2005 to \$2,000 per semester in 2010.

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Sequoyah Schools Band to March Again



Not since the 1980s have the stirring sounds of a marching band been heard in the halls of Sequoyah Schools. But in 2009, Sam Morris stepped in and changed that.

Morris, who retired as a band director with Stilwell High School after a 36 year career in teaching, was called in to discuss revitalizing Sequoyah's band with Cherokee Nation Education Services. Morris says the Cherokee Nation has jump-started the program.

"They've provided us with instruments and just about everything we need," said Morris.

Sequoyah's newest band initially formed with just five students, but in the span of a year has grown to 19. Under Morris's direction, the band has already achieved success, earning a superior rating at its first regional competition.

Morris, who is Sac and Fox, Cherokee, Creek and Seneca, said he sees potential in the fledgling band program and hopes that the group will eventually become a great marching band, in the tradition of past Sequoyah bands.

"It's a goal of mine to be able to take our band representing our school and the Cherokee Nation, and perform during the big celebration here in September," said Morris, referring to the parade that is part of the Cherokee National Holiday held over Labor Day weekend. "I can't wait till we're able to march down the streets here in Tahlequah."

"It's a goal of mine to be able to take our band representing our school and Cherokee Nation and perform during the big celebration here in September."



Sam Morris (right) directs the newly revived Sequoyah Schools band.

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Hard Work Earns Cherokee Her Own Home



Amanda Franklin often dreamed of a better life for her family and herself. However, like so many others, she was overwhelmed with trying to make ends meet and her credit history was not as good as it could have been.

When she attended a meeting about the Cherokee Nation Mortgage Assistance Program, little did she know the doors that would open for her – including the door of a home for her family.

“I wanted something better,” Amanda said. “I wanted to better myself, but it was hard to do without credit.”

Franklin says she learned that while there are many resources available, you can't depend on someone else to do it for you. With the help of the Cherokee Nation, she worked hard to establish good credit by learning to live on a budget and managing her income better. After many years of renting a home from the tribe, Amanda was finally able to purchase it as her own.

“When I first saw the house I thought ‘Oh wow, are they really going to help me?’ because I didn't realize assistance like this was available,” said Franklin.

Amanda said thanks to the Cherokee Nation, she was given a better opportunity and that with hard work and persistence, she was able to achieve her dream. She hopes that by becoming self-reliant, she is setting an example for her children to follow.

“It wasn't given to me; I had to work hard for it,” she said. “But the Cherokee Nation gave me hope. I was amazed at what the tribe was able to do.”

“It wasn't given to me. I had to work hard for it. But the Cherokee Nation gave me hope.”



Amanda Franklin changed her family's future by working hard to improve her credit and become a homeowner.

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Cherokees Survive, Adapt and Excel



Jennetta Barrow is a survivor, and she wants to lead others through the process by her example.

The road hasn't been an easy one for her. In 2008, she went to the Cherokee Nation Redbird Smith Health Center in Sallisaw for routine exams. Then she heard the word that no one wants to hear – cancer.

"I was in shock, and I had a rough time – but God was on my side," Barrow said.

After her treatments, she was invited to attend a survivor event in Tahlequah sponsored by the Cherokee Nation Cancer Program. That event was life-changing.

"A feeling came over me: I can start our own breast cancer survivor group right here in Muldrow," said Barrow.

She followed through on that feeling, and now the group meets, works and travels together, helping themselves and their community. Jennetta also serves on the board for the Muldrow Cherokee Community Organization, which recently opened a new community center where groups, such as the cancer survivors, can meet.

"The Cherokee Nation has really made it possible for us to build this building and get started with all these programs," said Barrow.

Jennetta says she is now living a healthier and a happier life, and she is enjoying leading others to do the same.

"If you can remain positive and give others hope, then that gives you hope," said Barrow.

Jennetta Barrow passed away during the production of this report. Her legacy will live on in the MCCO Jennetta Barrow Breast Cancer Survivor Support Group. The group unanimously voted to rename itself after Jennetta's passing. Her memory is an inspiration and she will be missed.



After her positive experience with the Cherokee cancer survivor support group in Tahlequah, Jennetta Barrow took the lead in creating a local support group in Sequoyah County.

Gathering Places for Cherokee Fellowship



Two small communities with big dreams partnered with Cherokee Nation this year to create gathering places for families, elders and youth. While one is already a lively community center, the other is just getting underway. With help from the tribe's Community Services Group, Cherokee communities have the opportunity to fulfill their dreams.

Greasy has had its community building for nearly three years, but began expanding this year with a new youth center, ball fields and a community garden.

"Cherokee Nation has made a lot of things possible for us; they've given us the means and we've provided the manpower and hope to do more," said Greasy community member Charlie Shell.

Florene Smith (pictured above) who also lives in Greasy, said she feels that the new youth center will be a great addition to her community, especially for young people.

"They'll have the opportunity to use new computers for their school work as well as access to our new library which will have an abundance of books where anyone can learn about the Cherokee culture," said Smith.

Another community, Brent, has been making plans for its community and youth center and will break ground soon. The tribe has been supplying technical support.

"By bringing our community together, we're bringing our family together," said Craig Calhoun of Brent. "We want to thank the Cherokee Nation because it would be difficult to try and do it on our own."

When land was needed for Brent's community building, the determined community pitched in and raised \$9,000 in less than 15 minutes to purchase a small acreage.

"We didn't give up, we just set a goal and said we're going to do it, we don't care what it takes," said Calhoun.



Craig Calhoun of Brent and Ryan Smith from Cherokee Nation Community Services Group look over blueprints for Brent's new community center. The community pulled together to purchase land for the new building.

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Doctor Practices Medicine in Cherokee

As a young man growing up in Marble City, Dr. Vince Kirk saw firsthand the importance of filling the language gap when it came to the medical field. He often accompanied his grandmother, whose first language was Cherokee, to her medical appointments to interpret. As a result, his interests turned to the medical field.

“Elders often say they understand when really they don’t. We would go to the doctor with my grandma because she didn’t speak much English,” Kirk said. “She did not like going to the doctor because there were no Indian doctors. As her treatment progressed, I saw the need of having Indian doctors who spoke Cherokee.”

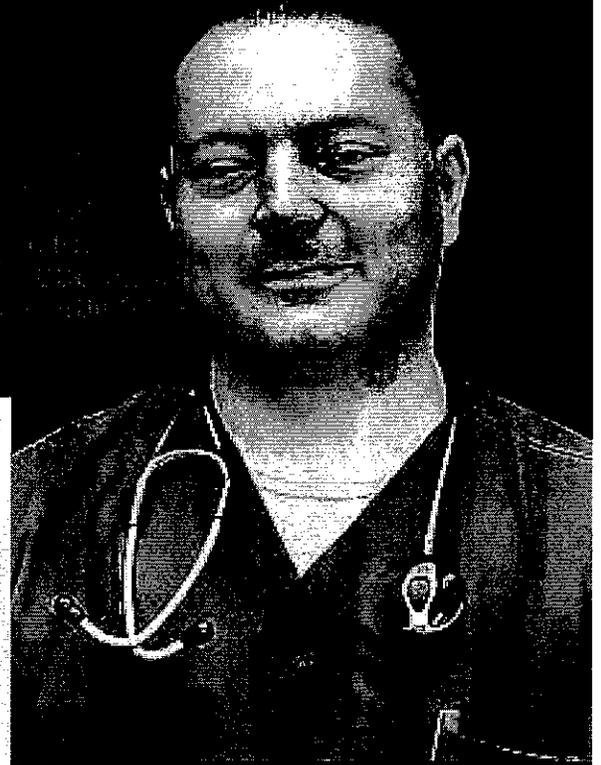
With the help of Cherokee Nation, Kirk enrolled in medical school, interning in Washington, D.C., and even spending a month providing medical care in the rural villages of India. Although it took him 12 years to complete school, his commitment to work among Native Americans remained strong.

Hospital employees say they have noticed the sense of ease his patients have knowing he is their doctor. He calls patients to his office in Cherokee and if the patient is a Cherokee speaker, he will conduct the entire office visit in Cherokee.

Kirk said he is exactly where he wants to be – practicing rural medicine, helping Indian people here in the heart of the Cherokee Nation.

“It’s been a fun journey, but I’m really happy to be home,” he said.

“Elders often say they understand when really they don’t. I saw the need of having Indian doctors who spoke Cherokee.”



Dr. Vince Kirk is exactly where he wants to be – practicing rural medicine, helping Indian people here in the heart of the Cherokee Nation.

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New Process Offers Greener Road Repair

When most people hear the word “recycling,” asphalt is not the first thing that comes to mind. But a new asphalt recycling process known as “hot in place” or HIP has opened some eyes in Mayes County.

The tribe’s Reduce, Reuse, Recycle Act calls for Cherokee Nation to implement environmentally friendly projects. The opportunity to try the new HIP process presented itself when an 11.7 mile section of Kenwood Road between Salina and Kenwood needed resurfacing.

HIP uses seven trucks and heavy machinery that are all operated remotely as they caravan across a section of road to be resurfaced. The machines break up the existing road, then mill and heat the recycled materials and combine them with oil to create new asphalt, laying it immediately back down in place as the new road.

“The beauty about this is you’re not disturbing any new earth or rock; everything we’re using comes out of that road and goes right back into it,” said Michael Lynn, Cherokee Nation Roads Program director. Lynn also noted that HIP is often more cost effective than traditional methods, making it an attractive option for future projects.

Most Kenwood citizens live, work and travel on the road daily, including Dionne Chancellor (pictured above). Chancellor has worked the last 17 years at Kenwood’s only grocery store and frequently travels the road. She says she is grateful for the work Cherokee Nation is doing and thinks the reconstruction will really make a difference in her community.

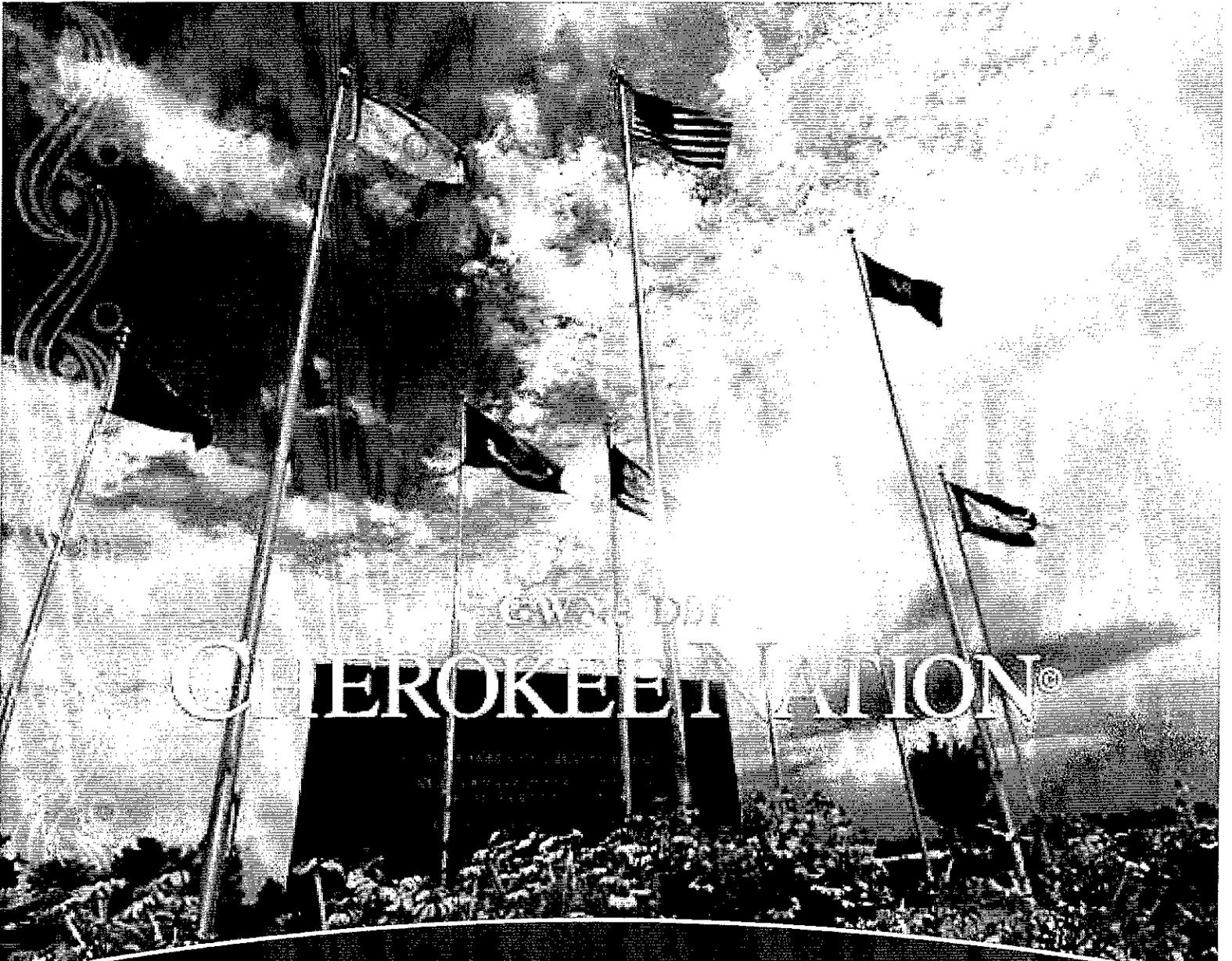
“It makes traveling to work easier and will help out with the wear and tear on our vehicles,” said Chancellor.

“The beauty about this is you’re not disturbing any new earth or rock; everything we’re using comes out of that road and goes right back into it.”

Michael Lynn, Cherokee Nation Roads Program Director



Cherokee Nation’s Reduce, Reuse, Recycle Act calls for the tribe to implement environmentally friendly projects, such as this innovative “hot in place” recycled asphalt resurfacing job on Kenwood Road in Mayes County.



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A Decade in Review 2000-2010

In 1999, the Cherokee people elected new leadership, Principal Chief Chad Smith. A full decade later, the Cherokee Nation has become a leader in open government and financial responsibility while creating thousands of new jobs and helping Cherokees to help themselves more. The Cherokee Nation has changed and grown exponentially over the past decade, making great strides in critical areas of jobs, language, community and sovereignty. The vision of the Cherokee Nation is to become a happy and healthy people. Here are a few of the highlights.



State of the Nation
Address 1999



State of the Nation
Address 2009



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Strengthening Our Sovereignty

During the past 10 years the Cherokee Nation has taken strong measures to protect tribal sovereignty. Sovereignty, in its simplest form, is the ability of the Cherokee people to govern themselves. Upholding our Constitution is exercising sovereignty.

Knowing that transparency and the free flow of information from unbiased sources are key elements in a strong, independent government, the Nation in 2000 passed the initiative of Principal Chief Smith, the Cherokee Nation Free Press Act, which created the Cherokee Phoenix newspaper as an independent voice for the Cherokee people. It was followed by a tribal Freedom of Information Act in 2001.

As a plan for working with outside governments while maintaining its sovereign interests, Cherokee Nation opened an office in Washington, D.C., in 2001. This office serves as a liaison between the Cherokee Nation and U.S. Congress, federal agencies and other national organizations. The Nation also developed compacts with the State of Oklahoma, allowing the

In 2006, the Chiefs of the Five Civilized Tribes gathered to honor the centennial of the Act of 1906, which continued the tribal governments in full force and effect.

tribe to compete in gaming operations and to register more than 100,000 vehicles per year to Cherokee citizens.

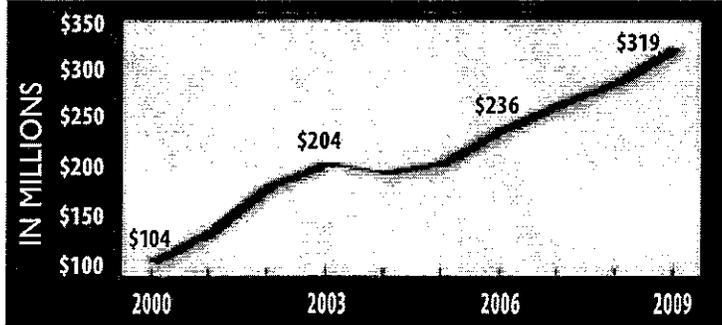
In 2003, Cherokee Nation, along with the Chickasaw and Choctaw Nations, settled the 33-year-old Arkansas River damage case, retaining all rights to the riverbed and banks. The Nation continues to battle federal interference related to the tribe's 2007 constitutional amendment requiring Cherokee Nation citizens to trace directly to an Indian ancestor listed

on the Dawes Rolls. The Nation has also continually pushed the state and federal governments to protect its treaty rights, including hunting, fishing and water rights, while pressing for a tribal delegate in Congress.

Ten years ago, the Cherokee Nation's financials were in a shambles. Under new leadership, Cherokee Nation's financial systems, processes and accounting standards were quickly updated, consistently earning awards and recognitions for excellence in financial reporting each of the last eight years.

In 2006 Cherokee Nation became the first Indian tribe in Oklahoma to earn an investment bond rating and to issue investment grade bonds, which supported the construction and expansion of its health centers through the sale of \$30 million in bonds. Cherokee Nation received the rating and stable financial outlook opinion from Fitch Ratings, a global rating agency that provides credit opinions to worldwide credit markets.

TOTAL REVENUES



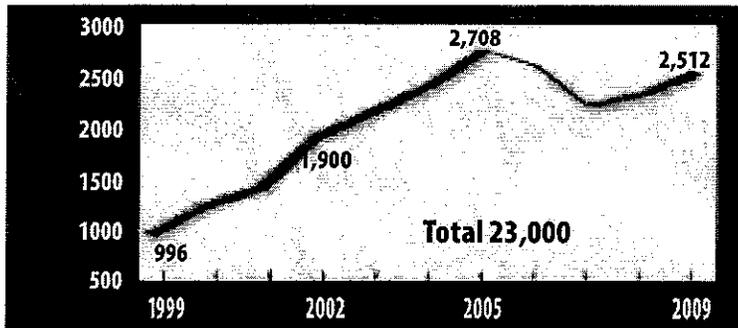


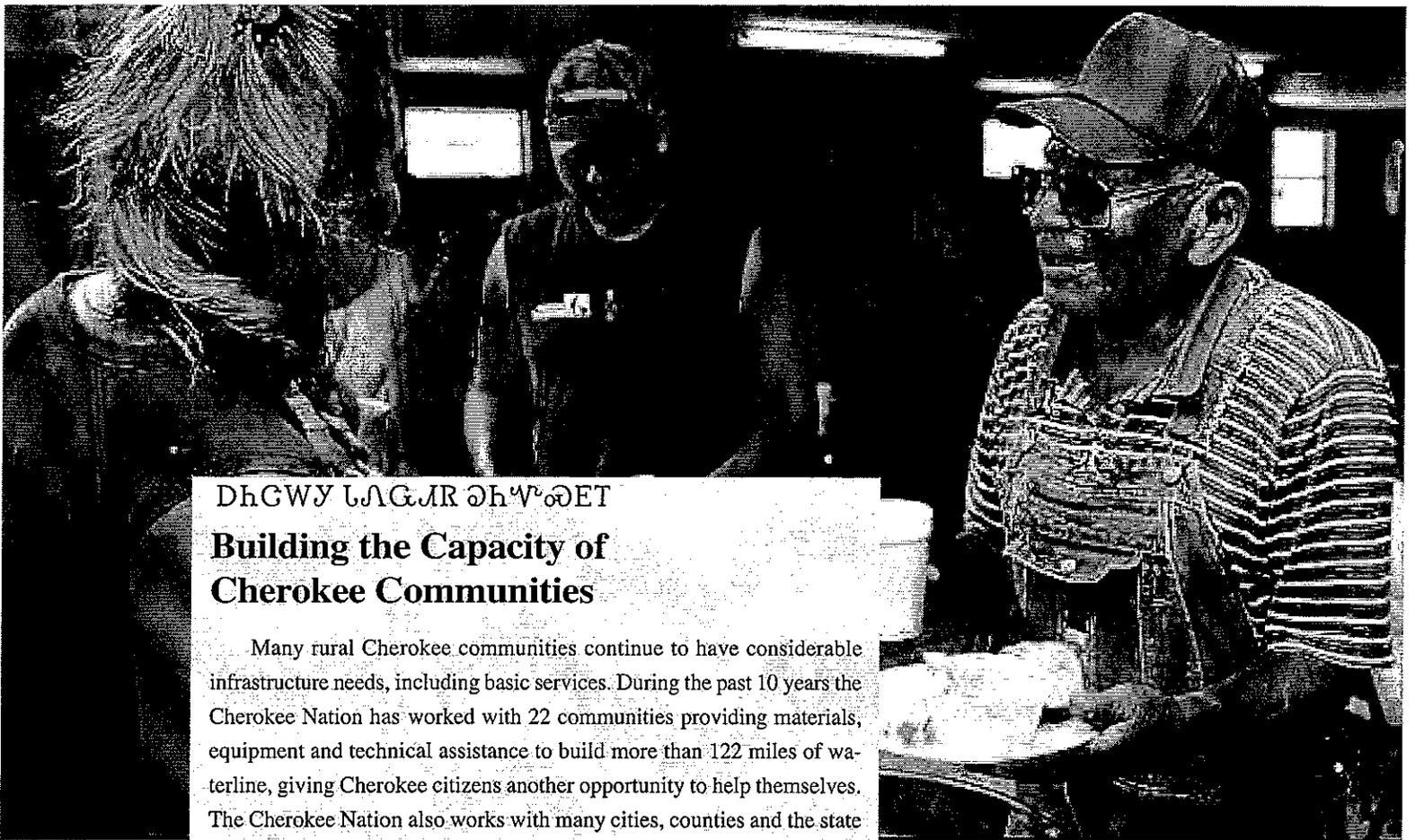
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Continuing Our Education Legacy

Cherokee Nation continues to place a strong emphasis on education, vocational training and scholarships, so that Cherokees have opportunities to become self-reliant. Since 1999, nearly 23,000 higher education scholarships have been awarded to Cherokee students, nearly 3,000 students have graduated from Talking Leaves Job Corps and more than 1,200 students earned their GED by working with the tribe. Sequoyah Schools has become the school of choice for many Native American youth, with more than 400 students enrolled annually. Since 1999, 38 Sequoyah Schools graduates have earned the prestigious Gates Millennium scholarship, awarded to minority students who show outstanding academic achievement and leadership ability.

Cherokee Nation law mandates that 38 percent of tax revenues from its car tag sales are shared with area schools. Since 2002, the Nation has contributed more than \$19 million to more than 100 local school districts.

SCHOLARSHIPS AWARDED - 1999-2009





DhGWY LAGAR QhVwDET

Building the Capacity of Cherokee Communities

Many rural Cherokee communities continue to have considerable infrastructure needs, including basic services. During the past 10 years the Cherokee Nation has worked with 22 communities providing materials, equipment and technical assistance to build more than 122 miles of waterline, giving Cherokee citizens another opportunity to help themselves. The Cherokee Nation also works with many cities, counties and the state to build and improve roads that serve Cherokee citizens and communities. Since 2000, the Nation has built or partnered to build or repair more than 650 miles of roadway along with numerous bridges.

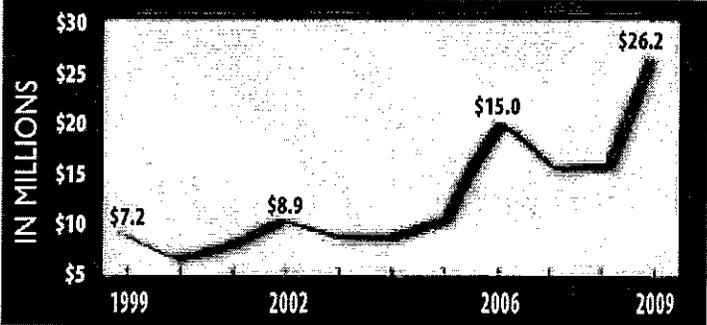
In the past decade, nearly 30 Cherokee communities have joined together to build a community center, using tribally-provided materials to create a facility for community gatherings, trainings and meetings.

Though many Cherokees want the opportunity to help themselves, there are still those in need who do not have the ability to do so. Need-based housing, health and human services are available to tribal citizens who qualify.

During the past 10 years the tribe has repaired the homes of more than 4,200 elderly, handicapped and low-income families, provided materials for self-help homes to 53 families, built three 40-unit elderly housing facilities, helped nearly 1,300 families with mortgage assistance, provided more than 3,000 families assistance with water and septic systems, assisted more than 13,000 families with social services, such as heating and energy, emergency assistance and burial assistance. More than 384,000 meals have been served in the tribe's elderly nutrition programs located throughout the Cherokee Nation.



ROADS FUNDING - 1999-2009





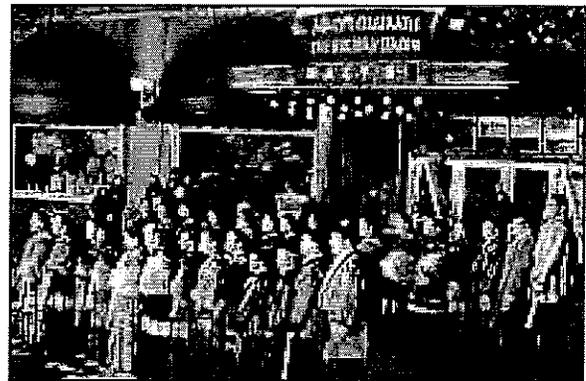
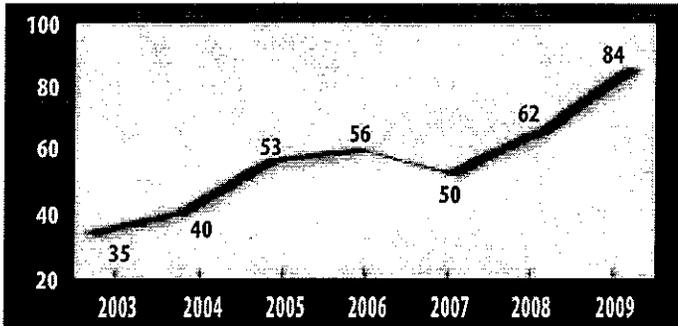
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Speaking and Singing Our Language

In 2001, the Cherokee Nation started language classes at its Head Start, where 3-year olds were taught pre-school lessons in the Cherokee language. Today those classes have grown into a full immersion elementary school with 80 students enrolled, helping to restore Cherokee fluency to a younger generation. The Nation has also implemented pilot Cherokee programs in five Oklahoma public schools.

Cherokee Nation holds an annual language bowl, with area schools competing against each other in the Cherokee language. For those a little bit older, the Cherokee Nation has started an adult immersion program, immersing learners in the language for a week, allowing them to better retain what they've learned.

Cherokee Nation established the Cherokee National Youth Choir in 2000. Since, the choir has recorded eight albums and performed at several prominent venues and events. It has been honored with multiple Native American Music Awards for its albums, earning significant national recognition.

IMMERSION SCHOOL ENROLLMENT





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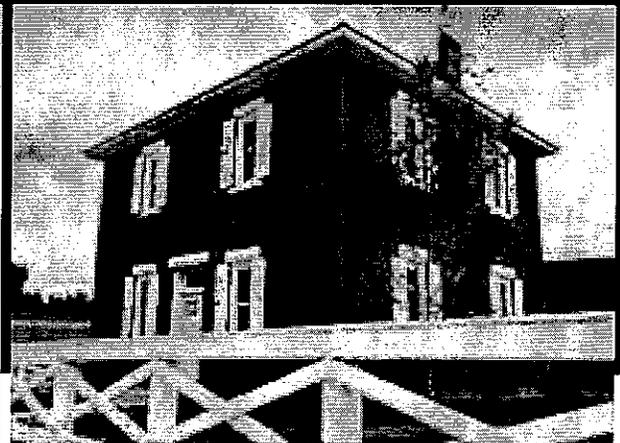
A Happy, Healthy Vision for Our Future

The Cherokee Nation is growing economically, politically and even by the number of citizenships. The Cherokee Nation is a federally recognized tribe and a thriving economic powerhouse in northeastern Oklahoma, built upon a foundation of Cherokee values, culture and language, enabling us to leave a legacy for future generations. The Cherokee Nation will continue to face adversity, survive, adapt, prosper and excel, to achieve its vision of becoming a happy and healthy people.



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Cultural Update

The past year has been filled with cultural activities: successes and milestones that tell us we are steadily revitalizing our language and culture.



LANGUAGE OUTREACH

Cherokee Nation was named the 2010 recipient of the Humanities in Education award by the Oklahoma Humanities Council. The Nation was selected for the award in recognition of its Cherokee language program and the Cherokee Nation Immersion School.

To facilitate the use of the written Cherokee language, the Cherokee Nation developed a unique keypad that allows the user to more easily type in the Cherokee syllabary.

The keypads go along with the use of computers used by students in the Cherokee Nation Immersion School, where only Cherokee is spoken and all coursework is done in syllabary. Previously, to type in the 85-character syllabary, students had to use a variety of keystrokes with the standard keyboard. Users now can simply overlay the Cherokee keypad on a traditional keyboard and see the syllabary characters in their correct spaces.



The Immersion School saw an expansion in December, adding a new 6,000 square foot building that allows more office space for staff, including two new classrooms. It also provides a large multi-purpose room with an expandable wall to use as a divider when needed.

A cultural playground area is in the works as well. Once completed there will be a garden with traditional foods, a sunflower patch and a brush arbor, all useful for hands-on learning. A brand new outdoor classroom area is also a part of the expansion project.

In 2009 the Cherokee National Youth Choir released its latest music CD, "Learning as We Sing," a project intended to both entertain and teach language skills. The new CD contains a variety of well-known traditional music intended for singing along.

The Cherokee Nation is developing a new program, the Cherokee Nation District Children's Choirs, that allows Cherokee children in grades three through six to participate in nine local children's choirs within their tribal district.

CULTURE AND HISTORY OUTREACH

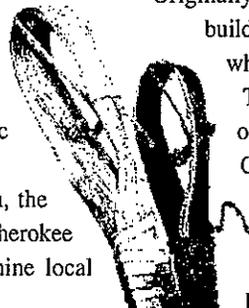
A monthly Cherokee history presentation series has steadily grown in popularity, offering participants the chance to hear exciting speakers and topics. The presentations are a supplemental offering of the Cherokee Nation's well-received formal history course.

Cherokee gardeners had the opportunity to request heirloom seeds from the Cherokee Nation as part of the tribal seed bank project. Some 6,000 seed packets were mailed out to Cherokee Nation citizens. Most are rare cultivars not widely available through commercial means and have been researched to relate historically to the Cherokee Nation. Many successful Cherokee gardeners returned the favor by sending their extra seeds back to Cherokee Nation to keep the seed bank project going.

Cherokee Nation's Cultural Tourism has been actively working this year to create an inviting atmosphere in which visitors can enjoy authentic Cherokee cultural experiences. A new advertising campaign was introduced with "Osiyo" (Cherokee for hello) as the main message point, while focusing on the unique elements of the Cherokee culture with the slogan: "Cherokees Say Hello Like No One Else."

Additionally, Cherokee Nation completed restoration of its Cherokee National Supreme Court building in downtown Tahlequah. Originally built in 1844, the structure is Oklahoma's oldest public building and will formally operate as the Cherokee Nation's first wholly owned and operated museum.

The Cherokee National Supreme Court Museum is one of several preservation projects recently undertaken by Cherokee Nation Cultural Tourism Group including Ross Cemetery, the Cherokee National Capitol Building and Cherokee National Prison. A highlight of the museum is the last printing press for the Cherokee Advocate, on loan from the Gilcrease Museum in Tulsa, Okla.



Cherokee Nation Businesses

Developing Profitable Businesses

Cherokee Nation Businesses is the parent company for all Cherokee Nation-owned businesses. CNB contributes to the vision of a vibrant and self-sufficient Cherokee Nation by developing and supporting a variety of profitable businesses within the 14-county tribal jurisdiction.

Cherokee Nation Businesses' portfolio of companies ranges from environmental to aerospace and defense, information technology, security and safety and gaming. These diverse business holdings help provide a variety of jobs to Cherokee citizens. CNB and its subsidiary companies employ approximately 4,500 people.

In 2009, CNB acquired ITX, an information technology company located in Ft. Collins, Colo. The company, which specializes in software development, creative services, network support and Web hosting, employs 150 people in 11 states.

Now known as Cherokee Service Group, the company has replicated its successful business model right here in Oklahoma, securing IT contracts from both government and private industry.

Expanding Capabilities, Adding Jobs

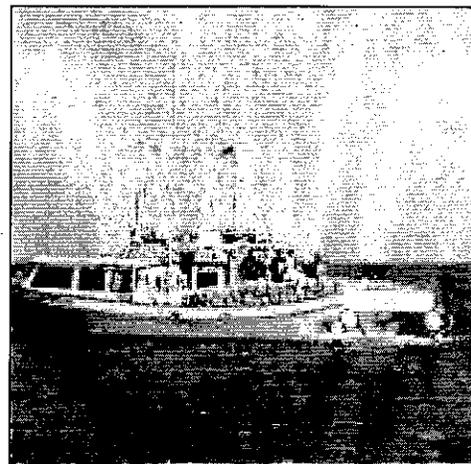
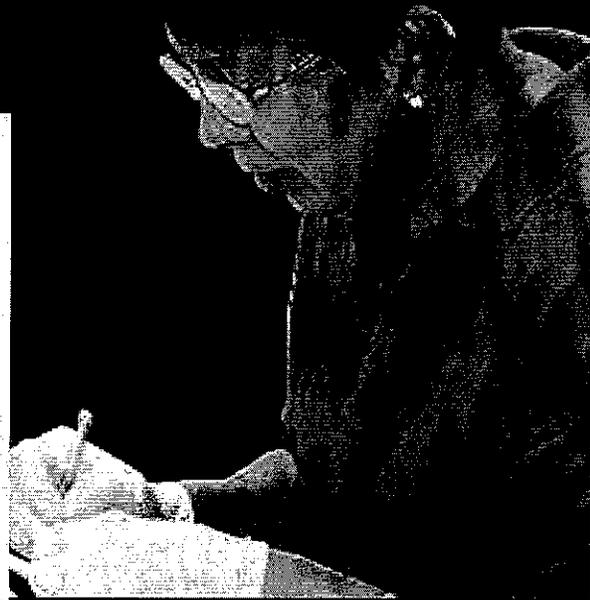
Attention to quality and detail, as well as capable leadership, has allowed **Cherokee Nation Industries** to continue to diversify businesses and create jobs in Cherokee communities.

CNI expanded its aerospace and defense capabilities by acquiring Red Wing Products, Inc., in Kellyville, Okla. The acquisition added more production space and a machine shop to CNI's already trusted aerospace and defense business sector, and created additional jobs for Cherokee citizens.

The Red Wing acquisition added 30,000 square feet of production space and approximately 40 employees.

Aerospace revenue was \$26.5 million, an increase of \$8.3 million from 2008 to 2009. Total revenue for all CNI companies including aerospace, distribution, telecommunications and staffing was \$89 million, an increase of \$8 million from 2008 to 2009.

After 40 years, Cherokee Nation Industries continues to consistently provide outstanding quality products and services. In 2010, CNI was recognized as an outstanding business partner by Lockheed Martin.



Cherokee CRC, a Tulsa-based environmental company owned by the Cherokee Nation, did its part in the Gulf of Mexico to help clean up the worst oil spill in American history. About 75 Cherokee citizens were trained and certified as safety monitors and 13 have supervised workers on small boats laying oil booms, which were put in place to keep oil from coming ashore.

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Cherokee Nation Entertainment Debuts Hard Rock Tulsa



As the gaming, hospitality and tourism entity of the Cherokee Nation, Cherokee Nation Entertainment's 2009 fiscal-year revenue reached \$455.6 million, with profits surpassing \$88 million. Through this revenue stream, CNE contributed more than \$26 million to the Cherokee Nation.

Additionally, CNE's total payroll for 2009 topped \$137 million with more than 3,300 employees, making it one of the largest employers in the area.

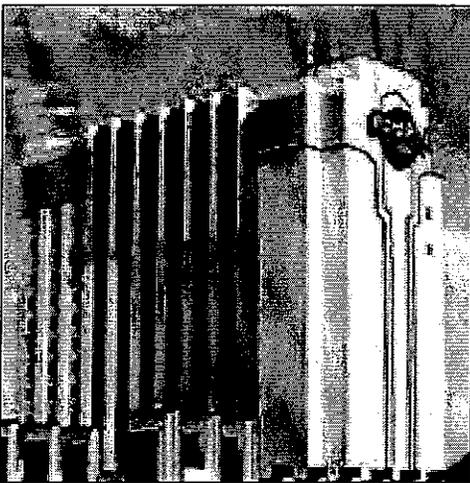
CNE's award-winning cultural tourism department had an exciting year, launching its marketing campaign, "Osiyo," which advertises guided tours throughout the Cherokee Nation. Overall, Cherokee Nation Cultural Tourism had an economic impact of nearly \$2.7 million and created more than 34 jobs directly and indirectly as a result of its tourism efforts. In addition, Cherokee Nation Cultural Tourism hosted more than 2,500 students on education tours.

In 2009, CNE's flagship property transitioned to Hard Rock Hotel & Casino Tulsa. After an investment of more than \$200 million in property expansions, the hotel and casino feature more than 2,200 electronic games, 70 card game tables, convention space, multiple dining options and entertainment venues, and more than 350 rooms and suites.

After 15 years of operation in West Siloam Springs, CNE officials opened a lavish casino nearly seven times the size of the original facility. Cherokee Casino West Siloam Springs features more than 1,200 games, multiple dining options, an entertainment venue and banquet space.

In partnership with the independent company Cherokee Recycling, CNE launched a company-wide recycling effort that began at Hard Rock Hotel & Casino and expanded to all properties. The efforts netted great results, with CNE recycling 172.5 tons of materials in the fiscal year.

CNE operates Hard Rock Hotel & Casino Tulsa, seven Cherokee Casinos, including a horse racing track, four hotels, two golf courses and other retail operations.



In 2009, Cherokee Nation Entertainment's flagship property transitioned to Hard Rock Hotel & Casino Tulsa. It features more than 2,200 electronic games, 70 card game tables, convention space, multiple dining and entertainment venues, and more than 350 rooms and suites.

Legislative and Judicial Branches



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Bill John Baker
District 1
Cherokee County



Tina Glory-Jordan
District 1
Cherokee County



S. Joe Crittenden
District 2
Adair County



Jodie Fishinghawk
District 2
Adair County



David W. Thornton, Sr.
District 3
Sequoyah County



Janelle Lattimore Fullbright
District 3
Sequoyah County



Don Garvin
District 4
McIntosh/Muskogee/
Wagoner Counties



Harley L. Buzzard
District 5
Delaware/Ottawa
Counties



Curtis G. Snell
District 5
Delaware/Ottawa
Counties



Speaker of the House
Meredith Frailey
District 6
Mayes County



Chris Soap
District 6
Mayes County



Cara Cowan Watts
District 7
Rogers County



Buel Anglen
District 8
Tulsa/Washington
Counties



Bradley Cobb
District 8
Tulsa/Washington
Counties



Chuck Hoskin, Jr.
District 9
Craig/Nowata Counties



Julia Coates
At Large



Jack D. Baker
At Large

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Supreme Court

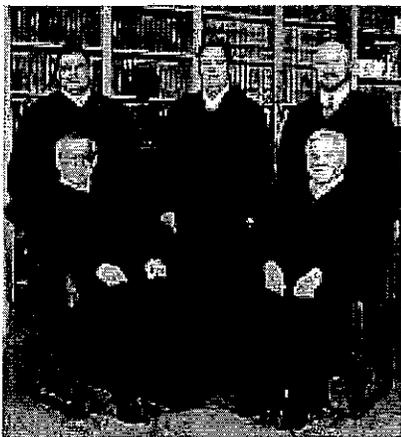
Standing: Kyle B. Haskins / James G. Wilcoxen / Troy Wayne Poteete
Justice Justice Justice

Seated: Darrell Dowty / Darell R. Matlock, Jr.
Justice Chief Justice

District Court NOT PICTURED

John T. Cripps
Judge

C. Bart Fite
Judge



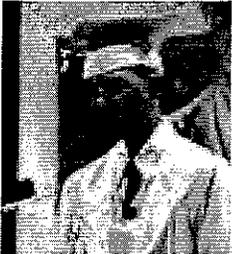
Declaration of Designed Purpose

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Cherokee way of life. What we were taught growing up.

Attributes are cultural values, qualities, or characteristics. Each of us, whether a Cherokee Nation employee or citizen, is responsible to lead our Nation to achieve a vision of becoming a happy and healthy people. Our leadership influences and shapes the behaviors of those around us and determines the outcomes we choose. Leadership takes us from where we are to where we want to be. These attributes describe our understanding of leadership necessary to achieve our designed purpose.

Attributes identified in Cherokee language and thought are:



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tsudadanilvtsati

Respectful/Acknowledgement: *Hold one another sacred or be "stingy" with another person and yourself.*

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nidvdayosgvna

Determined/Persistent: *Never give up.*



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kaliwohi

Integrity: *Full (to the greatest extent possible). Act in the same manner regardless of the situation. Do what is right and complete, even when no one is watching.*



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hadatinuga

Leader: *Lead by example. Show the way by acting the way we want others to treat us. Our actions influence the behavior of others.*



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didadvgododi

Communicative: *Be sure to let other(s) know.*



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udadohiyuhi

Confident: *Have confidence in yourself. Do not doubt your abilities, but temper all with humility.*



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dilisdelvdi

Cooperative: *Help one another.*

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adudalvdi

Responsible: *Commit yourself to your task or assignment.*

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dideyohvsgi

Teach: *Share your knowledge and wisdom with others to improve that individual, family or group.*

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anvniyiu

Patient: *Be patient, no matter what you are going through.*

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eladi yadadvnedi

Humble: *Never boast, never think you are better or higher than anyone else.*

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utlanigida

Strong: *Be strong in whatever you do. Take comfort in the strength of the Creator and your ancestors.*

hVØLZPΛVΛ Λ4øΔΛ • Contact Numbers



Cherokee Nation Directory

(918) 453-5000 • (800) 256-0671 • FAX (918) 458-6219

Administration

(918) 453-5618

Career Services

(918) 453-5555

Cherokee FIRST Information Center

(918) 207-3936

Cherokee Nation Businesses

(918) 384-7474

Cherokee Nation Entertainment

(918) 266-6700

Cherokee Nation Industries

(800) 259-6505

Commerce/Small Business Assistance

(918) 453-5536

Communications/PR/Web

(918) 453-5541

Community Services

(918) 453-5299

Education Services

(918) 207-3865

Financial Resources (Accounting)

(918) 453-5402

Health Services

(918) 453-5657

Housing Services

(918) 456-5482

Human Services

(918) 453-5422

Human Resources (Job Openings)

(918) 453-5292

Marshal Service

(918) 207-3800

Tax Commission (Car Tags)

(918) 453-5100

Tribal Registration (Enrollment)

(918) 458-6980

Veterans Office

(918) 453-5695

Washington, D.C. Office

(202) 393-7007



Cherokee Nation Tribal Council

(918) 207-3900 or (800) 995-9465

THE REPORT TO THE CHEROKEE PEOPLE 2010 IS PRODUCED BY THE CHEROKEE NATION COMMUNICATIONS GROUP WITH THE ASSISTANCE OF CHEROKEE NATION PROGRAM STAFF, CHEROKEE NATION INDUSTRIES, CHEROKEE NATION BUSINESSES AND CHEROKEE NATION ENTERTAINMENT. ALL COSTS ASSOCIATED WITH PRODUCING, PRINTING AND DISTRIBUTING THE REPORT TO THE CHEROKEE PEOPLE 2010 WERE PAID BY THE CHEROKEE NATION COMMUNICATIONS GROUP. IMAGES AND STORIES CONTAINED IN THIS PUBLICATION ARE NOT FOR REPRINT OR USE WITHOUT WRITTEN PERMISSION FROM THE CHEROKEE NATION. COPYRIGHT ©2010 BY CHEROKEE NATION COMMUNICATIONS GROUP. ALL RIGHTS RESERVED.

Cherokee Nation Housing Services

AREA 1

(serving Cherokee, Wagoner and Adair Counties)

Tahlequah (918) 456-5482

Hulbert (918) 772-2177

Westville (918) 723-3744

Stilwell (918) 696-2055

AREA 2

(serving Rogers, Washington, Tulsa, Nowata and Craig Counties)

Claremore (918) 342-2433

Catoosa (918) 266-5658

Bartlesville (918) 336-7830

Nowata (918) 273-0923

Vinita (918) 256-5382

Collinsville (918) 371-8435

AREA 3

(serving Sequoyah, McIntosh and Muskogee Counties)

Sallisaw (918) 774-0922

Porum (918) 484-5157

Warner (918) 463-3242

AREA 4

(serving Delaware, Mayes and Ottawa Counties)

Jay (918) 253-8315

Locust Grove (918) 479-5128

Grove (918) 786-4212

Pryor (918) 825-4811

Cherokee Nation Health Services

Cherokee Nation W.W. Hastings Hospital

(918) 458-3100 • (toll free) (877) 838-3100

Health Centers

A-Mo – Salina

(918) 434-8500 • (toll free) (877) 434-8500

Three Rivers – Muskogee

(918) 781-6500

Will Rogers – Nowata

(918) 273-0192 • (toll free) (877) 373-0192

Wilma P. Mankiller – Stilwell

(918) 696-8800 • (toll free) (877) 747-8800

Redbird Smith – Sallisaw

(918) 775-9159 • (toll free) (888) 797-9159

Sam Hider – Jay

(918) 253-4271 • (toll free) (877) 293-4271

Satellite Locations

Bartlesville

(918) 336-0823

Vinita

(918) 323-0191

Exhibit 4

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

**CHEROKEE NATION, a federally
recognized Indian tribe, and CHEROKEE
NATION ENTERTAINMENT, L.L.C.,**

Opposers,

v.

Opposition No. 91197038

Sonja Taylor,

Applicant.

**OPPOSER, CHEROKEE NATION'S FIRST SET OF REQUESTS FOR ADMISSIONS
TO APPLICANT**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 407.01 of the Trademark Trial and Appeal Board Manual of Procedure, Opposer, Cherokee Nation, a federally recognized Indian Tribe, respectfully requests that the Applicant, Sonja Taylor, within thirty (30) days of service hereof, admit or deny the following facts.

The definitions included in Opposer, Cherokee Nation's First Set of Interrogatories to Applicant (served contemporaneously herewith) are incorporated herein in their entirety.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that the Applicant is not a member of nor affiliated with a Federally recognized Indian tribe.

REQUEST FOR ADMISSION NO. 2: Admit that the Applicant is not a member of nor affiliated with Opposer.

REQUEST FOR ADMISSION NO. 3: Admit that Applicant's Mark includes the word "CHEROKEE."

REQUEST FOR ADMISSION NO. 4: Admit that Applicant's Mark is not used in connection with and/or by enrolled members of Opposer.

REQUEST FOR ADMISSION NO. 5: Admit that Applicant uses Native American Indian imagery in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 6: Admit that Applicant uses Native American Indian dress in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 7: Admit that Applicant uses Native American Indian costumes in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 8: Admit that Applicant uses Native American Indian regalia in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 9: Admit that Applicant uses Native American Indian clothing in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 10: Admit that U.S. Application No. 77/663,620 is an in-use trademark application for federal registration of Applicant's Mark.

REQUEST FOR ADMISSION NO. 11: Admit that Applicant is unable to legally assert a priority date earlier than January 1, 2000, in connection with Applicant's Mark.

REQUEST FOR ADMISSION NO. 12: Admit that use of Applicant's Mark has been insufficient so as to have acquired the requisite sufficient distinctiveness under Section 2(f) of the Trademark Act of 1946 (15 U.S.C. § 1052(f)) and thus Applicant's Mark is not eligible for federal registration.

REQUEST FOR ADMISSION NO. 13: Admit that prior to Applicant's first use of her Mark, the Mark "Cherokee Arabians" was used in connection with horse training and boarding by a business in Gilbert, Arizona.

REQUEST FOR ADMISSION NO. 14: Admit that Opposer has priority in Opposer's Marks over Applicant's priority in Applicant's Mark.

REQUEST FOR ADMISSION NO. 15: Admit that the Cherokee Nation is a federally recognized Indian Tribe.

REQUEST FOR ADMISSION NO. 16: Admit that the word "Cherokee" is commonly recognized to refer to the American Indian Tribe.

REQUEST FOR ADMISSION NO. 17: Admit that the word "Cherokee" is the dominant component of Applicant's Mark.

REQUEST FOR ADMISSION NO. 18: Admit that in connection with the Application, Applicant expressly disclaimed the exclusive right to use the word "Arabians."

REQUEST FOR ADMISSION NO. 19: Admit that the wording contained in the Mark closely resembles the wording contained in Opposer's Marks.

REQUEST FOR ADMISSION NO. 20: Admit that consumers may believe that goods and/or services offered for sale or sold by Applicant originated or are affiliated with Opposer or its members.

REQUEST FOR ADMISSION NO. 21: Admit that Applicant has advertised and promoted her goods and/or services in a manner which suggests a connection or affiliation with Native American Indians.

REQUEST FOR ADMISSION NO. 22: Admit that in connection with videos posted on the Internet video sharing website, YouTube.com, in which Applicant's Mark is used, Applicant refers to herself as "Cherokee" or "part Cherokee."

REQUEST FOR ADMISSION NO. 23: Admit that in connection with videos posted on the Internet video sharing website, YouTube.com, in which Applicant's Mark is used, others refer to Applicant as "Cherokee" or "part Cherokee."

REQUEST FOR ADMISSION NO. 24: Admit that Applicant and Opposer advertise and promote their respective goods and/or services using the Internet.

REQUEST FOR ADMISSION NO. 25: Admit that there is a likelihood of confusion between Opposer's Marks and Applicant's Mark.

REQUEST FOR ADMISSION NO. 26: Admit that Applicant's Mark is misrepresentative of some affiliation, connection, sponsorship, and/or association with Opposer and Opposer's Marks.

REQUEST FOR ADMISSION NO. 27: Admit that Applicant's Mark is intended to convey an affiliation or connection with Cherokee Indians.

REQUEST FOR ADMISSION NO. 28: Admit that Applicant's Mark is intended to convey an affiliation or connection with the horse breeding acumen of Cherokee Indians.

REQUEST FOR ADMISSION NO. 29: Admit that all documents produced in response to Opposer, Cherokee Nation's First Request for the Production of Documents to Applicant are genuine.

REQUEST FOR ADMISSION NO. 30: Admit that all of the documents produced in response to Opposer, Cherokee Nation's First Request for the Production of Documents to Applicant are original documents and/or true and correct copies of original documents.

REQUEST FOR ADMISSION NO. 31: Admit that the Opposer is not connected or affiliated in any way with Applicant's Mark.

REQUEST FOR ADMISSION NO. 32: Admit that the fame or reputation of the Opposer is of such nature that a connection with Opposer may be presumed when Applicant's Mark is used on the intended goods and/or services.

REQUEST FOR ADMISSION NO. 33: Admit that Cherokee Indians are famous and renowned for their horse breeding skills.

REQUEST FOR ADMISSION NO. 34: Admit that Applicant's Mark consists of or comprises matter which falsely suggests a connection with the Opposer.

REQUEST FOR ADMISSION NO. 35: Admit that the Cherokee are so famous that consumers would presume a connection between Applicant's Mark and Opposer's Marks.

REQUEST FOR ADMISSION NO. 36: Admit that it is likely that persons would infer that Applicant is associated with the Opposer.

REQUEST FOR ADMISSION NO. 37: Admit that it is likely that persons would infer that Applicant is a member of Opposer.

REQUEST FOR ADMISSION NO. 38: Admit that Applicant has done nothing to discourage consumers from believing that Applicant and/or Applicant's goods and/or services are not connected with Opposer and/or Opposer's goods and/or services.

REQUEST FOR ADMISSION NO. 39: Admit that Applicant has no evidence which supports the statements contained in Paragraph 2 of the Answer to Opposition on file herein.

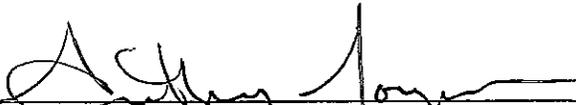
REQUEST FOR ADMISSION NO. 40: Admit that Applicant has no evidence which supports the statements contained in Paragraph 3 of the Answer to Opposition on file herein.

REQUEST FOR ADMISSION NO. 41: Admit that Applicant has not received a federal registration for the mark, CHEROKEE ARABIANS.

REQUEST FOR ADMISSION NO. 42: Admit that although Applicant's Mark has not been federally registered, it is displayed on Applicant's website using the term "federally registered" and/or the ® symbol.

REQUEST FOR ADMISSION NO. 43: Admit that Applicant modified her website to indicate that Applicant's Mark is federally registered after Opposer filed its request for extension of time to oppose in the proceeding.

Respectfully submitted,



Anthony Jorgenson, OBA #17074
**HALL, ESTILL, HARDWICK, GABLE,
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320 South Boston, Suite 400
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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

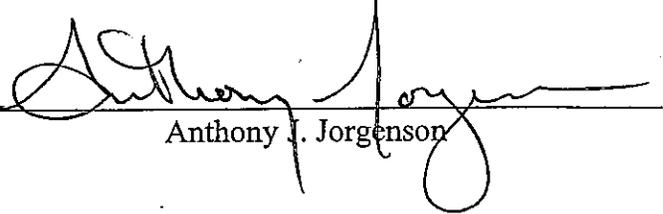
**ATTORNEYS FOR OPPOSER, CHEROKEE NATION,
A FEDERALLY RECOGNIZED INDIAN TRIBE**

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 16th day of March, 2011, a true and correct copy of the above and foregoing **OPPOSER, CHEROKEE NATION'S FIRST SET OF REQUESTS FOR ADMISSIONS TO APPLICANT** was served upon Applicant at the following address:

Ms. Sonja Taylor
80515 Elliott Road
Bush, LA 70431

by first class mail, proper postage prepaid, on this 16th day of March, 2011.



Anthony J. Jorgenson

1206528.1:231629:02060

Exhibit 5

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

CHEROKEE NATION, a federally
recognized Indian tribe, and CHEROKEE
NATION ENTERTAINMENT, L.L.C.,

Opposers,

v.

Opposition No. 91197038

Sonja Taylor,

Applicant.

**OPPOSER, CHEROKEE NATION ENTERTAINMENT, LLC'S FIRST SET OF
REQUESTS FOR ADMISSIONS TO APPLICANT**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 407.01 of the Trademark Trial and Appeal Board Manual of Procedure, Opposer, Cherokee Nation Entertainment, L.L.C., respectfully requests that the Applicant, Sonja Taylor, within thirty (30) days of service hereof, admit or deny the following facts.

The definitions included in Opposer, Cherokee Nation Entertainment, L.L.C.'s First Set of Interrogatories to Applicant (served contemporaneously herewith) are incorporated herein in their entirety.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that the Applicant is not a member of nor affiliated with a Federally recognized Indian tribe.

REQUEST FOR ADMISSION NO. 2: Admit that the Applicant is not a member of nor affiliated with Opposer.

REQUEST FOR ADMISSION NO. 3: Admit that Applicant's Mark includes the word "CHEROKEE."

REQUEST FOR ADMISSION NO. 4: Admit that Applicant's Mark is not used in connection with and/or by enrolled members of Opposer, Cherokee Nation.

REQUEST FOR ADMISSION NO. 5: Admit that Applicant uses Native American Indian imagery in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 6: Admit that Applicant uses Native American Indian dress in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 7: Admit that Applicant uses Native American Indian costumes in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 8: Admit that Applicant uses Native American Indian regalia in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 9: Admit that Applicant uses Native American Indian clothing in conjunction with Applicant's Mark to display and promote Applicant's goods and/or services.

REQUEST FOR ADMISSION NO. 10: Admit that U.S. Application No. 77/663,620 is an in-use trademark application for federal registration of Applicant's Mark.

REQUEST FOR ADMISSION NO. 11: Admit that Applicant is unable to legally assert a priority date earlier than January 1, 2000, in connection with Applicant's Mark.

REQUEST FOR ADMISSION NO. 12: Admit that use of Applicant's Mark has been insufficient so as to have acquired the requisite sufficient distinctiveness under Section 2(f) of the Trademark Act of 1946 (15 U.S.C. § 1052(f)) and thus Applicant's Mark is not eligible for federal registration.

REQUEST FOR ADMISSION NO. 13: Admit that prior to Applicant's first use of her Mark, the Mark "Cherokee Arabians" was used in connection with horse training and boarding services by Cherokee Arabians located in Gilbert, Arizona.

REQUEST FOR ADMISSION NO. 14: Admit that Opposer has priority in Opposer's Marks over Applicant's priority in Applicant's Mark.

REQUEST FOR ADMISSION NO. 15: Admit that the Cherokee Nation is a federally recognized Indian Tribe.

REQUEST FOR ADMISSION NO. 16: Admit that the word "Cherokee" is commonly recognized to refer to the American Indian Tribe.

REQUEST FOR ADMISSION NO. 17: Admit that the word "Cherokee" is the dominant component of Applicant's Mark.

REQUEST FOR ADMISSION NO. 18: Admit that in connection with the Application, Applicant expressly disclaimed the exclusive right to use the word "Arabians."

REQUEST FOR ADMISSION NO. 19: Admit that the wording contained in the Mark closely resembles the wording contained in Opposer's Marks.

REQUEST FOR ADMISSION NO. 20: Admit that consumers may believe that goods and/or services offered for sale or sold by Applicant originated or are affiliated with Opposer, Cherokee Nation, or its members.

REQUEST FOR ADMISSION NO. 21: Admit that Applicant has advertised and promoted her goods and/or services in a manner which suggests a connection or affiliation with Native American Indians.

REQUEST FOR ADMISSION NO. 22: Admit that Applicant has advertised and promoted her goods and/or services in a manner which suggests a connection or affiliation with the Cherokee Nation.

REQUEST FOR ADMISSION NO. 23: Admit that in connection with videos posted on the Internet video sharing website, YouTube.com, in which Applicant's Mark is used, Applicant refers to herself as "Cherokee" or "part Cherokee."

REQUEST FOR ADMISSION NO. 24: Admit that in connection with videos posted on the Internet video sharing website, YouTube.com, in which Applicant's Mark is used, third parties refer to Applicant as "Cherokee" or "part Cherokee."

REQUEST FOR ADMISSION NO. 25: Admit that Applicant and Opposer advertise and promote their respective goods and/or services using the Internet.

REQUEST FOR ADMISSION NO. 26: Admit that horse breeding is closely related to horse racing.

REQUEST FOR ADMISSION NO. 27: Admit that horses are often bred to participate in horse racing.

REQUEST FOR ADMISSION NO. 28: Admit that there is a likelihood of confusion between Opposer's Marks and Applicant's Mark.

REQUEST FOR ADMISSION NO. 29: Admit that Applicant's Mark is misrepresentative of some affiliation, connection, sponsorship, and/or association with Opposer and Opposer's Marks.

REQUEST FOR ADMISSION NO. 30: Admit that Cherokee Indians are widely known for their horse breeding skills and expertise.

REQUEST FOR ADMISSION NO. 31: Admit that Applicant's Mark is intended to convey an affiliation or connection with Cherokee Indians.

REQUEST FOR ADMISSION NO. 32: Admit that Applicant's Mark is intended to convey an affiliation or connection with the horse breeding acumen of Cherokee Indians.

REQUEST FOR ADMISSION NO. 33: Admit that all documents produced in response to Opposer, Cherokee Nation Entertainment, L.L.C.'s First Request for the Production of Documents to Applicant are genuine.

REQUEST FOR ADMISSION NO. 34: Admit that all of the documents produced in response to Opposer, Cherokee Nation Entertainment, L.L.C.'s First Request for the Production of Documents to Applicant are original documents and/or true and correct copies of original documents.

REQUEST FOR ADMISSION NO. 35: Admit that Cherokee Nation Entertainment, L.L.C. is not connected or affiliated in any way with Applicant's Mark.

REQUEST FOR ADMISSION NO. 36: Admit that Cherokee Indians are famous and renowned for their horse breeding skills.

REQUEST FOR ADMISSION NO. 37: Admit that Applicant's Mark consists of or comprises matter which falsely suggests a connection with the Opposer.

REQUEST FOR ADMISSION NO. 38: Admit that it is likely, based upon Applicant's use of the word "CHEROKEE", that persons would infer that Applicant is associated with the Opposer.

REQUEST FOR ADMISSION NO. 39: Admit that it is likely, based upon Applicant's use of the word, "CHEROKEE", that persons would infer that Applicant is a member of Opposer, Cherokee Nation.

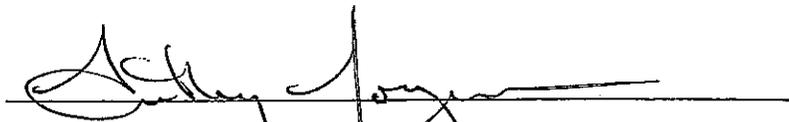
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Respectfully submitted,



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

**ATTORNEYS FOR OPPOSER, CHEROKEE NATION
ENTERTAINMENT, L.L.C.**

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on this 16th day of March, 2011, a true and correct copy of the above and foregoing **OPPOSER, CHEROKEE NATION ENTERTAINMENT, L.L.C.'S FIRST SET OF REQUESTS FOR ADMISSIONS TO APPLICANT** was served upon Applicant at the following address:

Ms. Sonja Taylor
80515 Elliott Road
Bush, LA 70431

by first class mail, proper postage prepaid, on this 16th day of March, 2011.



Anthony J. Jorgenson

1212582.1:231629:02060

Exhibit 6

thefreedictionary.com

Cher·o·kee  (chĕr'ə-kĕ, chĕr'ə-kĕ')

n. pl. **Cherokee** or **Cher·o·kees**

1.

a. A Native American people formerly inhabiting the southern Appalachian Mountains from the western Carolinas and eastern Tennessee to northern Georgia, with present-day populations in northeast Oklahoma and western North Carolina. The Cherokee were removed to Indian Territory in the 1830s after conflict with American settlers over rights to traditional lands.

b. A member of this people.

2. The Iroquoian language of the Cherokee.

[From Cherokee *tsalaki*.]

Cher' o·kee' *adj.*

The American Heritage® Dictionary of the English Language, Fourth Edition copyright ©2000 by Houghton Mifflin Company. Updated in 2009. Published by Houghton Mifflin Company. All rights reserved.

Cherokee ['tʃerə,kiː, 'tʃerə'kiː]

n

1. (Social Science / Peoples) *pl* **-kees, -kee** a member of a North American Indian people formerly living in and around the Appalachian Mountains, now chiefly in Oklahoma; one of the Iroquois peoples

2. (Linguistics / Languages) the language of this people, belonging to the Iroquoian family

Collins English Dictionary – Complete and Unabridged © HarperCollins Publishers 1991, 1994, 1998, 2000, 2003

Thesaurus Legend: ||Synonyms ||Related Words ||Antonyms

Noun 1. Cherokee - the Iroquoian language spoken by the Cherokee

||Iroquoian, Iroquoian language, Iroquois - a family of North American Indian languages spoken by the Iroquois

2. **Cherokee** - a member of an Iroquoian people formerly living in the Appalachian Mountains but now chiefly in Oklahoma

||Iroquois - any member of the warlike North American Indian peoples formerly living in New York State; the Iroquois League were allies of the British during the American Revolution

Based on WordNet 3.0, Farlex clipart collection. © 2003-2008 Princeton University, Farlex Inc.

Translations

Select a language: -----

Copyright © 2011 Farlex, Inc. Source URL: <http://www.thefreedictionary.com/Cherokee>

Exhibit 7

[Home](#)
[Horse Breeds](#)

First Posted: Aug 9, 2010
Aug 10, 2010

Choctaw and Cherokee Horses

This article was sent to me in a file from one of the visitors to my site, HorseHints.org. Her name is Rebecca and she is very much involved in preserving the future of the Choctaw Horses. Thank you, Rebecca, for providing this outstanding information authored by Phil Spoonenberg. Thank you, also, for the captivating images that you have provided and allowed me to use of the Choctaw horses at your [Choctaw Ranch](#).

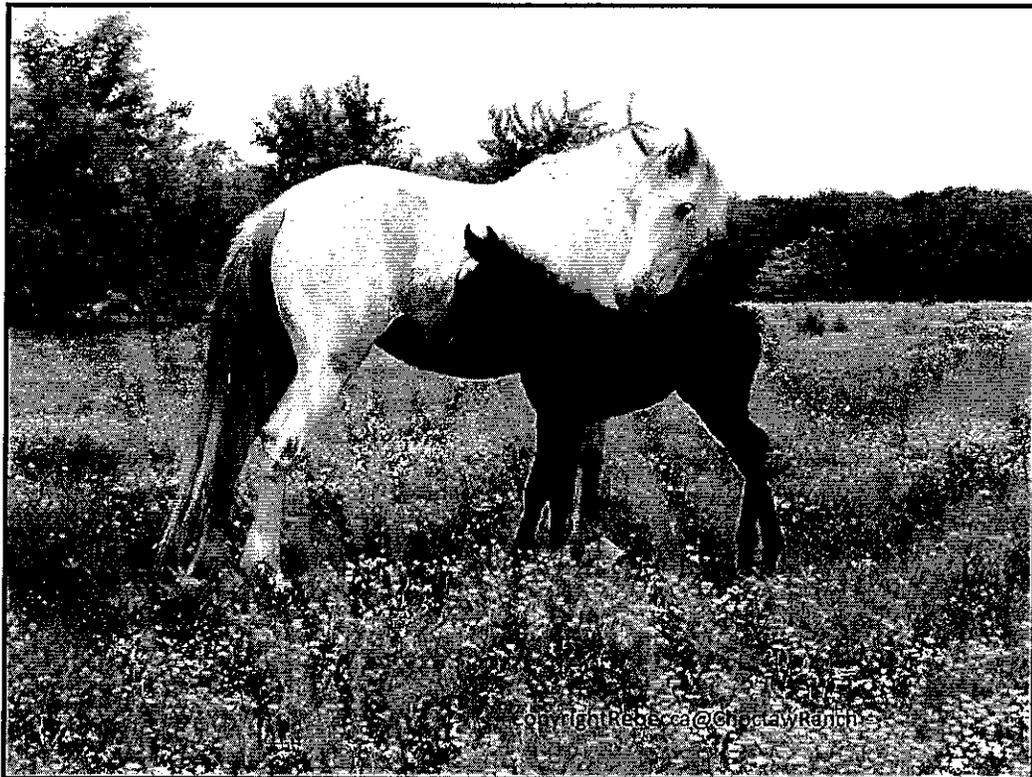


Image provided by Rebecca [Choctaw Ranch](#).



3-D Flags

Country of Origin: United States

"The Choctaw and Cherokee tribes were avid horse breeders in their original territories within the southeastern United States. The horses they bred were Spanish and were obtained at first from the chain of missions across the deep South and west of the Mississippi in early Spanish colonial days. As the tribes became adept in horse breeding, the quality of the tribal horses gained a good reputation and was specifically mentioned as being excellent in various historic travel journals. Following the government removal in the mid-1800s of the Choctaw and Cherokee tribes from the southeast to what is now Oklahoma, the tribes continued to breed their horses. The basis for the Oklahoma herds was horses brought from the southeast on the "Trail of Tears", but no doubt some western horses were added as well. Because the Choctaw and Cherokee tribes became important as mediators between several of the more western tribes and the US government in the late 1800s, it is likely that exchange of horses between

tribes occurred during the many meetings that were held. **(The Cherokee bred horses tend to be flashy paints, and many are strongly gaited).**

There were individual families that played an important role in preserving the tribal horses. The Whitmire family line, which includes horses from the Comtassle family, is a Cherokee line of horses that can be traced back to the removal of the tribe from Etocha, Georgia in 1835. The line may go back in time even further as local court records from 1775 indicate that the Whitmire and Comtassle families had herds of horses at that time. The Whitmire line horses were always kept within the line on the female side, although outside stallions were occasionally introduced. The stallions were of Mexican, Choctaw, or Comanche breeding, and were therefore also Colonial Spanish. Some of the Comanche stallions came from the Black Moon Comanches of Oklahoma and were of leopard type color patterns. At least one Mexican stallion was a buckskin leopard. The outside stallions were carefully and specifically selected for inclusion within the Whitmire line and were chosen to be as similar to the Cherokee strain as could be had. **Many of the Cherokee horses that remain are gaited and have unusual color patterns including several medicine hat paints.**

The major families that preserved the Choctaw horses until recently were the Brame, Crisp, Locke, Self, Helms, Thurman, and Carter families. Their horses were run on the open range in areas where other types of horses were not kept. These families had hundreds of horses of consistent Spanish type with widely varying colors including the "Spanish roan" sabino type, leopard and blanketed patterns, and other colors such as overo paints. **Choctaw horses are occasionally gaited and are notably quick. (Approximately ten percent are gaited, but even the trotters have smooth gaits)** Choctaw breeder Hal Brame was well known for taking his favorite little paint horse to parties and dances and making wagers with other horse owners on races over 50 yards. In his lifetime Hal took a lot of money from the owners of Quarter Horses and Thoroughbreds who subsequently went away with increased respect for small Indian horses!

From the hundreds of Choctaw and Cherokee horses that were available as recently as 1975, ALBC estimates that less than 300 pure blooded horses remain as of 2008. This is due to the dispersal of many large herds following the deaths of some of the elderly breeders. Realizing that the once numerous horses were quickly disappearing, Gilbert Jones began the collection of as many pure blooded horses as he could find and assembled the largest known herd of these animals. Following Gilbert's death in 2001, the horses were inherited by close friends Bryant and Darlene Rickman who remain stewards of the herd and staunch advocates of the Choctaw and Cherokee horse.

Choctaw and Cherokee horses are known for their hardiness, vigor, and adaptability. They are typically easy to train with a gentle hand and can be very people oriented. They make excellent trail and endurance horses but have the potential to do well in any riding discipline. They are all-around easy keepers and according to their owners have little to no health problems. These horses average 14 to 14.2+ hands although some may be larger. Despite their size, they easily carry adults with minimal effort."

Status: Critical

For More Information:

[Choctaw Horse Breed/Many are Gaited](#)

[The American Livestock Breeds Conservancy](#)

PO Box 477, Pittsboro, NC 27312

[Horse of the Americas](#)

Annette Gonzales, Secretary, 2131 Sunshine Rd. SW, Albuquerque, NM 87105

[Southwest Spanish Mustang Association](#)

Bryant Rickman, PO Box 948, Antlers, OK 7452

[Chicasaw Pony Some Gaited Some Not Gaited](#)

[Chickasaw Indians](#)

[Choctaw Indians](#)

[Cherokee Indians and Horses](#)

[Horse Breeds](#)

[Home](#)

Exhibit 8

Cherokee Indians and Horses



[Cherokee Indians](#)



Chiefs: English: [William Penn Adair](#)(Cherokee), His Shield (Yanktonai), Levi Big Eagle (Yanktonai), Bear Ghost (Yanktonai) and Black Moustache (Sisseton)

The Cherokee are a Native American people historically settled in the Southeastern United States (principally Georgia, the Carolinas and Eastern Tennessee). Linguistically, they are part of the Iroquoian-language family. In the 19th century, historians and ethnographers recorded their oral tradition that told of the tribe having migrated south in ancient times from the Great Lakes region, where other Iroquoian-speaking peoples were located.

In the 19th century, white settlers in the United States called the Cherokees one of the "Five Civilized Tribes," because they had assimilated numerous cultural and technological practices of European-American settlers. According to the 2000 U.S. Census, the Cherokee Nation has more than 300,000 members, the largest of the 563 federally recognized Native American tribes in the United States.

Of the three federally recognized Cherokee tribes, the Cherokee Nation and the United Keetoowah Band of Cherokee Indians have headquarters in Tahlequah, Oklahoma. They were forcibly relocated there in the 1830s. The Eastern Band of Cherokee Indians is located in Cherokee, North Carolina.

Name

The Cherokee refer to themselves as Tsalagi or Ahniywiya, which means "Principal People." The Iroquois called the Cherokee Oyata'ge'ronoñ (inhabitants of the cave country). Many theories - though none proven - abound about the origin of the word Cherokee. It may have originally been derived from the Choctaw word Cha-la-kee, which means "those who live in the mountains," or Choctaw Chi-luk-ik-bi, meaning "those who live in the cave country." The earliest Spanish rendering of Cherokee, from 1755, is

Tchalaquei. Another theory is Cherokee derives from a Lower Creek word, Ciló-kki, meaning someone who speaks another language. The most likely derivation, however, is an Anglicisation of their own name, Tsalagi.

Origins

There are two prevailing views about Cherokee origins. One is that the Cherokees are relative latecomers to Southern Appalachia, who may have migrated in late prehistoric times from northern areas, the traditional territory of the Haudenosaunee and other Iroquoian-language people. Researchers in the 19th century talked to elders who recounted an oral tradition of the people's migrating south from the Great Lakes region in ancient times. The other theory is that they had been there for thousands of years.

Some traditionalists, historians and archaeologists believe that Cherokees did not come to Appalachia until the 13th or centuries. They may have migrated from the north and moved south into Muscogee Creek territory and settled at the sites of mounds built by Muscogee ancestors. Initially, archeologists had mistakenly attributed several Mississippian culture sites to the Cherokee, including Moundville and Etowah Mounds. Late 20th century studies have shown instead that the sites are unquestionably related to Muscogean peoples. Precontact Cherokees are considered to be part of the Pisgah Phase of Southern Appalachia, which lasted from circa 1000 to 1500.

The other possibility is that Cherokee people have lived in western North Carolina and eastern Tennessee for a far longer period of time. During the late Archaic and Woodland Period, Indians in the region began to cultivate plants such as marsh elder, lambsquarters, pigweed, sunflowers and some native squash. People began building mounds, created new art forms like shell gorgets, adopted new technologies, and followed an elaborate cycle of religious ceremonies. During the Mississippian Culture period (800 to 1500 CE), local women developed a new variety of maize (corn) called eastern flint. It closely resembled modern corn and produced larger crops. The successful cultivation of corn surpluses allowed the rise of larger, more complex villages with concentrated populations during the Mississippian-culture period. Because of its importance, corn was central to several religious ceremonies, especially the Green Corn Ceremony.

Early Culture

Much of what is known about pre-18th-century Native American cultures, including the Cherokee, has come from records of Spanish expeditions. Some of this work was not translated into English and more widely available to historians until the 20th century. In addition, the dominance of English colonists over the Southeast led to a discounting of Spanish sources for some time.

American writer John Howard Payne wrote about pre-19th century Cherokee culture and society. The Payne papers describe the account by Cherokee elders of a traditional two-part societal structure. A "white" organization of elders represented the seven clans. As Payne recounted, this group, which was hereditary and priestly, was responsible for religious activities, such as healing, purification, and prayer. A second group of younger men, the "red" organization, was responsible for warfare. The Cherokee considered warfare a polluting activity, and warriors required the purification of the priestly class before participants could reintegrate into normal village life. This hierarchy had disappeared long before the 18th century.

Researchers have debated the reasons for the change. Some historians believe the decline in priestly power originated with a revolt by the Cherokee against the abuses of the priestly class known as the Anikutani. Ethnographer James Mooney, who studied the Cherokee in the late 1880s, was the first to trace the decline of the former hierarchy to this revolt. By the time of Mooney, the structure of Cherokee religious practitioners was more informal, based more on individual knowledge and ability than upon heredity.

Another major source of early cultural history comes from materials written in the 19th century by the didanvvisgi, Cherokee medicine men, after Sequoyah's creation of the Cherokee syllabary in the 1820s. Initially only the didanvvisgi adopted and used such materials, which were considered extremely powerful in a spiritual sense. Later, the syllabary and writings were widely adopted by the Cherokee people.

Unlike most other Indians in the American Southeast at the start of the historic era, the Cherokee spoke an Iroquoian language. Since the Great Lakes region was the core of Iroquoian-language speakers, scholars have theorized that the Cherokee migrated South from that region. This is supported by the Cherokee oral history tradition. But, other scholars argue that the Iroquois migrated North from the southeast. According to their theory, the Tuscarora, another Iroquoian-speaking people inhabiting the Southeast in historic times, and the Cherokee broke off from the major group during its northern migration.

Other historians hold that, judging from linguistic and cultural data, the Tuscarora people migrated South from other Iroquoian-speaking people in the Great Lakes region in ancient times. Most "returned" to the New York area from the southeast by 1722 because of warfare in the southern region. The Tuscarora were admitted then by the Iroquois as the Sixth Nation of their confederacy.

Linguistic analysis shows a relatively large difference between Cherokee and the northern Iroquoian languages. Scholars posit a split between the groups in the distant past, perhaps 3500-3800 years ago. Glottochronology studies suggest the split occurred between about 1,500 and 1,800 B.C. The Cherokee have claimed the ancient settlement of Kituwa on the Tuckasegee River, formerly next to and now part of Qualla Boundary (the reservation of the Eastern Band of Cherokee Indians), as the original Cherokee settlement in the Southeast.

History

The first known European-Native American contact was in 1540, when a Spanish expedition led by Hernando de Soto passed through Cherokee country. De Soto's expedition visited many inland Georgia and Tennessee villages which they recorded as ruled by the Coosa chiefdom, of the Mississippian culture. The Cherokee did not settle in this area until the early 1700s. The Spanish noted the Chalaque nation as living around the Keowee River where North Carolina, South Carolina and Georgia meet. European diseases, introduced to natives by contact with the Spaniards and their animals, decimated many Eastern tribes because of their lack of immunity to the new diseases.

A second Spanish expedition came through the interior in 1567 led by Juan Pardo. Spanish troops built six forts in the interior Southeast, including at the Mississippian chiefdom of Joara, where they named their installation Fort San Juan. This was the first European settlement in the interior. They visited what were later Cherokee towns of Nikwasi, Estatoe, Tugaloo, Conasauga, and Kituwa. The indigenous people rose against the Spanish soldiers, killing all but one of the 120 stationed at the six forts, and burning all the forts. The Spanish retreated to the coast.

17th Century: English Contact

In 1654, there was a disturbance in Virginia Colony as the Rechahecians or Rickahockans, as well as the Siouan Manahoac and Nahyssan, broke through the frontier and settled near the Falls of the James, near present-day Richmond, Virginia. The following year, a combined force of English and Pamunkey drove the newcomers away. The identity of the Rechahecians has been much debated. Historians noted the name closely resembled that recorded for the Eriechronon or Erielhonan, commonly known as the Erie tribe. They had been driven away from the southern shore of Lake Erie by the powerful Iroquois Five Nations in 1654. The anthropologist Martin Smith theorized some remnants of the tribe migrated to Virginia after the wars. Fewer historians suggest this tribe were Cherokee.

Virginian traders developed a small-scale trading system with the Cherokee before the end of the seventeenth century; the earliest recorded Virginia trader to visit the Cherokee was a certain Dority, in 1690. The Cherokee sold them Indian slaves for use as laborers in Virginia and further north.

18th Century History

The Cherokees gave sanctuary to a band of Shawnee in the 1660s, but from 1710 to 1715 the Cherokee and Chickasaw, allied with the British, fought Shawnee, who were allied with the French, and forced them to move north. Cherokees fought with the Yamasee, Catawba, and British in late 1712 and early 1713 against the Tuscarora in the Second Tuscarora War. The Tuscarora War marked the beginning of an

English-Cherokee relationship that, despite breaking down on occasion, remained strong for much of the 18th century. With the growth of the deerskin trade, the Cherokee were valuable trading partners, since deer-skins from the cooler country of their mountain hunting-grounds were of a better-quality than those supplied by neighboring tribes.

In January 1716, Cherokee murdered a delegation of Muscogee Creek leaders at the town of Tugaloo, marking their entry into the Yamasee War. It ended in 1717 with peace treaties between South Carolina and the Creek. Hostility and sporadic raids between the Cherokee and Creek continued for decades. These raids came to a head at the Battle of Taliwa in 1755, present-day Ball Ground, Georgia, with the defeat of the Muscogee.

In 1730, at Nikwasi, an Englishman, Sir Alexander Cumming convinced Cherokees to crown Moytoy of Tellico as "Emperor." Moytoy agreed to recognize King George II of Great Britain as the Cherokee protector. Seven prominent Cherokee, including Attakullakulla, traveled with Sir Alexander Cumming back to London, England. The Cherokee delegation signed the Treaty of Whitehall with the British. Moytoy's son, Amo-sgasite (Dreadful Water) attempted to succeed him as "Emperor" in 1741, but the Cherokees elected their own leader, Cunne Shote (Standing Turkey) of Chota.

Political power among Cherokees remained decentralized and towns acted autonomously. In 1735 the Cherokee were estimated to have sixty-four towns and villages, and 6000 fighting men. In 1738 and 1739 smallpox epidemics broke out among the Cherokee, who had no natural immunity. Nearly half their population died within a year. Hundreds of other Cherokee committed suicide due to their losses and disfigurement from the disease.

From 1753 to 1755, battles broke out between the Cherokee and Muscogee over disputed hunting grounds in North Georgia. Cherokees were victorious in the Battle of Taliwa. British soldiers built forts in Cherokee country to defend against the French, including Fort Loudoun near Chota. In 1756 the Cherokees fought with the British in the French and Indian War. Serious misunderstandings arose quickly between the two allies, resulting in the 1760 Anglo-Cherokee War. King George III's Royal Proclamation of 1763 forbade British settlements west of the Appalachian crest, as his government tried to afford some protection from colonial encroachment to the Cherokee. The ruling was difficult to enforce.

In 1771-2, North Carolinian settlers squatted on Cherokee lands in Tennessee, forming the Watauga Association. Daniel Boone and his party tried to settle in Kentucky, but the Shawnee, Delaware, Mingo, and some Cherokee attacked a scouting and forage party that included Boone's son. The American Indians used this territory as a hunting ground; it had hardly been inhabited for years. The conflict sparked the beginning of what was known as Dunmore's War (1773-1774).

In 1776, allied with the Shawnee led by Cornstalk, Cherokee attacked settlers in South Carolina, Georgia, Virginia, and North Carolina in the Second Cherokee War. Overhill Cherokee Nancy Ward, Dragging Canoe's niece, warned settlers of impending attacks. Provincial militias retaliated, destroying over 50 Cherokee towns. Invasions by North Carolina in 1776 and 1780 destroyed the Overhill towns. In 1777 surviving Cherokee town leaders signed treaties with the states.

Dragging Canoe and his band moved near present-day Chattanooga, Tennessee, where they established 11 new towns. Chickamauga was his headquarters and his entire band became known as the Chickamaugas. From here he fought a guerrilla war against settlers, the Chickamauga Wars (1776-1794). The first Treaty of Tellico Blockhouse, signed 7 November 1794, ended the Chickamauga Wars. In 1805, the Cherokee ceded their lands between the Cumberland and Duck Rivers (i.e. the Cumberland Plateau) to Tennessee.

19th Century/Acculturation

The Cherokee lands between the Tennessee and Chattahoochee Rivers were remote enough from white settlers to remain independent after the Chickamauga Wars. The deerskin trade was no longer feasible on their greatly reduced lands, and over the next several decades the Cherokee built a new society modeled on the white Southern United States.

George Washington sought to 'civilize' friendly Southeastern American Indians, through programs overseen by Indian Agent Benjamin Hawkins. U.S. agents convinced them to abandon their communal land-tenure and settle on isolated farmsteads, facilitated by the destruction of many American Indian towns during the American Revolutionary War. The deerskin trade brought white-tailed deer to the brink of extinction, and as pigs and cattle were introduced, they became the principal sources of meat. The tribes were supplied with spinning wheels and cotton-seed, men were taught to fence and plow the land, in contrast with traditional division where farming was woman's labor, women were instructed in weaving; blacksmiths, gristmills and eventually cotton plantations were established.

The Cherokees organized a national government under Principal Chiefs Little Turkey (1788-1801), Black Fox (1801-1811), Pathkiller (1811-1827), all former warriors of Dragging Canoe. The 'Cherokee triumvirate' of James Vann and his protégés The Ridge and Charles R. Hicks advocated acculturation, formal education, and modern methods of farming. In 1801 they invited Moravian missionaries from North Carolina to teach Christianity and the 'arts of civilized life.' The Moravians and later Congregationalist missionaries ran boarding schools, and a select few students were educated at the American Board of Commissioners for Foreign Missions school in Connecticut.

In 1806 a Federal Road from Savannah, Georgia to Knoxville, Tennessee was built through Cherokee land. Chief James Vann opened a tavern, inn and ferry across the Chattahoochee and built a cotton-plantation on a spur of the road from Athens, Georgia to Nashville. His son 'Rich Joe' Vann grew the plantation to 800 acres and 150 slaves, exporting cotton to England, and owning a steamboat on the Tennessee River. The Cherokee allied with the U.S. against the nativist and pro-British Red Stick faction of the Upper Creeks in the Creek War during the War of 1812, and Cherokee warriors led by Major Ridge played a major role in General Andrew Jackson's victory at the Battle of Horseshoe Bend. Major Ridge built a plantation and ran a ferry on the Oostanaula River, and, although he never learned English, educated his son and nephews in New England mission schools. His translator and protégé Chief John Ross, descendant of several generations of Scottish fur-traders, built a plantation and operated a trading firm and a ferry at Ross' Landing (Chattanooga, Tennessee). During this period, divisions arose between the acculturated elite and the great majority of Cherokee, who clung to traditional ways of life.

Ca.1809 Sequoyah began developing a written form the Cherokee language. He spoke no English, but his experiences as a silversmith dealing regularly with white settlers and a warrior at Horseshoe Bend convinced him the Cherokee needed to develop writing. In 1821, he introduced Cherokee syllabary, the first alphabetic form of an American Indian language, although this innovation met with initial opposition from both Cherokee traditionalists and white missionaries who sought to encourage the use of English.

Cherokee National Council building, New Echota In 1819, the Cherokee began holding council meetings at New Town, at the headwaters of the Oostanaula (near present-day Calhoun, Georgia). In November 1825, New Town became the capital of the Cherokee Nation, and was renamed New Echota, after the Overhill Cherokee principle town of Chota. Sequoyah's syllabic alphabet was adopted, and, in 1827, the Cherokee Nation drafted a Constitution modeled on the United States, with executive, legislative and judicial branches and a system of checks and balances. The two-tiered legislature was led by Major Ridge and his son John Ridge. Convinced the tribes survival required English-speaking leaders who could negotiate with the U.S., the legislature appointed John Ross as Principal Chief. A printing press was established at New Echota by Vermont missionary Samuel Worcester and Major Ridge's nephew Elias Boudinot, who had taken the name of his white benefactor, a leader of the Continental Congress and New Jersey Congressman. The Bible was translated into Cherokee syllabary and the first edition of the bilingual 'Cherokee Phoenix,' the first American Indian newspaper, was published in February 1828.

Removal Era

Before the final removal to present-day Oklahoma, many Cherokees relocated to present-day Arkansas, Missouri and Texas. Between 1775 and 1786 the Cherokee, along with people of other nations such as the Choctaws and Chickasaws, began voluntarily settling along the Arkansas and Red Rivers.

In 1802, the federal government promised to extinguish Indian titles to lands claimed by Georgia in return for Georgia's cession of the western lands that became Alabama and Mississippi. To convince the

Cherokee to move voluntarily in 1815, the US government established a Cherokee Reservation in Arkansas. The reservation boundaries extended from north of the Arkansas River to the southern bank of the White River. Di'wali (The Bowl), Sequoyah, Spring Frog and Tatsi (Dutch) and their bands settled there. These Cherokees became known as "Old Settlers."

The Cherokee eventually migrated as far north as the Missouri Bootheel by 1816. They lived interspersed among the Delawares and Shawnees of that area. The Cherokee in Missouri Territory increased rapidly in population, from 1,000 to 6,000 over the next year (1816-1817) according to reports by Governor William Clark. Increased conflicts with the Osage Nation led to the Battle of Claremore Mound and the eventual establishment of Fort Smith between Cherokee and Osage communities. In the Treaty of St. Louis (1825) the Osage were made to "cede and relinquish to the United States, all their right, title, interest, and claim, to lands lying within the State of Missouri and Territory of Arkansas..." to make room for the Cherokee and the Mashcoux, Muscogee Creeks. As late as the winter of 1838, Cherokee and Creek living in the Missouri and Arkansas areas petitioned the War Department to remove the Osage from the area.

A group of Cherokee traditionalists led by Di'wali moved to Spanish Texas in 1819. Settling near Nacogdoches, they were welcomed by Mexican authorities as potential allies against

Anglo-American colonists. The Tsalagiya nvdagi were mostly neutral during the Texas War of Independence. In 1836, they signed a treaty with Texas President Sam Houston, an adopted member of the Cherokee tribe. His successor Mirabeau Lamar sent militia to evict them in 1839.

The survivors fled north across the Red River and rejoined Cherokee in Indian Territory or south to Coahuila, Mexico. A few remained in Texas, where they identified as Black Dutch to evade discrimination and removal.

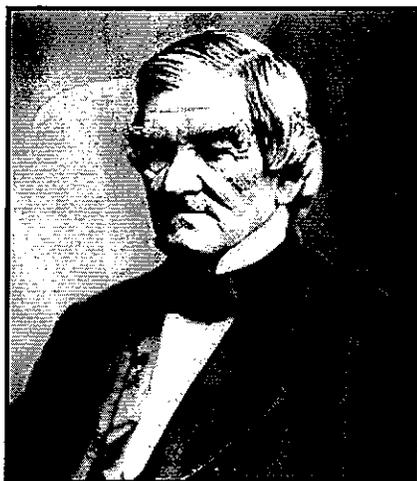
Trail of Tears



Painting by Robert Lindneux
Woolaroc Museum



Cherokee Rose
Symbol of Where They Cried



Cherokee Chief John Ross/Guwisguwi (a mythological or rare migratory bird) (AKA Moses of the Cherokee)

Cherokee Chief John Ross, whose name in Cherokee is Guwisguwi was born October 3, 1790 and died August 1, 1866. He was the Native American Chief of the Cherokee. His birthplace was near Lookout Mt., Tennessee. He heritage was of Scottish and Cherokee parents. John Ross was educated at Kingston, Tennessee. He served under Andrew Jackson against the Creeks in the War of 1812 and was elected the principal Chief of the Eastern Cherokee in 1828. Ross struggled valiantly to hold the ancestral lands of his people but was unable to withstand the constant pressure of the state of Georgia for removal. In a treaty (1835) of questionable validity, a small minority of the Cherokee ceded the lands and moved west. Ross and the majority refused to acknowledge the cession, but resistance was unsuccessful, and in 1838-39 he led them on the long, hard journey to present-day Oklahoma. Thousands died on the trip, known in Native American lore as the trail of tears.

Notes: (1)The Trail of Tears National Historic Trail is approximately 4,900 miles long, over land and water routes in nine states. (2) In 1838 U.S. Army troops under General Winfield Scott's command rounded up Cherokee people and moved them to forts in North Carolina, Georgia, Alabama, and Tennessee, prior to their removal west. Thirty-one forts were built for this purpose on the Trail of Tears National Historic Trail.

During the first decades of the 19th century, Georgia focused on removing the Cherokee's neighbors, the Lower Creeks. After first cousins Georgia Governor George Troup and Lower Creek Chief William McIntosh signed the Treaty of Indian Springs (1825), ceding the last Muscogee (Creek) lands claimed by Georgia, the state's northwestern border reached the Chattahoochee, the border of the Cherokee Nation. In 1829, gold was discovered at Dahlonega, on Cherokee land claimed by Georgia. The Georgia Gold Rush was the first in U.S. history, and state officials demanded that the federal government expel the Cherokee. When Andrew Jackson was inaugurated as President in 1829, Georgia's position gained the upper-hand in Washington. In 1830 the Indian Removal Act authorized the forcible relocation of American Indians east of the Mississippi to a new Indian Territory.

Andrew Jackson said removal policy was an effort to prevent the Cherokee from facing the fate of "the Mohegan, the Narragansett, and the Delaware," which he suggested was extinction as a people. But, there is ample evidence that the Cherokee were adapting modern farming techniques. A modern analysis shows that the area was in general in a state of economic surplus.

The Cherokee brought their grievances to a US judicial review that set a precedent in Indian Country. John Ross traveled to Washington, D.C. and won support from National Republican Party leaders Henry Clay and Daniel Webster. Samuel Worcester campaigned on the Cherokees' behalf in New England, where their cause was taken up by Ralph Waldo Emerson. In June 1830, a delegation led by Chief Ross defended Cherokee rights before the U.S. Supreme Court in *Cherokee Nation v. Georgia*. In 1831 Georgia militia arrested Samuel Worcester for residing on Indian lands without a state permit, imprisoning him in Milledgeville.

In *Worcester v. Georgia* (1832), Supreme Court Chief Justice John Marshall ruled that American Indian

nations were "distinct, independent political communities retaining their original natural rights," and entitled to federal protection from the actions of state governments that infringed on their sovereignty. *Worcester v. Georgia* is considered one of the most important decisions in law dealing with Native Americans.

Jackson ignored the Supreme Court's ruling, as he needed to conciliate Southern sectionalism during the era of the Nullification Crisis. His landslide reelection in 1832 emboldened calls for Cherokee removal. Georgia sold Cherokee lands to its citizens in a Land Lottery, and the state militia occupied New Echota. The Cherokee National Council, led by John Ross, fled to Red Clay, a remote valley north of Georgia's land claim. Ross had the support of Cherokee traditionalists, who could not imagine removal from their ancestral lands.

A small group known as the "Ridge Party" or the "Treaty Party" saw relocation as inevitable. Led by Major Ridge, John Ridge and Elias Boudinot, they represented the Cherokee elite, whose homes, plantations and businesses were confiscated, or under threat of being taken by white squatters with Georgia land-titles. With capital to acquire new lands, they were more inclined to accept relocation. On December 29, 1835, the "Ridge Party" signed the Treaty of New Echota, stipulating terms and conditions for the removal of the Cherokee Nation. In return for their lands, the Cherokee were promised a large tract in the Indian Territory, \$5 million, and \$300,000 for improvements on their new lands.

John Ross gathered over 15,000 signatures for a petition to the U.S. Senate, insisting that the treaty was invalid because it did not have the support of the majority of the Cherokee people. The Senate passed the Treaty of New Echota by a one-vote margin. It was enacted into law in May 1836.

Two years later President Martin Van Buren ordered 7,000 Federal troops and state militia under General Winfield Scott into Cherokee lands to evict the tribe. Over 16,000 Cherokee were forcibly relocated westward to Indian Territory in 1838-1839, a migration known as the Trail of Tears or in Cherokee or Nvna Daula Tsvyi (Cherokee: The Trail Where They Cried), although it is described by another word Tlo-va-sa (Cherokee: The Removal). Marched over 800 miles across Tennessee, Kentucky, Illinois, Missouri and Arkansas, the people suffered from disease, exposure and starvation, and as many as 4,000 died. As some Cherokees were slaveholders, they took enslaved African Americans with them west of the Mississippi. Intermarried European Americans and missionaries also walked the Trail of Tears. John Ross preserved a vestige of independence by negotiating for the Cherokee to conduct their own removal under U.S. supervision.

In keeping with the tribe's "blood law" that prescribed the death penalty for Cherokee who sold lands, his son arranged the murder of the leaders of the "Treaty Party." On June 22, 1839, a party of twenty-five Ross supporters assassinated Major Ridge, John Ridge and Elias Boudinot. The party included Daniel Colston, John Vann, Archibald, James and Joseph Spear. Boudinot's brother Stand Watie fought off the attempt on his life that day and escaped to Arkansas.

In 1827, Sequoyah led a delegation of Old Settlers to Washington, D.C. to negotiate for the exchange of Arkansas land for land in Indian Territory. After the Trail of Tears, he helped mediate divisions between the Old Settlers and the rival factions of the more recent arrivals. In 1839, as President of the Western Cherokee, he and John Ross signed an Act of Union that reunited the two groups of the Cherokee Nation.

For More Information on the Trail of Tears:

[Trail of Tears/Africans of America](#)
[Trail of Tears Across the Mississippi Valley](#)

Eastern Band

The Oconaluftee Cherokee of the Great Smoky Mountains were the most conservative and isolated from white American civilization. They rejected the reforms of the Cherokee Nation. When the Cherokee government ceded all territory east of the Little Tennessee River to North Carolina in 1819, they withdrew from the Nation. William Holland Thomas, a white store owner and state legislator from Jackson County,

North Carolina, helped over 600 Cherokee from Qualla Town obtain North Carolina citizenship, which exempted them from forced removal. Over 400 Cherokee either hid from Federal troops in the remote Snowbird Mountains, under the leadership of Tsali or belonged to the former Valley Towns area around the Cheoah River who negotiated with the state government to stay in North Carolina. An additional 400 Cherokee stayed on reserves in Southeast Tennessee, North Georgia, and Northeast Alabama, as citizens of their respective states. They were mostly mixed-race and Cherokee women married to white men. Together, these groups were the ancestors of what is now known as the Eastern Band of Cherokee Indians.

Civil War

The American Civil War was devastating for both East and Western Cherokees. The Eastern Band, aided by William Thomas, became the Thomas Legion of Cherokee Indians and Highlanders, fighting for the Confederacy in the American Civil War. Cherokees in Indian Territory were divided, into Union and Confederate factions.

Stand Watie, the leader of the Ridge Party, raised a regiment for Confederate service in 1861. John Ross, who had reluctantly agreed to ally with the Confederacy, was captured by Federal troops in 1862. He lived in self-imposed exile in Philadelphia, supporting the Union, and Watie was elected Principal Chief. A master of hit-and-run cavalry tactics, he fought Cherokee loyal to John Ross-who issued declarations abolishing slavery and rejoining the Union-and Federal troops in Indian Territory and Arkansas, capturing Union supply trains and steamboats and saving the Confederates from collapse by covering their retreat after the Battle of Pea Ridge in March 1862. He became a Brigadier General of the Confederate States, the only American Indian to hold the rank in the American Civil War. On June 25, 1865, two months after Robert E. Lee surrendered at Appomattox, he became the last Confederate General to stand down.

Reconstruction and late 19th Century

The pro-Union faction of Cherokee Nation issued the Cherokee Emancipation Proclamation in 1863. After the Civil War, the US government and the Cherokee Nation signed the 1866 Treaty, which among other clauses, says that all Cherokee freedman and all free African-Americans living within tribal lands "shall have all the rights of native Cherokees." Both before and after the Civil War, some Cherokee intermarried or had relationships with African Americans, just as they had with whites. Many Cherokee Freedmen were active politically within the tribe.

The US government also acquired easement rights to the western part of the territory, which became the Oklahoma Territory, for the construction of railroads. Development and settlers followed the railroads. By the late 19th century, the government believed that Native Americans would be better off if each family owned its own land. The Dawes Act of 1887 provided for the break up of commonly held tribal land. Native Americans were registered on the Dawes Rolls and allotted land from the common reserve. This also opened up later sales of land by individuals to people outside the tribe.

The Curtis Act of 1898 dismantled tribal governments, courts, schools, and other civic institutions. For Indian Territory, this meant abolition of the Cherokee courts and governmental systems by the U.S. Federal Government. This was seen as necessary before the Oklahoma and Indian territories could be admitted as states. In 1905, the Five Civilized Tribes of the Indian Territory proposed the creation of the State of Sequoyah, but failed to gain support in Washington, D.C.. In 1907, the Oklahoma and Indian Territories entered the union as the state of Oklahoma.

By the late 19th century, the Eastern Band of Cherokees were laboring under the constraints of a segregated society. In the aftermath of Reconstruction, conservative white Democrats regained power in North Carolina and other southern states. They proceeded to effectively disfranchise all blacks and many poor whites by new constitutions and laws related to voter registration and elections. They passed Jim Crow laws that divided society into "white" and "colored," mostly to control freedmen, but the Native Americans were included on the colored side and suffered the same racial segregation and disfranchisement as former slaves. Blacks and Native Americans would not regain their rights as US citizens until the Civil Rights Movement and passage of civil rights legislation in the mid-1960s.

Culture/Marriage

Cherokee attitudes towards marriage are flexible. Before the 19th century, polygamy was common. Traditionally, couples, particularly women, can divorce freely.

In the 19th century in Indian Territory, marriage between Cherokees and non-Cherokees was common but complicated. A European-American could legally marry a Cherokee woman by petitioning the federal court with approval of ten of her blood relatives. Once married, the man became an "Intermarried White" member of the Cherokee tribe with restricted rights; for instance, he could not hold any tribal office. He also remained a citizen of and under the laws of the United States. Common law marriages were more popular.

If a European-American woman married a Cherokee man, the children of such a union would not have a clan and traditionally not be considered Cherokee. These stem from the matrilineal and matrilineal aspects of Cherokee culture.

Cultural Institutions

The Qualla Arts and Crafts Mutual, Inc., of Cherokee, North Carolina is the oldest continuing Native American art co-operative. They were founded in 1940 to provide a venue for traditional Eastern Band Cherokee artists. The Museum of the Cherokee Indian, also in Cherokee, displays permanent and changing exhibits, houses archives and collections important to Cherokee history, and sponsors cultural groups, such as the Warriors of the AniKituhwa dance group.

The Cherokee Heritage Center, of Park Hill, Oklahoma hosts a reproduction of an ancient Cherokee Village, Adams Rural Village (including 19th century buildings), Nofire Farms, and the Cherokee Family Research Center for genealogy. The Cherokee Heritage Center also houses the Cherokee National Archives. Both the CN and UKB, as well as other tribes contribute funding the CHC...

Horses and the Cherokee

Stealing of horses during the time of the Colonists was a problem. Both the Cherokee and the Colonists would steel horses from each other. The Cherokee started to mark their horses so that their identification could prove the horses belonged to them. The Cherokee were also traders. Horse trading was a prevalent practice. Their horsemanship, training ability and horse breeding were excellent. The horses were passed down from father to son. Their horses were a source of great pride.

For More Information:

[Choctaw and Cherokee Horses/Many are Gaited](#)

[Indian Creek Productions/Educational Site](#)

[Cherokee Information for Children](#)

[First People/The Legends](#)

[Choctaw Horse Breed/Many are Gaited](#)

[Home](#)

[Index/Indians](#)

Exhibit 9

Cherokee Ancestry

About 200 years ago the Cherokee Indians were one tribe, or "Indian Nation" that lived in the southeast part of what is now the United States. During the 1830's and 1840's, the period covered by the Indian Removal Act, many Cherokees were moved west to a territory that is now the State of Oklahoma. A number remained in the southeast and gathered in North Carolina where they purchased land and continued to live. Others went into the Appalachian Mountains to escape being moved west and many of their descendants may still live there now.

Today, individuals of Cherokee ancestry fall into the following categories:

1. Living persons who were listed on the final rolls of the Cherokee Nation of Oklahoma (Dawes Commission Rolls) that were approved and descendants of these persons. These final rolls were closed in 1907.
2. Individuals enrolled as members of the Eastern Band of Cherokee Indians of North Carolina and their descendants who are eligible for enrollment with the Band.
3. Persons on the list of members identified by a resolution dated April 19, 1949, and certified by the Superintendent of the Five Civilized Tribes Agency and their descendants who are eligible for enrollment with the United Keetoowah Band of Cherokee Indian of Oklahoma.
4. All other persons of Cherokee Indian ancestry.

Category 1

After about a half century of self-government, a law enacted in 1906 directed that final rolls be made and that each enrollee be given an allotment of land or paid cash in lieu of an allotment. The Cherokees formally organized in 1975 with the adoption of a new Constitution that superseded the 1839 Cherokee Nation Constitution. This new Constitution establishes a Cherokee Register for the inclusion of any Cherokee for membership purposes in the Cherokee Nation. Members must be citizens as proven by reference to the Dawes Commission Rolls. Including in this are the Delaware Cherokees of Article II of the Delaware Agreement dated May 8, 1867, and the Shawnee Cherokees of Article III of the Shawnee Agreement dated June 9, 1869, and/or their descendants.

P.L. 100-472, authorizes through a planning and negotiation process Indian Tribes to administer and manage programs, activities, function, and services previously managed by the Bureau of Indian Affairs. Pursuant to P.L. 100-472 the Cherokee Nation of Oklahoma has entered into a Self-governance Compact and now provides those services previously provided by the BIA. Enrollment and allotment records are maintained by the Cherokee Nation. Any question with regard to the Cherokee Nation should be referred to:

Cherokee Nation of Oklahoma
P.O. Box 948
Tahlequah, OK 74465
(918)456-0671 Fax (918)456-6485.

Category 2

The Eastern Band of Cherokee Indians of North Carolina is a federally recognized tribe and has its own requirements for membership. Inquiries as to these requirements, or for information shown in the records may be addressed to the BIA's Cherokee Agency, Cherokee, North Carolina 28719, (704) 497-9131, or

Eastern Band of Cherokee Indians
P.O. Box 455
Cherokee, North Carolina 28719
(207) 497-2771, Fax (704)497-2952
ask for the Tribal Enrollment Office.

Category 3

By the Act of August 10, 1946, 60 Stat. 976, Congress recognized the United Keetoowah Band of Cherokee Indians in Oklahoma (UKB) for the purposes of organizing under the Oklahoma Indian Welfare Act. In 1950, the UKB organized under a Constitution and Bylaws approved by the Secretary of the Interior. Members of the UKB consist of all persons whose names appear on the list of members identified by a resolution dated April 19, 1949, and certified by the Superintendent of the Five Civilized Tribes Agency on November 26, 1949, with the governing body of the UKB having the power to prescribe rules and regulations governing future membership. The supreme governing body (UKB Council) consist of 9 members, elected to represent the nine districts of the old Cherokee Nation and four officers, elected at large. Information may be obtained by writing

United Keetoowah Band of Cherokee Indians
P.O. Box 746
Tahlequah Oklahoma, 74465-9432
(918) 456-5491 Fax (918) 456-9601.

Category 4

Information about Indian ancestry of individuals in this category of Cherokees is more difficult to locate. This is primarily because the federal government has never maintained a list of all the persons of Cherokee Indian descent, indicating their tribal affiliation, degree of Indian blood or other data. In order to establish Cherokee ancestry you should use the same methods prescribed in "Indian Ancestry" and "Genealogical Research" material. (Reference directories " INDIAN ANCESTRY" and " GENEALOGICAL RESEARCH")

Exhibit 10

Information on the Dawes Rolls

The Dawes Commission was organized in 1893 to accept applications for tribal enrollment between 1899 and 1907 from American Indians of the Five Civilized Tribes who resided in the Indian Territory, which later became the eastern portion of Oklahoma. The Five Civilized Tribes consist of the Cherokee, Choctaw, Creek, Seminole and Chickasaw Indians.

There are several places to get access to the Dawes rolls to see if your ancestor is listed, here are three locations.

National Archives & Records Administration

Southwest Region

P.O. Box 6216

Fort Worth, TX 76115

Phone: 817-334-5621

Email: archives@ftworth.nara.gov

URL: www.nara.gov

Oklahoma Historical Society

Archives and Manuscripts Division

2100 N. Lincoln Blvd.

Oklahoma City, OK 73105

Phone: 405-521-2491

Tulsa City-County Library

2901 S. Harvard

Tulsa, OK 74114

Phone: 918-746-5222

URL: www.tulsalibrary.org/genealogy

Collection: <http://www.okhistory.org/research/dawes/>

Exhibit 11

U. S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

PAPER NO.

SERIAL NO.

75/506359 McClure, Tony A.

APPLICANT

Temp.

ADDRESS:

Assistant Commissioner of Trademarks
900 Crystal Drive
Arlington, Va. 22202-3513

MARK

CHEROKEE PROUD

ADDRESS

RUSSELL H WALKER
WALKER MCKENZIE & WALKER PC
6363 POPLAR AVE STE 434
MEMPHIS TN 38119-4896

ACTION NO.

01

MAILING DATE

02/11/99

REF. NO.

98,057

If no fees are enclosed, the address should include the words "BOX RESPONSES-NO FEE."

Please provide in all correspondence:

Filing date, serial number, mark, and applicant's name.

Mailing date of this Office action.

Your telephone number and ZIP code.

Examining attorney's name and law office number.

FORM PTO-1525 (5-90)

U.S. DEPT. OF COMM. PAT. & TM OFFICE

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.

For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

75-506359

The assigned examining attorney has reviewed the referenced application and determined the following.

Although the examining attorney has searched the Office records and has found no similar *registered* mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), the examining attorney encloses information regarding pending Application Serial No. 75-201296. 37 C.F.R. Section 2.83.

There may be a likelihood of confusion between the applicant's mark and the mark in the above noted application under Section 2(d) of the Act. The filing date of the referenced application precedes the applicant's filing date. If the earlier-filed application matures into a registration, the examining attorney may refuse registration under Section 2(d).

I. Refusal to Register -- False Association

The examining attorney refuses registration because the mark consists of or comprises matter which may falsely suggest a connection with the CHEROKEE Indians. Trademark Act Section 2(a), 15 U.S.C. Section 1052(a); TMEP sections 1203.03, 1203.03(e) and 1203.03(f). *See*

generally *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *University of Alabama v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

The applicant's goods are books about the Cherokee Indians. Use of the mark CHEROKEE PROUD on the applicant's goods may indicate to consumers that the goods are made by the Cherokee Indians. Therefore, a false association exists and registration is refused. If the goods are *not* provided by the Cherokees, the applicant's mark falsely suggests an association with the Cherokee Indians and again, registration is refused.

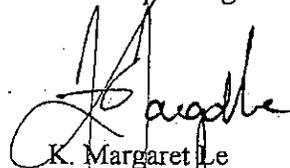
II. Sections 1 and 45--Unlawful Use

Under the Indian Arts & Crafts Act, 18 U.S.C. Section 1159(a), "[i]t is unlawful to offer or display for sale or sell any goods, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States." The applicant intends to sell the books under the mark CHEROKEE PROUD. The mark may indicate to consumers that the applicant's goods are produced by Cherokee Indians. If the goods are *not* produced by the Cherokees, use of this mark would be a per se violation of the Indian Arts & Crafts Act, and registration would be refused.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities.

- (A) The applicant must indicate whether it has any affiliation with Cherokee Indians.
- (B) The applicant must disclaim the descriptive wording "CHEROKEE" apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. Section 1056; TMEP sections 1213 and 1213.02(a). The wording is merely descriptive because it is the subject matter of the books. Please be advised that the disclaimer will not obviate the refusals stated above.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.



K. Margaret Le
Trademark Attorney
Law Office 103
(703) 308-9103 ext. 205

Exhibit 12

To: James A. Frost DBA Frost Cutlery (trademarks@blankrome.com)
Subject: TRADEMARK APPLICATION NO. 77122071 - CHEROKEE STONEWORKS - 115042.00225
Sent: 6/4/2007 1:06:16 PM
Sent As: ECOM105@USPTO.GOV
Attachments: Attachment - 1
Attachment - 2
Attachment - 3
Attachment - 4
Attachment - 5
Attachment - 6
Attachment - 7
Attachment - 8

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/122071

APPLICANT: James A. Frost DBA Frost Cutlery

77122071

CORRESPONDENT ADDRESS:

SUSAN B. FLOHR
BLANK ROME LLP
600 NEW HAMPSHIRE AVE NW
WASHINGTON, DC 20037-2403

RETURN ADDRESS:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK: CHEROKEE STONEWORKS

CORRESPONDENT'S REFERENCE/DOCKET NO: 115042.00225

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS:

trademarks@blankrome.com

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 77/122071

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

Section 2(d) - Likelihood of Confusion Refusal

Registration of the proposed mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 1663757. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* See the enclosed registration.

Taking into account the relevant *Du Pont* factors, a likelihood of confusion determination in this case involves a two-part analysis. First, the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re National Novice Hockey League, Inc.*, 222 USPQ 638 (TTAB 1984); *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

First, when applicant's mark is compared to a registered mark, "the points of similarity are of greater importance than the points of difference." *Esso Standard Oil Co. v. Sun Oil Co.*, 229 F.2d 37, 40, 108 USPQ 161 (D.C. Cir. 1956) (internal citation omitted). Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant's and registrant's mark. *See e.g., Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §§1207.01(b)(ii) and (b)(iii).

Applicant's mark CHEROKEE STONEWORKS is nearly identical to the registered mark CHEROKEE (+ design). The marks share the same dominant feature, namely the word CHEROKEE. As a general rule, consumers are more inclined to focus on the first word, prefix or syllable in any trademark or service mark. *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F. 3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); *see also Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) ("it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered" when making purchasing decisions).

Applicant's addition of the descriptive word STONEWORKS does not significantly change the overall commercial impression of the mark. The mere addition of a term to a registered mark does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Section 2(d). *In re Chatam International Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) ("GASPAR'S ALE and "JOSE GASPAR GOLD"); *Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) ("BENGAL" and "BENGAL LANCER"); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) ("THE LILLY" and "LILLI ANN"); *In re El Torito Rests. Inc.*, 9 USPQ2d 2002 (TTAB 1988) ("MACHO" and "MACHO COMBOS"); *In re United States Shoe*

Corp., 229 USPQ 707 (TTAB 1985) (“CAREER IMAGE” and “CREST CAREER IMAGES”); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (“CONFIRM” and “CONFIRMCELLS”); *In re Riddle*, 225 USPQ 630 (TTAB 1985) (“ACCUTUNE” and “RICHARD PETTY’S ACCU TUNE”); *In re Cosvetic Laboratories, Inc.*, 202 USPQ 842 (TTAB 1979) (“HEAD START” and “HEAD START COSVETIC”); TMEP §1207.01(b)(iii).

Second, if the goods or services of the respective parties are closely related, the degree of similarity between marks required to support a finding of likelihood of confusion is not as great as would apply with diverse goods or services. *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992), *cert. denied* 506 U.S. 1034 (1992); *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1987); *ECI Division of E-Systems, Inc. v. Environmental Communications Inc.*, 207 USPQ 443 (TTAB 1980); TMEP §1207.01(b).

Applicant’s goods are “cutlery, namely collector’s knives.” The registrant’s goods are “cutlery; namely, pocket, boot and hunting knives.” The goods are highly related because they both include knives.

Applicant’s use of a mark with the same overall commercial impression as the registered mark on closely related to identical goods is likely to cause confusion as to the source of the goods. Accordingly, registration of the proposed mark is refused due to a likelihood of confusion with the registered mark cited above.

Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Applicant should note the following additional ground for refusal.

False Association Refusal

Registration is refused because the proposed mark consists of or comprises matter which may falsely suggest a connection with the Eastern Band of the Cherokee. Although not connected with the goods or services applicant provides under the proposed mark, the Cherokee are so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. §1052(a); TMEP §§1203.03, 1203.03(e) and 1203.03(f); *See generally University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Nuclear Research Corp.*, 16 USPQ2d 1316 (TTAB 1990); *University of Alabama v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi’s, Inc.*, 226 USPQ 428 (TTAB 1985).

The following is required for a showing of false connection under Section 2(a):

- # the mark sought to be registered is the same as or a close approximation of the name or identity of a person or institution;
- # the mark would be recognized as such;
- # the person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark; and
- # the fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant’s mark is used on its goods or services.

In re Nuclear Research Corp., 16 USPQ2d 1316 (TTAB 1990); *In re Cotter & Co.*, 228 USPQ 202, 204 (TTAB 1985); *Buffett v. Chi#Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985).

Applicant's mark CHEROKEE STONEWORKS has the name of the American Indian tribe, Cherokee, as the dominant feature of the mark. The word Cherokee is commonly recognized to refer to the American Indian tribe. See that attached Internet evidence.

If applicant's goods or services are of a type that the named person or institution sells or uses, and the named party is sufficiently famous, then it may be inferred that purchasers of the goods or services would be misled into making a false connection of sponsorship, approval, support or the like with the named party. *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *In re National Intelligence Academy*, 190 USPQ 570 (TTAB 1976).

The attached evidence shows that the Eastern Band of the Cherokee sells weapons, including tomahawks and flint-tipped spears. Applicant's knives fall into the category of weapons and it is likely that purchasers would infer that applicant's products are made by members of the Cherokee tribe.

Accordingly, registration of the proposed mark is refused because the mark suggests a false connection with a federally recognized Indian tribe.

Disclaimers

The Office can require an applicant to disclaim exclusive rights to an unregistrable part of a mark, rather than refuse registration of the entire mark. Trademark Act Section 6(a), 15 U.S.C. §1056(a). Under Trademark Act Section 2(e), 15 U.S.C. §1052(e), the Office can refuse registration of the entire mark where it is determined that the entire mark is merely descriptive, deceptively misdescriptive, or primarily geographically descriptive of the goods. Thus, the Office may require the disclaimer of a portion of a mark which, when used in connection with the goods or services, is merely descriptive, deceptively misdescriptive, primarily geographically descriptive, or otherwise unregistrable (e.g., generic). TMEP §1213.03(a). If an applicant does not comply with a disclaimer requirement, the Office may refuse registration of the entire mark. TMEP §1213.01(b).

A "disclaimer" is thus a written statement that an applicant adds to the application record that states that applicant does not have exclusive rights, separate and apart from the entire mark, to particular wording and/or to a design aspect. The appearance of the applied-for mark does not change.

Applicant must disclaim the descriptive wording "STONEWORKS" apart from the mark as shown because it merely describes the material composition of applicant's goods. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a). The attached dictionary definitions shows that the wording STONEWORKS means that the goods are made of stone. This wording is descriptive of either the knife handles, or the knives themselves, and must be disclaimed.

The computerized printing format for the Office's *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

No claim is made to the exclusive right to use "STONEWORKS" apart from the mark as shown.

See In re Owatonna Tool Co., 231 USPQ 493 (Comm'r Pats. 1983).

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

/Pamela N Hirschman/

Trademark Examining Attorney

Law Office 105

571-272-8272 (phone)

571-273-8272 (fax)

pamela.hirschman@uspto.gov

NOTICE OF NEW PROCEDURE FOR E-MAILED OFFICE ACTIONS: In late spring 2007, for any applicant who authorizes e-mail communication with the USPTO, the USPTO will no longer directly e-mail the actual Office action to the applicant. Instead, upon issuance of an Office action, the USPTO will e-mail the applicant a notice with a link/web address to access the Office action using Trademark Document Retrieval (TDR), which is located on the USPTO website at <http://portal.uspto.gov/external/portal/tow>. The Office action will not be attached to the e-mail notice. Upon receipt of the notice, the applicant can then view and print the actual Office action and any evidentiary attachments using the provided link/web address. TDR is available 24 hours a day, seven days a week, including holidays and weekends. This new process is intended to eliminate problems associated with e-mailed Office actions that contain numerous attachments.

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FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

Print: Jun 4, 2007

74028580

DESIGN MARK

Serial Number

74028580

Status

REGISTERED AND RENEWED

Word Mark

CHEROKEE

Standard Character Mark

No

Registration Number

1663757

Date Registered

1991/11/05

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

TAYLOR BRANDS LLC LTD LIAB CO TENNESSEE 1043 FORDTOWN ROAD KINGSPORT
TENNESSEE 37663

Goods/Services

Class Status -- ACTIVE. IC 008. US 023. G & S: cutlery; namely,
pocket, boot and hunting knives. First Use: 1990/02/20. First Use In
Commerce: 1990/07/02.

Filing Date

1990/02/13

Examining Attorney

SHARPER, SAMUEL E.

Attorney of Record

Robert O. Fox

CHEROKEE





CHEROKEE north carolina

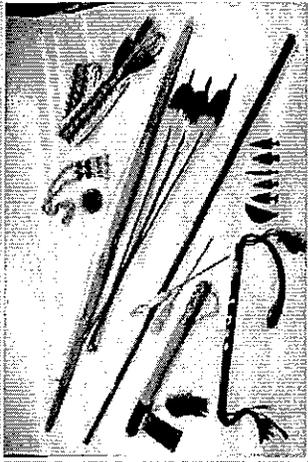


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for protecting themselves from surrounding tribes and, later, from the white man. Thus, they became expert weapon-makers. Arrows crafted from heads of flint, and eagle feathers were secured to cane shafts and shot by bows made of sycamore and hickory. These bows were carefully shaped with bear oil and seasoned by fire. Buffalo hide breast plates, shields, helmets and quivers adorned the Cherokee warriors while they wielded their stone tomahawks and flint-tipped spears. For small game hunting, the Cherokee have earned a reputation for making superior blowguns, characterized by their outstanding workmanship and accuracy. Through these rivercane tubes, the hunters would blow darts made of locust and feathered with thistle down to kill small game and birds, even at great distances.

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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

Cherokee

SYLLABICATION: Cher-o-kee

PRONUNCIATION: [ˌtʃɛr'ə-kɛ', ˌtʃɛr'ə-kɛ']

NOUN: Inflected forms: pl. Cherokee or Chero-kees

1a. A Native American people formerly inhabiting the southern Appalachian Mountains from the western Carolinas and eastern Tennessee to northern

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mountains from the western Carolinas and eastern Tennessee to northern Georgia, with present-day populations in northeast Oklahoma and western North Carolina. The Cherokee were removed to Indian Territory in the 1830s after conflict with American settlers over rights to traditional lands. **b.** A member of this people. **2.** The Iroquoian language of the Cherokee.

ETYMOLOGY: From Cherokee *tsalaki*.

OTHER FORMS: **Cher'o-kee'** —ADJECTIVE

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stone·work   [stohn-wurk] [Pronunciation Key](#) - [Show IPA Pronunciation](#)

-*noun*

1. any construction, as walls or the like, of stone; stone masonry.
2. the techniques, processes, work, or art of dressing, setting, or designing in stone.
3. Usually, **stoneworks**. (*usually used with a singular verb*) a place where stone is dressed, as for building.

[Origin: bef. 1000; ME *stoonwerk*, OE *stānweorc*. See [STONE](#), [WORK](#).]

—*Related forms*

stoneworker, *noun*

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White collar

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stone · work  (stŏn'wŭrk') [Pronunciation Key](#)

- n.
1. The technique or process of working in stone.
 2. Work made of stone; stonemasonry.

stone'work'er n.

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WordNet - Cite This Source

stonework

noun
masonry done with stone

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Kernerman English Multilingual Dictionary (Beta Version) - Cite This Source

'stonework *noun*

construction done in stone, especially the stone parts of a building

<i>Arabic:</i> منشي خكري	<i>Japanese:</i> 石造物
<i>Chinese (Simplified):</i> 石造工程	<i>Korean:</i> 석조물, 돌 세공
<i>Chinese (Traditional):</i> 石造工程	<i>Latvian:</i> akmens būvniecība; mūris; (celtnes) akmens daļas
<i>Czech:</i> kamenné zdivo	<i>Lithuanian:</i> akmens darbai
<i>Danish:</i> murerarbejde	<i>Norwegian:</i> murverk, steinkonstruksjon
<i>Dutch:</i> steenwerk	<i>Polish:</i> kamieniarka
<i>Estonian:</i> kivimüüritis	<i>Portuguese (Brazil):</i> obra de cantaria
<i>Finnish:</i> kivityö	<i>Portuguese (Portugal):</i> cantaria
<i>French:</i> maçonnerie	<i>Romanian:</i> zidărie
<i>German:</i> die Steinarbeit	<i>Russian:</i> каменная кладка
<i>Greek:</i> λιθοδομή	<i>Slovak:</i> kamenné murivo
<i>Hungarian:</i> kőfaragás	<i>Slovenian:</i> zidarsko delo
<i>Icelandic:</i> vinna við steinsmíði	
<i>Indonesian:</i> pertukangan batu	
<i>Italian:</i> (muratura in pietra)	



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Slovenian: zidarsko delo
Spanish: cantería
Swedish: murverk,
stenhuggeriarbete
Turkish: taş işleme

See also: [a stone's throw](#), [stoneware](#), [stony](#), [stone-cold](#), [stone-dead](#), [stone-deaf](#), [leave no stone unturned](#), [stone](#)

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Exhibit 13

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/683830

MARK: CHEROKEE CHARCOAL

76683830

CORRESPONDENT ADDRESS:

PAUL M. DENK
763 S NEW BALLAS RD STE 170
SAINT LOUIS, MO 63141-8711

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Boghosian, Paul

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE:

THIS IS A FINAL ACTION.

This letter responds to the applicant's communication filed on March 13, 2008.

The substitute drawing is acceptable and made of record.

The disclaimer of CHARCOAL apart from the mark as shown is acceptable and made of record.

The statement that applicant has no connection with the Cherokee Nation is of record.

ENTITY

Applicant has stated that it is an individual. The requirement that applicant identify its country of citizenship is CONTINUED and made FINAL.

If applicant is an individual and the owner of the mark, applicant may simply request that the entity be amended to "individual" and indicate his/her country of citizenship for the record. 15 U.S.C. §1051(a)(2); 37 C.F.R. §2.32(a)(3)(i); TMEP §§803.02(a) and 1201.02(c).

REFUSAL UNDER SECTION 2(a)

The refusal under Section 2(a) because the proposed mark consists of or comprises matter which may falsely suggest a connection with the Cherokee Nation is CONTINUED and made FINAL. Although not connected with the goods or services applicant provides under the proposed mark, the Cherokee Nation is so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. §1052(a); TMEP §§1203.03, 1203.03(e) and 1203.03(f); *See generally University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Nuclear Research Corp.*, 16 USPQ2d 1316 (TTAB 1990); *University of Alabama v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

The following is required for a showing of false connection under Section 2(a):

- the mark sought to be registered is the same as or a close approximation of the name or identity of a person or institution;
- the mark would be recognized as such;
- the person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark; and
- the fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods or services.

In re Nuclear Research Corp., 16 USPQ2d 1316 (TTAB 1990); *In re Cotter & Co.*, 228 USPQ 202, 204 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985).

Cherokee identifies a Native American people currently residing in Oklahoma and North Carolina and the mark would be recognized as such. The fact that the mark incorporates a depiction of a Native American only underscores the impression that the term is used to suggest and/or identify the Cherokee Nation. Applicant has stated that it does not have any connection to the Cherokee Nation.

The Cherokee National enterprises generate millions of dollars in revenue. Moreover, as was noted earlier, a twenty acre parcel within the 1050 acre Cherokee Nation Ranch in Delaware County has 12 kilns for charcoal production. See *Tiller's Guide To Indian Country* (2005), page 811. Its entrepreneurial success along with its place in American history as one of the prominent Native American populations makes its fame of such a nature that a connection with the Cherokee would be presumed when applicant's mark is used on charcoal. Since applicant's goods are of a type that the Cherokee sells, and the Cherokee Nation is sufficiently famous, it may be inferred that purchasers of the goods would be misled into making a false connection of sponsorship, approval, support or the like with the Cherokee. *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *In re National Intelligence Academy*, 190 USPQ 570 (TTAB 1976).

OPTIONS

Applicant may respond to this final action by either: (1) submitting a timely response that fully satisfies any outstanding requirements, if feasible; (2) timely filing an appeal of this final action to the Trademark Trial and Appeal Board; or (3) timely filing a petition to the Director if permitted by 37 C.F.R. §2.63(b). 37 C.F.R. §2.64(a); TMEP §715.01. Regarding petitions to the Director, See 37 C.F.R. §2.146 and TMEP Chapter 1700.

/Kathleen M. Vanston/
Examining Attorney
Law Office 107

(571) 272-9235

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

Exhibit 14

To: Spell C. LLC (trademarkdocket@jmbm.com)
Subject: TRADEMARK APPLICATION NO. 77556232 - CHEROKEE MY DOLL - 57240-0777
Sent: 12/10/2008 7:45:59 AM
Sent As: ECOM107@USPTO.GOV

- Attachments:** [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
[Attachment - 7](#)
[Attachment - 8](#)
[Attachment - 9](#)
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[Attachment - 33](#)

Attachment - 34

Attachment - 35

Attachment - 36

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/556232

MARK: CHEROKEE MY DOLL

77556232

CORRESPONDENT ADDRESS:

ROD S. BERMAN, ESQ.
JEFFER, MANGELS, BUTLER &
MARMARO LLP
1900 AVENUE OF THE STARS FL 7
LOS ANGELES, CA 90067-4308

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Spell C. LLC

CORRESPONDENT'S

REFERENCE/DOCKET NO:

57240-0777

CORRESPONDENT E-MAIL ADDRESS:

trademarkdocket@jmbm.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 12/10/2008

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 2929084. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Taking into account the relevant *du Pont* factors, a likelihood of confusion determination in this case

involves a two-part analysis. The marks are compared for similarities in their appearance, sound, connotation and commercial impression. TMEP §§1207.01, 1207.01(b). The goods are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002); *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336, 57 USPQ2d 1557, 1559 (Fed. Cir. 2001); TMEP §§1207.01, 1207.01(a)(vi).

Regarding the issue of likelihood of confusion, all circumstances surrounding the sale of the goods are considered. These circumstances include the marketing channels, the identity of the prospective purchasers, and the degree of similarity between the marks and between the goods. *See Indus. Nucleonics Corp. v. Hinde*, 475 F.2d 1197, 177 USPQ 386 (C.C.P.A. 1973); TMEP §1207.01. In comparing the marks, similarity in any one of the elements of sound, appearance or meaning may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b). In comparing the goods and/or services, it is necessary to show that they are related in some manner. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); TMEP §1207.01(a)(vi).

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

Registrant is using MY DOLL. Applicant intends to use CHEROKEE MY DOLL. The addition of the term CHEROKEE does not overcome the similarities between the marks. The mere addition of a term to a registered mark generally does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Trademark Act Section 2(d). *See In re Chatam Int'l Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) (GASPAR'S ALE and JOSE GASPAR GOLD); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) (BENGAL and BENGAL LANCER); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) (THE LILLY and LILLI ANN); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002 (TTAB 1988) (MACHO and MACHO COMBOS); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re U.S. Shoe Corp.*, 229 USPQ 707 (TTAB 1985) (CAREER IMAGE and CREST CAREER IMAGES); *In re Riddle*, 225 USPQ 630 (TTAB 1985) (ACCUTUNE and RICHARD PETTY'S ACCU TUNE); *In re Cosvetic Labs., Inc.*, 202 USPQ 842 (TTAB 1979) (HEAD START and HEAD START COSVETIC); TMEP §1207.01(b)(iii).

The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. *See Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); *see, e.g., On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290

(Fed. Cir. 1984).

Both registrant and applicant are using or intends to use their marks in connection with dolls and doll accessories. The goods, therefore, are identical. The similarities between the marks and the relatedness of the goods create a substantial likelihood that consumers may be confused as to the source of the goods.

Applicant should note the following additional ground for refusal.

SECTION 2(a) REFUSAL – FALSE CONNECTION

Registration is refused because the applied-for mark consists of or includes matter which may falsely suggest a connection with the Cherokee Nation. Although the Cherokee Nation is not connected with the goods provided by applicant under the applied-for mark, the Cherokee Nation is so famous that consumers would presume a connection. Trademark Act Section 2(a), 15 U.S.C. §1052(a); *see* TMEP §§1203.03, 1203.03(e). *See generally* *Univ. of Notre Dame du Lac v. J.C. Gourmet Food Imps. Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *In re Nuclear Research Corp.*, 16 USPQ2d 1316 (TTAB 1990); *Univ. of Ala. v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

The following is required for a showing of false connection under Trademark Act Section 2(a):

- (1) The mark sought to be registered is the same as, or a close approximation of, the name or identity of another person or institution;
- (2) The mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution;
- (3) The person or institution identified in the mark is not connected with the goods sold or services performed by applicant under the mark; and
- (4) The fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when applicant's mark is used on its goods and/or services.

In re Nuclear Research Corp., 16 USPQ2d 1316, 1317 (TTAB 1990); *In re Cotter & Co.*, 228 USPQ 202, 204 (TTAB 1985); *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985); TMEP §1203.03(e).

With respect to the first requirement, CHEROKEE identifies a Native American people. See <http://www.bartleby.com>. Dictionary definitions alone may be competent to demonstrate that the mark sought to be registered is the same as, or a close approximation of, the named person or institution. *See, e.g., In re Cotter & Co.*, 228 USPQ 202, 204 (TTAB 1985) (holding that the wording WESTPOINT for various firearms falsely suggested a connection with the United States Military Academy, when the Board considered only dictionary definitions made of record).

With respect to the second requirement, the term points uniquely to the Cherokee people. It is widely

used to identify this Native American population. (See *Tiller's Guide to Indian Country*, pages 808-813 and the attached material from the Internet).

Third, applicant is not connected with the Cherokee Nation.

Finally, applicant's goods are of a type that the CHEROKEE sells, and the named party is sufficiently famous, then it may be inferred that purchasers of the goods would be misled into making a false connection of sponsorship, approval, support or the like with the named party. *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *In re Nat'l Intelligence Acad.*, 190 USPQ 570 (TTAB 1976).

The Cherokee Nation is the second largest tribe in the United States and the largest in the State of Oklahoma. (*Tiller* at page 808). Cherokee Nation Enterprises, a tribal corporation, operates casinos, smoke shops, gift shops and convenience stores providing revenue in 2004 of \$12 million dollars. The tribal government, alone, employed over 4,000 people making it one of the largest employers in Northeastern Oklahoma. (*Tiller* at page 810). The Cherokee Nation is sufficiently famous.

It also is involved in selling dolls. See <http://www.cherokeegiftshop.com>. Moreover, a variety of Cherokee artisans are involved with doll-making and selling. (See attached material from the Internet).

There are also toys and games uniquely identified with the Cherokee and Native American producers of these toys and games. (See attached material from the Internet). The fame of the Cherokee Nation is such that use of the mark on the goods identified in this application would result in a presumption of a connection between those goods and the Cherokee Nation.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

Applicant must respond to the requirement(s) set forth below.

DISCLAIMER REQUIRED

Applicant must insert a disclaimer of DOLL in the application. See 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The following is the accepted standard format for a disclaimer:

No claim is made to the exclusive right to use "DOLL" apart from the mark as shown.

TMEP §1213.08(a)(i).

Applicant intends to use the mark on doll and doll accessories. The term, therefore, is descriptive in relation to the identified goods and must be disclaimed.

The Office can require an applicant to disclaim an unregistrable part of a mark consisting of particular wording, symbols, numbers, design elements or combinations thereof. 15 U.S.C. §1056(a). Under Trademark Act Section 2(e), the Office can refuse registration of an entire mark if the entire mark is merely descriptive, deceptively misdescriptive, or primarily geographically descriptive of the goods. 15 U.S.C. §1052(e). Thus, the Office may require an applicant to disclaim a portion of a mark that, when

used in connection with the goods or services, is merely descriptive, deceptively misdescriptive, primarily geographically descriptive, or otherwise unregistrable (e.g., generic). See TMEP §§1213, 1213.03.

Failure to comply with a disclaimer requirement can result in a refusal to register the entire mark. TMEP §1213.01(b).

A “disclaimer” is a statement that applicant does not claim exclusive rights to an unregistrable component of a mark. TMEP §1213. A disclaimer does not affect the appearance of the applied-for mark. See TMEP §1213.10.

A disclaimer does not physically remove the disclaimed matter from the mark, but rather is a written statement that applicant does not claim exclusive rights to the disclaimed wording and/or design separate and apart from the mark as shown in the drawing. TMEP §§1213, 1213.10.

The following cases further explain the disclaimer requirement: *Dena Corp. v. Belvedere Int'l Inc.*, 950 F.2d 1555, 21 USPQ2d 1047 (Fed. Cir. 1991); *In re Brown-Forman Corp.*, 81 USPQ2d 1284 (TTAB 2006); *In re Kraft, Inc.*, 218 USPQ 571 (TTAB 1983).

IDENTIFICATION OF GOODS

The identification of goods is indefinite and must be clarified. See TMEP §1402.01. Applicant may adopt the following identification, if accurate: “Games and playthings, namely, [specify]; dolls and accessories therefore,” in Class 28.

Identifications of goods can be amended only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); see TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

/Kathleen M. Vanston/
Examining Attorney
Law Office 107
(571) 272-9235
kathy.vanston@uspto.gov [for informal inquiries]

RESPOND TO THIS ACTION: Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed**

responses.

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

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Print: Dec 8, 2008

75960047

DESIGN MARK

Serial Number
75960047

Status
REGISTERED

Word Mark
MYDOLL

Standard Character Mark
No

Registration Number
2929084

Date Registered
2005/03/01

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner
ZHOU, Tao INDIVIDUAL CHINA Zheda QiuShiCun 19-302 Hangzhou, Zhejiang
CHINA 310013

Goods/Services
Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: SOFT
TOYS, DOLLS, DOLL CLOTHING AND DOLL ACCESSORIES, TOY FURNITURE,
NAMELY, BED, CHAIR, CHEST, CHIFFOROBE, TABLE, WARDROBE, AND VANITY.
First Use: 1996/08/31. First Use In Commerce: 1996/08/31.

Filing Date
2000/03/14

Examining Attorney
KAZAZIAN, MICHAEL

My Doll



ᏊᏃᏃ ᏍᏂᏁ
CHEROKEE NATION®
OFFICIAL SITE - WWW.CHEROKEE.ORG



[Executive](#) | [Legislative](#) | [Judicial](#) | [Commissions](#) | [Marshals](#) | [Employment](#)

Judicial

Tuesday, December 09, 2008 6:23 AM CST

P.O. Box 948 Tahlequah, OK 74465

(918) 453-5000 / [Contact Us](#)

Cherokee Nation Tribal Government

The Cherokee Nation is the federally recognized government of the Cherokee people and thereby has sovereign status granted by treaty and law. The seat of tribal government is the W.V. Keeler Complex near Tahlequah, Oklahoma, capital of the Cherokee Nation.

The Constitution of the Cherokee nation was approved by the Commissioner of Indian Affairs of September 5, 1975, and was ratified by the Cherokee people on June 26, 1976. A Constitutional Committee convened in 1999 to create a new Constitution, and in 2003 the Cherokee people overwhelmingly voted to accept it. The new Constitution was enacted in 2006. The Cherokee Nation Constitution calls for three branches of government.

Executive:

Power is vested in the Principal Chief. The Principal Chief is responsible for the execution of the laws of the Cherokee Nation, establishment of tribal policy and delegation of authority as necessary for the day-to-day operations of all programs and enterprises administered by the Cherokee Nation tribal government. The Deputy Principal Chief is empowered to act as directed by the Principal Chief. The Principal Chief and Deputy Principal Chief are elected to four-year terms by popular vote of registered Cherokee voters.

[Chad 'Cornassel' Smith - Principal Chief](#)
[Joe Grayson Jr. - Deputy Chief](#)

Legislative:

Consists of the 17-member Tribal Council elected by popular vote to represent nine districts of the Cherokee Nation, plus two at-large members elected to represent those citizens who live outside the boundaries of the Cherokee Nation. The Tribal Council initiates legislation and conducts other business which will further the interests of the Cherokee Nation and its citizens. An elected Speaker presides over the Council as its president. Tribal Council terms are four

will further the interests of the Cherokee Nation and its citizens. An elected Speaker presides over the Council as its president. Tribal Council terms are four years.

Judicial:

Consists of the five-member Cherokee Nation Supreme Court, the Cherokee Nation District Court and the Wellness Court. Supreme Court, whose members are appointed by the Principal Chief and confirmed by the Tribal Council, is the highest court of the Cherokee Nation. The primary responsibility of the Supreme Court is to hear and resolve any disagreements arising under the provisions of the Cherokee Nation Constitution or enactments of the Tribal Council. The role of the District Court system is to hear all cases brought before it under jurisdiction of the Cherokee Nation judicial code. A district judge and an associate judge preside over court proceedings.

Constitution Convention Commission (CCC)

This Act was adopted for the purpose of establishing a Constitution Convention Commission. The Commission oversaw the conduct of a constitutional convention as called for by a vote of the Cherokee people in the 1995 election.

Election Commission

The Cherokee Nation Election Commission carries out Legislative Act No. 7-97, the Cherokee Nation Code Annotated, and the Constitution of the Cherokee Nation for the purpose of conducting all Cherokee Nation elections. It is our mandate to be of service to the Cherokee Tribal citizens and every effort will be made to fulfill it, as well as stay in compliance with Legislative Act 7-97.

Tax Commission

Its purpose, as set forth in the Cherokee Nation Tax Code, is to raise revenues, in a fair and efficient manner, to enable the government of the Cherokee Nation to provide governmental services to citizens of the Cherokee Nation and to promote tribal economic development, self-sufficiency and a strong tribal government.

Marshal Service

The Marshal Service on the front line of exercising sovereignty for the Cherokee people.

There are currently approximately 35 Marshals that work and live within the 14 county jurisdictional base. Their training includes 16 weeks at F.L.E.T.C. (Federal Law Enforcement Training Center) in Artesia, New Mexico. Many of the Marshals hold C.L.E.E.T. (Council Law Enforcement Education Training) certifications also.



GWY.0 DBP
CHEROKEE NATION®
OFFICIAL SITE - WWW.CHEROKEE.ORG



[Cherokee Businesses](#) | [Cherokee Associations](#) | [Cherokee Communities](#)

Search

Monday, December 08, 2008 10:25 AM CST

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Organizations

Cherokee Nation Owned Businesses

- [Cherokee Nation Businesses](#)

Cherokee Nation Businesses is the parent company of a diversified portfolio of businesses owned by the Cherokee Nation.

- [Cherokee Nation Industries](#)

Cherokee Nation Industries operates as a government contractor in the aerospace and defense sector of manufacturing and distribution industries, and has more recently diversified into the telecommunications and services industries.

- [Cherokee Nation Enterprises](#)

Cherokee Nation Enterprises is the gaming and hospitality arm of the Cherokee Nation. CNE owns and operates Cherokee Casino Resort, six Cherokee Casinos, Cherokee Casino Will Rogers Downs, three hotels, two golf courses and many other retail operations in northeast Oklahoma.

- [Cherokee CRC](#)

Cherokee CRC is a tribally owned company that provides professional environmental solutions for both the government and private sectors.

- [Cherokee Services Group](#)

Cherokee Services Group is a general management consulting firm that focuses on the operational needs of medium to large size companies, governmental organizations and American Indian tribes.

Associations

CH I TE TE LI

- **Cherokee Home Health**

Cherokee Nation Home Health Services, Inc. is a tribally incorporated not-for-profit home health care agency that is Medicare and Medicaid certified to provide state licensed home health care to all eligible clients.

- **Sequoyah Schools**

Sequoyah Schools is a regionally and state accredited private school system that provides grades 7-12 and has become the school of choice for more than 400 Native American students every year.

- **Talking Leaves Job Corps**

Job Corps is a voluntary program for young people who are motivated to learn the skills and work ethic they need to start and sustain their careers.

- **Cherokee Nation Tourism**

Cherokee Nation Cultural Tourism program is designed to promote the Cherokee people's cultural identity thereby nurturing respect for, knowledge of, and economic opportunities for the Cherokee people.

- **Cherokee Phoenix**

The Cherokee Phoenix is an independently operated tribal newspaper covering Cherokee Nation news, events and issues.

- **Cherokee Heritage Center**

The Cherokee Heritage Center offers other interpretive programs and features as well, such as educational workshops and special events, which support their goal for the preservation and promulgation of the Cherokee culture .

- **Elder Care**

Cherokee Nation Comprehensive Care Agency's PACE Mission is to enhance the quality of life and autonomy for frail older adults, while enabling the frail older adult to live in his or her home and in the community for as long as it is medically and socially feasible.

- **Cherokee Nation Washington Office**

The Cherokee Nation Washington Office (CNWO) opened in 2001 to serve as the Cherokee Nation's Government Relations Office in D.C. Our office acts as the liaison between Cherokee Nation tribal citizens and the United States Congress, U.S. Agencies and Administrative Offices, National Organizations and other Tribal Governments.

CHEROKEE NATION GIFT SHOP



- Categories**
- Baskets (1)
 - Prints (9)
 - Apparel (10)
 - Beadwork (6)
 - Books, Videos, and Music (48)
 - Dreamcatchers (4)
 - Featured (2)
 - Nation Seal
 - Items (17)
 - Pottery (10)

- Shopping**
- Home
 - Shopping Cart

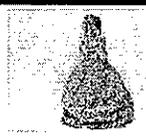
What's New?



Pucker Toe Moccasin
Infant
\$31.50

Quick Find

Featured

	Product Name+	Price	Buy Now
	Buffalo Grass Doll	\$29.98	BUY NOW!
	Pendleton Doll	\$34.98	BUY NOW!

Displaying 1 to 2 (of 2 products)

Result Pages: 1

Visit our Store!



Located in Tahlequah, Oklahoma, the Cherokee Nation Gift Shop boasts an inventory of over a 1000 items and caring customer service that can't be beat.



Cherokee Gift Shop

Use keywords to find the product you are looking for.
Advanced Search

Information

[Shipping & Returns](#)
[Privacy Notice](#)
[Contact Us](#)

Links

[Cherokee Nation](#)
[Cherokee Casino and Resort](#)

Cherokee Gift Shop
Route 2, 3.5 Miles South
of Hi-way 62
Tahlequah, OK 74464

Cherokee Language

It has been said "When a people lose their language they lose their identity". This aspect of the Cherokee culture has been celebrated within this site by listing the products with the associated Cherokee words.

Cherokee is unique in that one of their own harnessed the tones and identified them by symbols. This was the work Sequoyah did.

Please enjoy the presentation of products and their associated Cherokee words.

Wa-do





Cherokees of South Carolina

ECSTUTT

Cherokees of S.C.

Cherokee General Information and History

Folkways And Artist

Volunteer Opportunities

Human Rights and Current Issues

Tuscarora Village Design Project

Historic Preservation

Educational programs

Future Projects

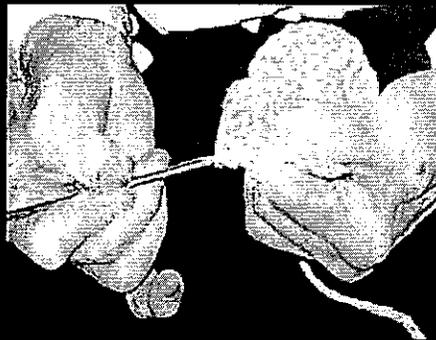
Cherokee Marketplace

Folkways and Artist

Weaving Painting Woodworking Pottery

Weaving

The Cherokee women of the upcountry were certainly a part of their culture around the turn of the twentieth century. They like many of the women of their time continued with the



handicrafts that had been passed down from generation to generation. The Crazy Quilt was a favorite among the Upcountry Cherokees, because it was similar to the Cherokee "rag-cloth" of ancient times which utilized the scraps from many different sewing projects. These quilts



South Carolina Indians Today

NATIONAL Native American Indian Organizational LINKS:

National Congress of American Indians

American Indian Movement

Office of American Indian Trust

Senate Committee on Indian Affairs

First Nations Development Institute

National Center for American Indian Enterprise Development

Department of Labor, Native American and Indian Programs (Welfare to Work, TANF)

Department of Defense and Native American Programs

Marketplace
Expanded
Store

Membership,
Genealogy,
and Tracing
Ancestry

South
Carolina
Tribes

Media
Coverage
Links

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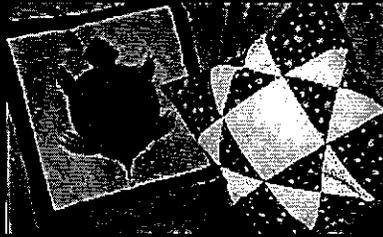


Historic
preservation
conference
2001



scraps from many different sewing projects. These quilts were all hand sewn, unlike the contemporary quilts of today which employ the use of sewing machines. The Crazy Quilt, Indian Star Quilt, Patchwork Quilt, and Wedding Ring Quilt, are among those represented in this exhibition. One affect of the economic depression that struck South Carolina in the 1920s and 1930s was the use of quilts for gifts.

In the upcountry, with it's cold temperatures in the winter, the quilt was originally made for keeping warm in the winter. Necessity was the reason for all of the early utilitarian quilts, intended for use as bedcovers which contained woolen, cotton, and other heavier fabrics. Many different types of hand stitching was employed in the making of these quilts, including briar, feather, outline and blanket, just to name a few. A master quilter, such as Cherokee Clan Mother, Amanda Stegall Allen's work has lasted over a hundred years. This tradition is continued by her daughter, A. Felicia Taylor.



Turtle Clan & Star Pattern Pillows
Hand Designed, Cotton & Vailor 12 "X 12 " 1980
Artist: Elsie Taylor Goins



International Programs

National Indian
Policy Center (George
Washington
University)

Leves-Enemas Heras
Energy Assistance
Program

Council of Energy
Resource Tribes

Native American
Rights Fund

National Indian
Telecommunications
Institute

Native American
Cultural and
Educational
Authority

INTERNATIONAL
LINKS:

International Indian
Treaty Council

Center for World
Indigenous Studies

International Work
Group for
Indigenous Affairs

UN Documents on
Indigenous Peoples

Inuit Circumpolar
Conference

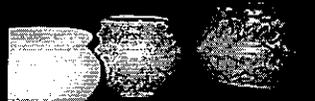
Economic
Development and
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Pottery

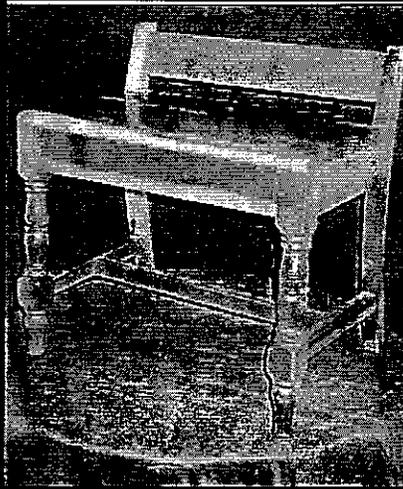


Traditional Cherokee pottery forms are primarily devoted to simple utilitarian shapes. Using Native clay, their fingers and a few old type tools for scraping and polishing, Cherokee potters shape cooking pots, storage jars, water jars and other types of dishes. The ancient way of shaping a vessel is to start with a small disk at the bottom and build up the walls with coils. Coils of clay are molded by hand and decorated by pressing or incising designs with smooth stones, wood or bone paddles and, other natural hand tools. To give the natural clay a dark, black hue, it is fired with softwoods like poplar that produce a thick smoke. Contemporary Cherokee potters use ancient methods, as well as, a variety of contemporary methods and designs in the creation of their pots, sculpt pieces and art objects. Traditional and contemporary aesthetic and technical demands are use in today's creations of clay pots, ceramics and art pieces in the clay medium.



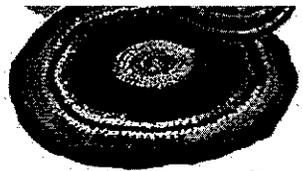
Woodwork & Wood carving

Work with wood has always been a part of Cherokee culture. Ladies, dishes, trays, drums, bows & arrows, masks, "Stick Ball" sticks, and furniture are all items made by Cherokee woodcarvers.



Today still wood workers are very skilled in their crafts and in the items that they make for sale like furniture. "False Face Masks" are one of the most widely know art objects that collectors buy from Cherokee woodcarvers. These "chiseled out" Masks are hung in exhibitions and as decorative pieces in many homes, and art galleries, even though there were and are actually worn and used with dance with surrounding the Cherokee ceremonial dances and rituals.





Cherokee Rag Rugs

A Traditional Cherokee art form, the "Rag Rug" is a fine example of the respect that the Cherokee have for everything in creation, including scraps of material. Nothing was thrown away, everything had a purpose and could be used. This is why Native Americans used every part of the animal in ancient times, because all was sacred and serviceable. When fabric was introduced, the Cherokee continued with this philosophy. The "rag cloth" and the "Rag Rug" was developed to use the extra scraps of cloth that were left after sewing, reminiscent of the Cherokee "rag cloth" of the famed Sequoyah jacket. These rugs are often found in Cherokee household as door mats and are very durable and can be washed in the washing machine.



Doll Making

Like most civilized culture, the Cherokee made dolls for their children. Cherokee doll makers have become a long-standing favorite crafts person. The Cherokee doll makers create dolls dressed in the various fashions of their ancestors. Each doll maker has his or her own artistic design and technique. Cherokee dolls have become a valuable acquisition in many doll collections. Many of the dolls tell the stories of Cherokee myths.

Finger Weaving

Cherokee weavers continue to use the "loose-warp method" inherited from their forefathers.

Known as "finger weaving" some present day artists work with as many as eight strands at one time, to create the vivid color combinations and designs handed down from generation to generation. Without the use of a loom, and with only a stick to hold one end of the woven materials, dexterous Indian women weave sashes, scarves, headbands, and turbans from yarn. They originate their designs and the master weavers often handle thirty-six to forty-eight strands at one time, using only their hands to hold and guide the intricate process.



Photography & Painting

Since the ancient Native petroglyphs or the early Cahlin paintings, painting has been a part of Native American Indian culture and certainly Cherokee culture.

Today, Painting and Photography still have an important place in the art of the Cherokee people.

BACK

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Your online source for Books, Music, Artwork, Pottery & Crafts relating to Cherokees and other Native Americans

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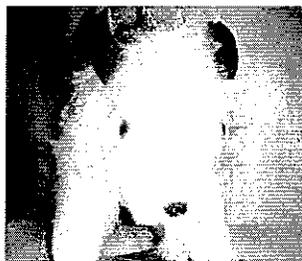
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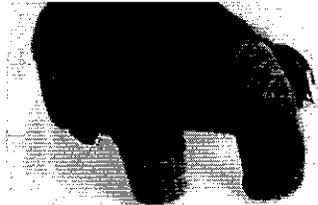


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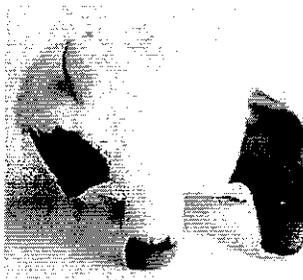
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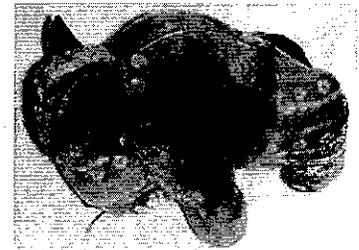


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These buffalos are created using the famous Pendleton blankets for the colorful insert
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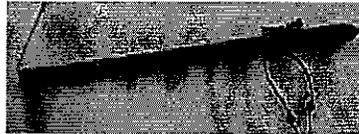
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Each Cherokee baby is unique and an original design by Cherokee Nation tribal member
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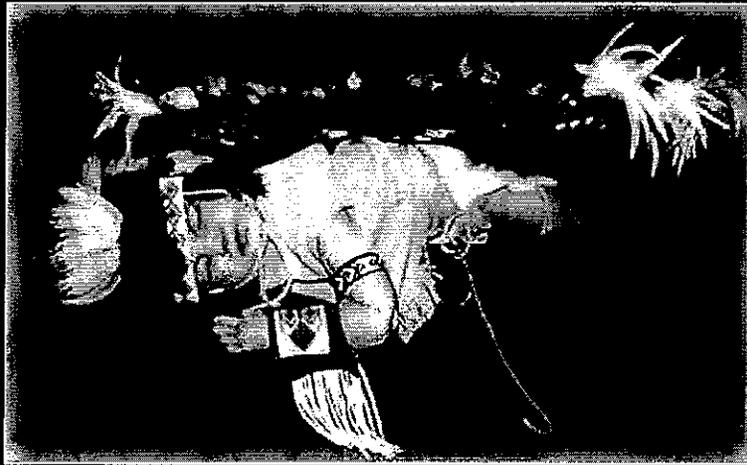
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*Cherokee Artist
Margaret Flanagan*



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Native American Orphan Sculpture # 2



Native American Orphans™ (NAO) are rare collectibles created by Cherokee Artist, Margaret Flanagan. Since each doll is an original and takes literally hundreds of hours of labor and love,

Flanagan. Since each doll is an original and takes literally hundreds of hours of labor and love to create, there can only be about 12 dolls handcrafted per year. Each doll's clothing and moccasins are sewn from deer hide, complete with beadwork and feathers. These babies are very sturdily constructed; they are weighted for the feel of a living body, and even have "bones" in the fingers. Although most dolls are created in the approximate size of a 10-month-old child, dolls can also be ordered in sized from newborn to 3 years of age. Whatever the age or size you choose, Native American Orphans are so real and life-like that they are often mistaken for live children!

The authentic patterns used in the clothing and footwear are researched to mirror tribal customs, or - if preferred - to match today's modern pow-wow styles. Beadwork can be ordered on the dress, shirt, moccasins, and on head, leg, and arm bands. Buntings are made from all types of fur, most often fox, rabbit, beaver, coyote, mink, or raccoon.



Native American Orphan dolls are often mistaken for live children!



"I listened as some of the Cherokee elder women talked about being at the stomp dances when they were very young. Most of the time, the dances would last all night. The children would play out and find a place to lay down and sleep. But as they got older, they learned that valuable pieces of history were often found in the very early morning. Just at dawn, some of the grandmothers would get up and show us dances that were no longer done - dances that they learned from THEIR grandmothers' one elder said. Among the Cherokees, the stomp dances are still held. The 'Danced Out Dancer' series of dolls is my tribute to all the little dancers of EVERY tribe. As long as there are children, there will be those who become inspired to learn the traditions handed down from generation to generation."

- Margaret Flanagan

"O Ga Na : All Danced Out"
photo by Roger Raley

Guthrie Studios

Native American - Indian Art

Tahlequah, Oklahoma
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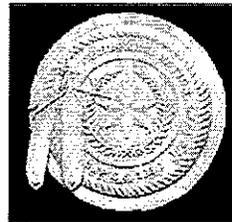
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Cherokee Indian Art, stories and history. Cherokee art with subjects including the Cherokee Trail of Tears, the Dawes Rolls and the Cherokee Little People, award Native American Artists offer a broad range of cultural art and gifts, expressing tribal pride. Hand made Cherokee Indian Art, Dolls, Watercolors, and Paper casts. Cherokee Indian home based business in the Heart of Cherokee Nation.

We have operated our Home Based Business for twenty-five years. Marketing artwork on the internet for the past eleven years. Working at home has allowed us to travel to many states, meeting people at shows and powwows. Native Herbal Medicine keeps the arthritis and other ills at bay so we can do the things we enjoy.

We have been earning more and more of our income online through our online marketing efforts. You could be working at home to. Read about our Home based business.

Our Studios consists of several separate Cherokee Indian Art and Native American Art shops.



THE CHEROKEE NATIONAL SEAL

A Cast Paper Sculpture

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"The Cherokee.... A People possessed of the divine fire"

Morning Tears - winter, 1838-39

Our Goals

We strive for a sensitive and accurate interpretation of Native American history, stories and life events. The Native American stories told with the art are as they come to us

Studio Overview

The Guthrie's are Cherokee Artists with many national awards to their credit. Their work can be found in private art collections and prestigious Native American art galleries throughout the United States.

Copyrights are the property of the individual artist and the art is not to be reproduced in any form with out expressed consent of the artist.

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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

Cherokee

SYLLABICATION: Cher-o-kee

PRONUNCIATION: chĕr'ō-kĕ', chĕr'ō-kĕ'

NOUN: Inflected forms: pl. **Cherokee** or **Chero-kees**

1a. A Native American people formerly inhabiting the southern Appalachian Mountains from the western Carolinas and eastern Tennessee to northern

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Oklahoma, Native America

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Elizabeth Arden

Mountains from the western Carolinas and eastern Tennessee to northern Georgia, with present-day populations in northeast Oklahoma and western North Carolina. The Cherokee were removed to Indian Territory in the 1830s after conflict with American settlers over rights to traditional lands. **b. A.** member of this people. **2.** The Iroquoian language of the Cherokee.

ETYMOLOGY. From Cherokee *isalaki*.

OTHER FORMS: **Cher'o-kee'** —ADJECTIVE

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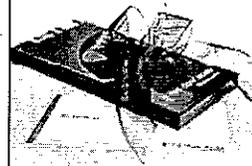
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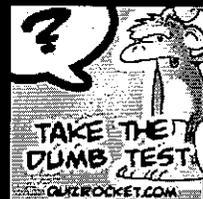
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a-ḥi-tsa-ia-gv' na-ni-sḡ-na-go-gv-ni

8:04 A.M. | Tuesday, December 9, 2008

Cherokee Language

- Syllabary
- Mailing List
- Days of the Week
- Numbers
- Family Terms
- Food
- Animals
- Sequoyah
- Language History
- Telling Time
- Trees
- Download the

Cherokee Games

The Cherokee people played games for fun, gambling, or settling arguments. There are some games still known and used today.

(A-ne-tsa) "Stickball" - A very rough game resembling our modern game of Lacrosse. Goal posts are erected on both ends of a long field. Players use ballsticks shaped like miniature tennis rackets and hand-made from hickory. A small ball, made of deer hair and hide, is tossed into the air by the Medicine Man.

The object of the game is to get the ball through the goal post with a wooden fish attached to the pole at the very top. The

[Cherokee Font](#)

Cherokee Culture

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- [Cherokee Houses](#)
- [Cherokee Weapons](#)
- [Official Flag](#)
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- [Cherokee Pottery](#)
- [Cherokee Games](#)
- [Cherokee Weddings](#)
- [Cherokee Clans](#)
- [Stomp Dance](#)
- [Cherokee Tear Dress](#)

player scores when they hit the post or the fish. The amount of points earned depends upon where they hit. Very few rules apply, and biting, hitting, holding, gouging, and scratching are an accepted part of the competition. Each time a man is carried off the field his opponent must drop out also. No time limit is set and the rough battle continues until the proper number of points is scored by one of the teams. A score keeper puts pegs in the ground at the side of the field to keep track of the score. Stickball was also played during warfare and to settle disputes.

(Tsun-gsy' unvi) "Marble Game" - This game is played with a disk made from granite, quartzite, or other fine-grained stone about six inches in diameter. A great deal of time was spent in shaping the stones and polishing them to a high luster. Two players carried poles eight to ten feet long. One of them rolled the stone across a smooth, prepared court. Both players ran after it, throwing their poles where they expected the stone to stop. The one being nearest to the stone when it stopped gained a point. It is thought that the game prepared young men for throwing the spear. High stakes were often gambled on the outcome.

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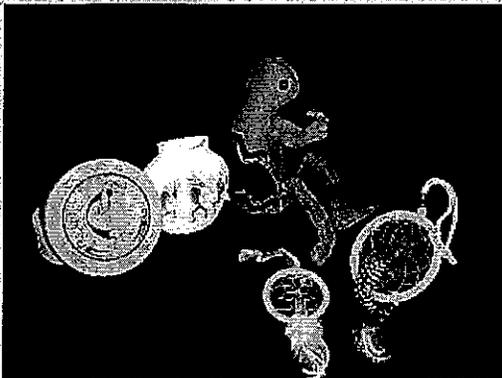
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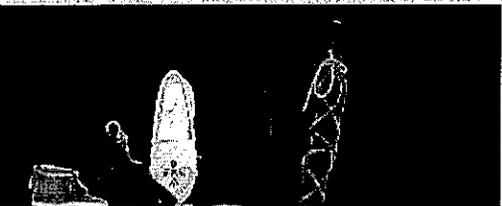
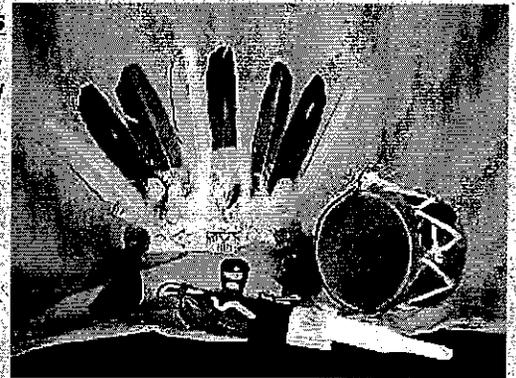
Kokopelli-This humpback flute player is found on petroglyphs in the southwest. According to legend, he traveled from village to village bringing music, seeds and prosperity to the tribe. We carry many items with his image-from jewelry to pottery to figurines.

Dreamcatchers-Dreamcatchers were used by many Native American tribes to protect a person from bad dreams. The good dreams would go through the center hole and slip gently down the feather to the person sleeping. Bad dreams would then be caught in the web and evaporate by the morning sun. Sizes 2" to 15". *Prices from \$6 to \$25.*

Cherokee Toys

These toys have been made for years in America by Native Americans. Our selection includes tomahawks, vests, peace pipes, bow & arrow sets, headdresses, drums, boomerangs, and canteens.

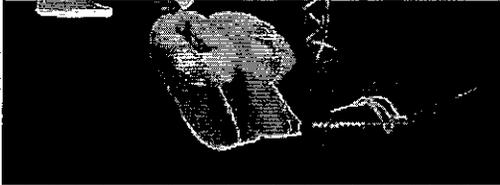
Affordably priced from \$5 to \$18.



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Famous for their thunderbird beaded toe moccasins, this company has kept up with tradition and style since 1946. We carry many designs for infants through adults.

Prices range from \$15 to \$60 for moccasins, \$20 to \$120 for sheepskin

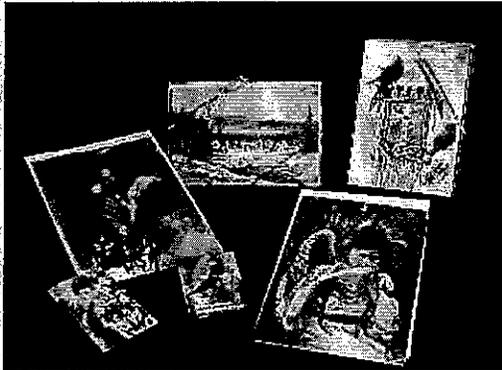
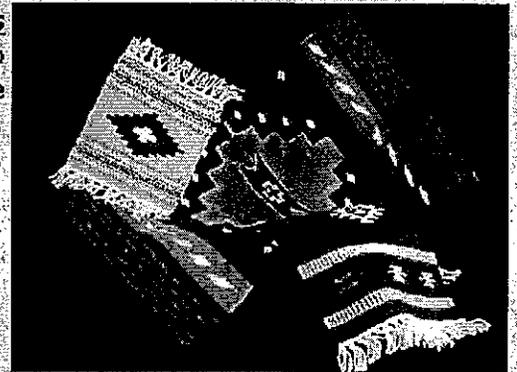


Prices range from \$25 to \$50 for moccasins, \$20 to \$20 for sheepskin slippers and boots. Contact us for a catalog.

Rugs

Although we do carry a few Navajo rugs for our collectors, we also have Mexican woven rugs at an affordable price. The designs are varied and typically southwestern, with beautiful colors. Many sizes are available.

Mexican rug prices from \$5 to \$45.



Leanin' Tree

Leanin' Tree is known for their beautiful artwork and verses. We primarily carry their Native American themed works on posters, magnets, greeting cards, and Christmas cards.

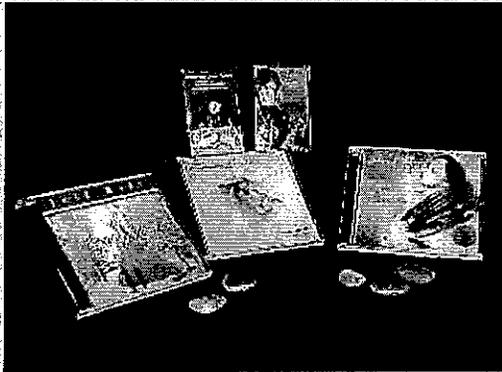
Books

Our selection of books offers inspiration, research material, craft ideas,



and information on Native American cultures. Several children's books are available as well.

Prices from \$5 to \$30.



Music

With its haunting melodies and soothing tone, Native American flute music transports you to another time and place. Often accompanied by guitar, orchestra, or sounds of nature, this music will enchant you. Carlos Nakai, Kevin Locke, Alice Gomez, and Joanne Shenandoah are among the artists we represent.

Cassettes or CD's available.



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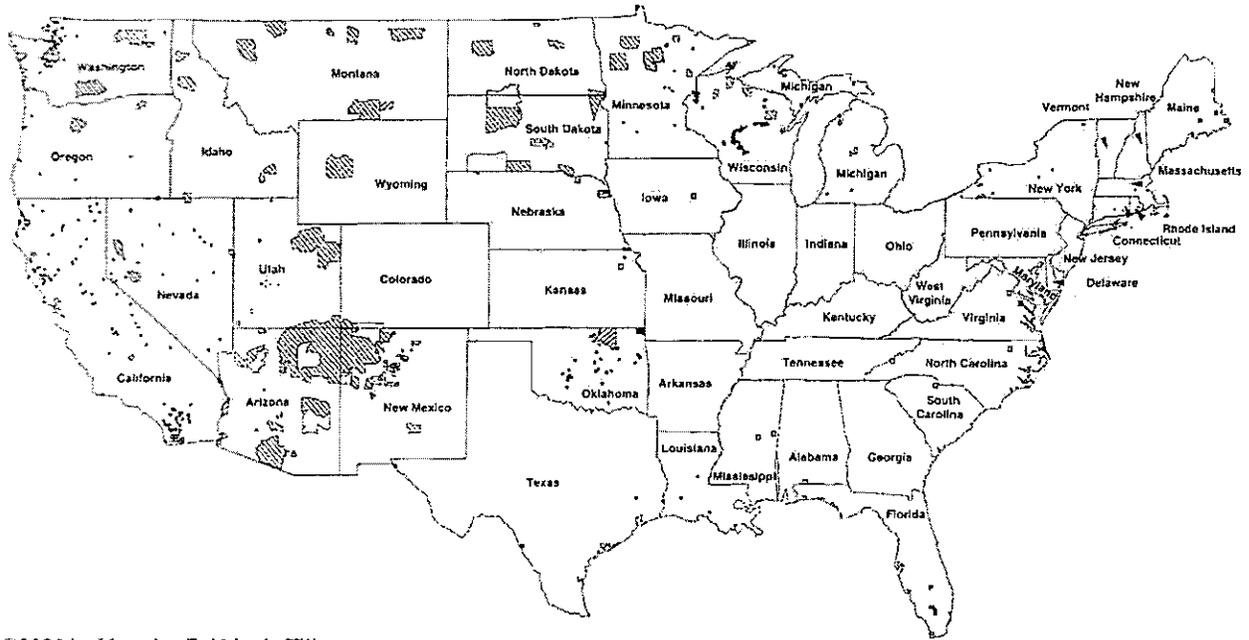
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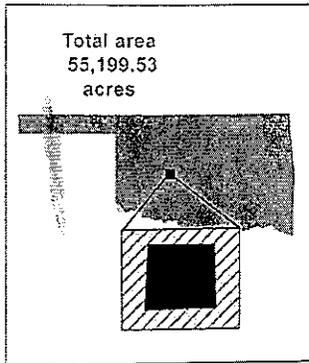
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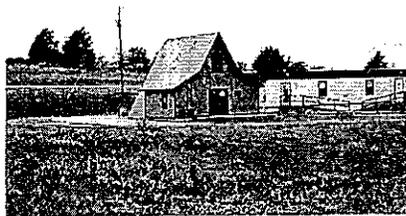
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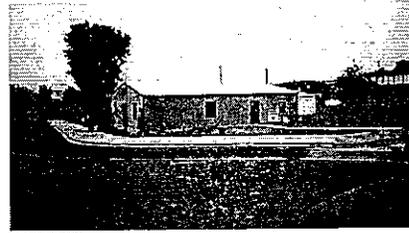
Caddo



TRI-OK-001 Tribal Police office and trailer
TRI-OK-002 Hasnai Center, education building



TRI-OK-001



TRI-OK-002

cultural center, within the Caddo Tribal Complex. The American Indian Hall of Fame and Indian City USA are located 20 miles south of Binger in Anadarko. An Indian Exposition is held annually.

INFRASTRUCTURE

The Caddo Tribal Complex is located in Binger, Oklahoma. Binger is bisected north-south by U.S. 281 and east-west by Oklahoma State Highway 152. I-40 passes approximately 17 miles north of the tribal headquarters.

Electricity. Caddo County public utilities provide electricity to tribal facilities and tribal members' homes.

Fuel. Oklahoma Natural Gas and Oklahoma Gas and Electric provide natural gas service to tribal members.

Water Supply. A BIA-funded rural water district provides water and sewer service.

Transportation. Commercial air services are located in Oklahoma City, 60 miles east. Private air service is available 60 miles south in Lawton, Oklahoma. Bus lines serve Binger, as

do UPS and FedEx package carriers. The CR&P Railway also serves the tribal area.

Telecommunication. Qwest provides telephone service.

COMMUNITY FACILITIES AND SERVICES

The tribal complex houses a community center and the Caddo Nation Heritage Museum.

Education. Children attend public schools in Ft. Cobb, Binger, Braxton, Onsey, Hinton, and Eakey. The Nation also operates a Head Start program.

Health Care. Tribal members receive health care from the Lawton Service Unit of the Indian Health Service with health centers in Anadarko and Carnegie and a health station at the Riverside Indian School. Hospitals are located in Lawton and Clinton.

ENVIRONMENTAL CONCERNS

The Nation has U.S. EPA grants that provide for water and air control.

C

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cherokee.org

LOCATION AND LAND STATUS

The tribal lands of the Cherokee Nation span 124,000 acres, or 7,000 square miles throughout 14 counties in northeastern Oklahoma. While not a reservation, the Nation's tribal land is held in trust by the U.S. government and is considered a Jurisdictional Service Area. With its capital in Tahlequah, a town of approximately 14,458 in Cherokee County, much of the Cherokee Nation rests on the Ozark Plateau, stretching from the prairie plains in the north and west to the foothills of the Boston Mountains in the east. The state's second-largest city, Tulsa, Oklahoma, is less than 65 miles from Tahlequah; Muskogee is 28 miles. The Nation considers its key development counties to be Adair, Cherokee, Delaware, and Sequoyah. The Nation has 61,000 acres available for development.

CLIMATE

Tribal headquarters, at Tahlequah, Oklahoma, sits at an average elevation of 870 feet above sea level. Daily high temperatures average 73°F, with the highest temperature ever recorded being 118°F. Low temperatures average 48°F, with the lowest temperature ever recorded being -23°F. The area receives approximately 42.6 inches of precipitation annually.

CULTURE AND HISTORY

The Cherokee Nation is the second-largest tribe in the United States and the largest in the State of Oklahoma, with a membership of over 230,000. Prior to European contact, the Cherokee people lived for almost a thousand years in the southeastern part of North America, with a traditional territory spanning approximately 126,000 square miles. Through a succession of treaties between 1721 and 1819, this vast territory was reduced to the mountainous areas of North Carolina, Tennessee, Georgia, and Alabama.

An extremely progressive, democratic people, the Cherokees often intermarried with their Anglo counterparts. They had their own educational system throughout the region, improved in part by the Cherokee linguist, Sequoyah, born in 1770 in Taskigi, Tennessee, who codified a syllabary or alphabet for the Cherokee people in 1821. This syllabary provided the Cherokee people with a written language that the Nation quickly adopted. Today, the Cherokee language is spoken by more than 10,000 Cherokees residing in northeastern Oklahoma, and by at least 1,000 Cherokees living in the vicinity of Cherokee, North Carolina.

Cherokee

Although a group of Cherokee people began to migrate west during the early 1800s to avoid the encroachment of European descendants on their territory, the history of the Cherokee people was permanently altered by their forced removal to what was then referred to as "Indian Territory" from their ancestral lands in the southeast. The discovery of gold in Georgia fueled anti-Cherokee resentment and the thirst for expansion on the part of the new settlers. Upon the recommendation of President James Monroe in his final address to Congress in 1825, the succeeding President, Andrew Jackson, authorized the Indian Removal Act of 1830. The displacement of Native people was not wanting for eloquent opposition. Senators Daniel Webster and Henry Clay spoke out against removal, and the Reverend Samuel Worcester, a missionary to the Cherokees, challenged Georgia's attempt to extinguish Indian title to land in the state, winning the case before the Supreme Court.

Worcester v. Georgia (1832) and *Cherokee Nation v. Georgia* in 1831, cases that are considered two of the most influential decisions in Indian law, challenged the constitutionality of the Removal Act and the U.S. government precedent for unapplied Indian-federal law. The U.S. government used the Treaty of New Echota in 1835 to justify the removal. The treaty, signed by 20 Cherokees, whose supporters numbered between only 5 and 10 percent of the Cherokee population and were known as the Treaty Party, relinquished all lands east of the Mississippi River in exchange for land in Indian Territory and the promise of money, livestock, and various provisions and tools. Opposition to the removal was led by Chief John Ross, a mixed-blood of Scottish and one-eighth Cherokee descent. The Ross party and most Cherokees opposed the New Echota Treaty, but Georgia and the U.S. government prevailed, using it as justification to force almost all of the 17,000 Cherokees from their southeastern homeland. An estimated 2,000-2,500 Cherokees died from hunger, exposure, and disease during their forced exodus. The journey became memorialized as the "trail where they cried" for the Cherokees and other removed tribes. Today it is remembered as the "Trail of Tears."

The years between the removal and the 1860s were the Cherokee Golden Age, a period of prosperity ending with the devastation of the American Civil War. *Cherokee Advocate*, printed in both English and Cherokee, became the first newspaper in the State of Oklahoma, and the *Cherokee Messenger* was its first periodical. By the time of Oklahoma's statehood in 1907, the Cherokee Nation had established an educational system composed of 144 elementary schools and two higher education institutions, the Cherokee National Male and Female Seminaries. With the Cherokee syllabary, the Cherokee people achieved a higher rate of literacy than their white counterparts.

After the war, more Cherokee land was taken to accommodate other tribes displaced by U.S. government policy. At the turn of the century, most of the remaining tribal land was parceled out to individual Cherokees eligible for allotments who enrolled in a census known as the Dawes Commission Rolls of 1906. The social and economic isolation experienced by the Oklahoma Cherokees after statehood was compounded by the Great Depression and Dust Bowl era of the 1930s. It is estimated that more than a third of the residents of Oklahoma left the state during this time, including many Cherokees. Presidents of the United States appointed various principal chiefs in the 65 years following statehood, with little authority or responsibility, as there was no formalized Cherokee government. Since reorganization in the 1970s, the Cherokee Nation has become a leader in education, health care, housing, vocational training, and economic development in northeastern Oklahoma.

An annual three-day Cherokee National Holiday, celebrated since 1953, commemorates the signing of the 1839 Cherokee Constitution each Labor Day weekend. The event has grown into one of the largest in Oklahoma, attracting more than 70,000 people from across the world.

GOVERNMENT

Prior to their forced migration to the west, the Cherokees maintained a dual organization of tribal government: a white, or peace, organization made up of elders, many of whom were priests, and a red, or war, organization. The priests performed both secular and religious functions under the direction of a great high priest, also known as a peace chief or principal chief. Seven councilors represented the seven clans to assist in administering civil law and invoking blessings from the Creator. The war organization was made up of ranking military officials, led by the great war chief, who controlled all governmental decisions while at war.

Today, the Cherokee Nation, under PL-638, contracts with the BIA to administer key programs and services. The tribal government is organized into a three-branch democratic structure with offices in the W.W. Keeler Complex in Tahlequah, Oklahoma. Sovereignty is guaranteed by treaty and law.

The Nation's constitution was ratified in 1976. A 15-member elected Cherokee Nation Tribal Council serves as the government's legislative branch, with members elected to four-year terms by a popular vote of all registered voters. Under the leadership of Principal Chief Wilma P. Mankiller, the first elected female chief of any major tribe, the Nation negotiated a PL-638 Self-Governance Agreement with Congress on February 10, 1990. This agreement authorizes the tribe to plan, conduct, consolidate, and administer programs and receive direct funding to deliver services to tribal members. The Cherokee Nation also passed legislation establishing a Cherokee Nation District Court and criminal penal and procedure code.

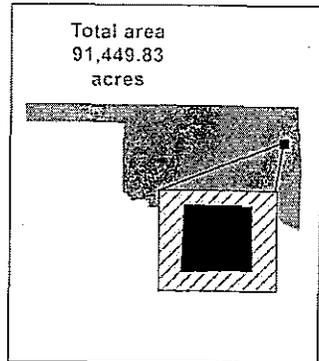
As head of the executive branch, the principal chief is responsible for the execution of laws, the establishment of tribal policy, and the delegation of authority as necessary for the day-to-day operations of the Cherokee Nation Tribal Government. There is also a deputy chief. They are both elected to four-year terms by popular vote of registered Cherokee voters.

The legislative branch consists of a 15-member tribal council with representatives elected from the nine districts of the Cherokee Nation. The council initiates legislation and conducts business on behalf of all tribal members. The deputy chief presides over the council as its president. Tribal council terms are four years.

A judicial appeals tribunal and the Cherokee Nation District Court make up the judicial branch of government. The tribunal, with members appointed by the principal chief and confirmed by the tribal council, is the Nation's highest court. It hears and resolves disagreements brought before it under jurisdiction of the Cherokee Nation Judicial Code. A district judge and an associate judge preside over all court proceedings.

The Cherokee Marshals provide law enforcement services. A 32-person department, the Marshals are cross-deputized with major law enforcement agencies throughout the Nation's 14-county area.

Specially established commissions assist in carrying out various governmental functions: election, gaming, and tax commission. These serve an oversight function, regulating and managing various enterprises and functions. Within these



Total area
91,449.83
acres

Total area (BIA reality, 2004)
91,449.83 acres

Tribally owned (BIA reality, 2004)
45,054.90 acres

Federal trust (BIA reality, 2004)
407.51 acres

Individually owned
(BIA reality, 2004)
45,987.42 acres

Population 2000 census
1,066,024

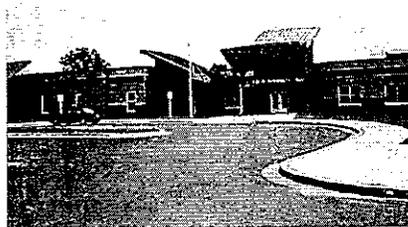
Total labor force 2000 census
208,936

High school graduate or higher
2000 census
77%

Bachelor's degree or higher
2000 census
15%

Unemployment rate 2000 census
5.8%

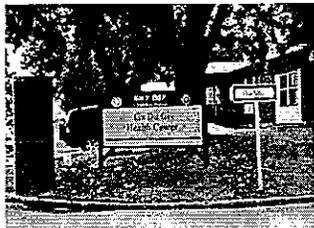
Cherokee



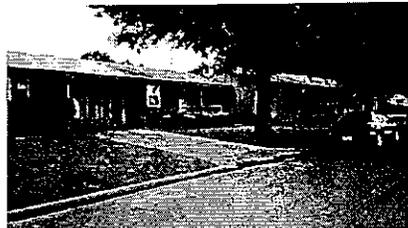
TRI-OK-003



TRI-OK-004



TRI-OK-005



TRI-OK-006



TRI-OK-007

TRI-OK-003 Front view of Child Care/Health Center

TRI-OK-004 James Danielson Children's Village, sign in park

TRI-OK-005 GWY DBP Cherokee Nation, Ga Du Gi Health Center

TRI-OK-006 Early Childhood Unit

TRI-OK-007 Early Childhood Unit

commissions, there are the following divisions: education, planning and development, internal audit and review, tribal operations, finance management, general council, human resources, and information systems. The community service division maintains roads and provides water, wastewater, and other environmental programs. Tribal departments include: law and justice, natural resources, real estate services, and credit and finance, which provides personal and business financial education and loans to tribal members. Other enabling services are membership-support programs or services that are internal to tribal government.

The housing authority of the Cherokee Nation, created in 1966, provides safe, sanitary housing to low-income tribal members living within the boundaries of the Cherokee Nation. The authority is governed by a five-member board of commissioners appointed by the chief and approved by the tribal council. Each member serves a three-year term. The authority operates homeownership programs, including homeowner's insurance, rental programs, the Section 8 Welfare to Work Program, elderly housing including low-income housing tax credit services, home rehabilitation, and emergency housing programs. The 2003 Annual Report to The Cherokee People reported that the housing authority built 300 homes during 2001 and again in 2002, a record number. Senior housing centers, with 40 apartments each, were built in Stilwell and Jay, Oklahoma, during 2003.

BUSINESS CORPORATION

Cherokee Nation Enterprises (CNE) is a tribal corporation with offices in Tahlequah and Catoosa. The enterprise operates casinos, smoke shops, gift shops, and convenience stores, providing revenue to the Nation in the form of dividends. Anticipated revenues for fiscal year 2004 were \$12 million. Generous donations of time and financial resources are given to area nonprofit agencies and schools, tribal and nontribal alike. Seventy-two percent of CNE employees are Cherokee tribal members; 80 percent are Native Americans.

Cherokee Nation Industries (CNI), an award-winning tribal workforce development project, was incorporated in 1969. (See *Manufacturing for details.*)

ECONOMY

The Cherokee Nation economy is a diverse mixture of agribusiness, small business enterprises, mining, gaming, manufacturing, and tribal operations.

Government as Employer. Tribal government, through its various enterprises, programs, and services, employed over 4,711 people in 2004, making it one of the largest employers in north-eastern Oklahoma.

Economic Development Projects. A tax code, approved in 1990, levies a tobacco tax and a sales tax. A fuel tax agreement was reached with the State of Oklahoma in 1997, wherein the Nation will be rebated a portion of the amount of fuel tax collected from the sale of gasoline on tribal lands for the next 20 years, in exchange for an agreement not to sue or license tribal members to sell gasoline.

To better prepare tribal members for participation in the local wage economy, in 1978 the Nation established the Talking Leaves Job Corps Center in Tahlequah, Oklahoma, one-half mile from tribal headquarters. The 22-acre vocational training facility serves Native American youth from across the country. Approximately 270 graduates are placed as electrical wiremen, administrative office assistants, cooks, or home health aides each year, and they serve their community through various volunteer activities, such as a voter registration drive for Native Americans or landscaping tribally owned facilities. There are also 11 field offices offering vocational rehabilitation services.

Agriculture and Livestock. Agribusiness and livestock production represent an important source of revenue for the Cherokee Nation. The tribe's poultry operations produce over 1 million four- to five-pound broiler chickens each year (on the No More Poultry Farm). Hudson Hog Farm leases 40 acres of

tribal land for its facility (the No More Hog Farm), which produces approximately 1,000 sows annually. In addition, the tribe owns the Cherokee Gardens, a nationally recognized horticulture center.

On its farm lands, the tribe raises winter wheat, soybeans, alfalfa, and native hay. While the tribe owns no cattle, land is leased for grazing on a bid process with 5-10 year terms for cattle production.

Forestry. The Candy Mink Springs Wood Operation produces and markets packaged firewood in 0.75-cubic-foot bundles to wholesale distributors, providing employment to local tribal members. The majority of the supply of firewood comes from land development projects on Cherokee tribal lands, with areas replanted to improve pasture for the tribal grazing program. Kenwood Wood Industry, a woodcutting operation, uses an environmentally sensitive replanting program. The tribe's forestry project oversees a 300-acre pine tree production project, wherein pines are continuously grown and sold for wood and pulp. Another 25,000 acres of mixed hardwood timber are available for development.

Gaming. In 1990, the Cherokee Nation opened its first high-stakes Bingo Outpost in Roland. By the end of 2004, Cherokee Casino had gaming operations at four separate locations: Catoosa, Fort Gibson, Roland, and Siloam Springs. The 15,000-square-foot Catoosa facility will feature 400 electronic games, a card room for table games, and a snack bar. The Cherokee Casino and Resort, which opened summer of 2004, features a new 150-room hotel and resort, expansions to the casino already on-site, and a redesigned club at the golf course. The facility added approximately 500 employment opportunities at Catoosa. Another facility near Sallisaw will be opened in spring 2005. Nearby, the Nation will build a 33-room hotel, the Southern Hearth Inn.

Mining. There are 14.1 trillion cubic feet of known coal and natural gas reserves, in addition to approximately 1.8 trillion cubic feet of new reserves discovered continually in the state. Coal beds cover 1.5 million acres in eastern Oklahoma, with reserves estimated at 3 billion tons. Cherokee Nation coal is bituminous and most is surface mined.

Manufacturing. Cherokee Nation Industries (CNI) is a 100 percent tribally owned integrated aerospace, defense, and telecommunications contractor and distribution enterprise, specializing in electronic component assembly and integration; wire harness and cable assembly; fiber-optic cabling, field installation services, laser wire marking, Just-in-Time and Point-of-Use Inventory Management systems, project kitting, contract medical and engineering professional services, and environmental and construction services. CNI, a top-tier manufacturer of electrical and electronic wire harnesses, is an ISO 9000-registered company in the cable harness, distribution, and telecommunications divisions.

CNI competes for contracts with the federal government via HUB Zone designation and is a certified Small Disadvantaged Business/Supplier. The business, a certified U.S. Small Business Administration 8(a) contractor, incorporated in 1959 as a tribal workforce development project, and the Oklahoma Native American Business Development Center named it "Manufacturer of the Year" in 1995 and 2000. CNI was also recognized as the "Small Disadvantaged Business of the Year" in 1987 and 1999 by Boeing and by FMC's Ground Systems Division in 1992. CNI reported a \$1 million profit for fiscal year 2003.

Cherokee Nation Distributors (CND), created in 1988 to meet the increasing military demands for a minority supplier of elec-

trical connectors, connector accessories, wire, and shrinkable tubing, is a wholly owned subsidiary of CNI. They have expanded into value-added services. This division is an ISO 9002 Distributor, a Lockheed Star Certified Supplier, and a Boeing Silver Supplier. CND is a franchised distributor for Raychem, Sunbank, Amphenol, Critchley, Pyle, and Matrix.

A 20-acre parcel within the 1,050-acre Cherokee Nation Ranch in southwestern Delaware County houses two buildings equipped for a high-production pallet mill, representing a \$100,000 investment. Also on this parcel are 12 kilns available for charcoal production.

Industrial Park. Located 25 miles from the tribal complex at Tahlequah, the Cherokee Nation Industrial Park at Stilwell sits between the new Stilwell Airport and another parcel of tribal land. Spanning 151 acres, with full utilities, the park is located near air transport, the Muscogee Port, and rail service. Several manufacturers, such as Facet Quantex, a commercial oil and fuel filter producer, already use this site.

Media and Communications. *The Advocate*, a newsletter published by the public affairs department, includes press releases, special announcements, cultural tidbits, an events calendar, and information. Three times weekly, a Cherokee Nation Radio Show is aired on two radio stations, KEOK-FM and KTLQ-AM.

Tourism and Recreation. There are 50 state parks and recreational areas in the heart of the Cherokee Nation. In 2004, the Nation was developing a map of attractions, historical sites and markers, and other sites of interest. Recreational development is possible on available forested lands, and visitors enjoy beautiful vistas while fishing, hunting, canoeing, boating, and hiking. Summer theater is a popular warm-weather attraction, and the state's first pari-mutuel race track is located in the southern part of the Cherokee Nation. Cherokee Nation Enterprises purchased Will Rogers Downs, a quarter horse-racing track near Claremore, Oklahoma, in 2004. The 236-acre facility is to be renovated with a new restaurant and an entertainment venue.

The Cherokee National Historical Society operates a Heritage Pottery program under the auspices of the Tsa La Gi (Cherokee) Heritage Center in Tahlequah, with revenues reverting back for tribal use in various cultural education programs. There is a Museum Shop in Park Hill. All Cherokee Heritage Pottery items are guaranteed to be authentically Cherokee-handcrafted, as are the other traditional crafts and contemporary art works offered by the Cherokee Heritage Arts program.

For those interested in cultural enhancement, the Tsa La Gi Heritage Center includes a museum featuring both permanent and temporary collections with an educational component, an ancient Cherokee Village, an outdoor amphitheater performing a Trail of Tears Drama, and a series of special events. Moreover, the Cherokee Heritage Arts (formerly known as the Cherokee Nation Fine Art Gallery) in Tahlequah features both contemporary and traditional visual arts. The Cherokee Family Research Center, located in the Museum Building of the Heritage Center houses a research library of genealogy materials, including access to census information and the Dawes Rolls. (See also, *Education*.) The Cherokee National Historical Society, established in 1963, is a tribally sponsored nonprofit organization dedicated to preserving Cherokee history and promoting Cherokee culture and the education of all people. This program supports educational programs. Both Natives and non-Natives are welcomed as members of the Cherokee National History Society, and all facilities are open to the public.

Cherokee

The Nation's biggest event is the annual Cherokee National Holiday, a three-day celebration of Cherokee culture and history that honors the signing of the Cherokee Nation Constitution in 1839. Events include a parade, a fiddling contest, an Indian rodeo, blowgun competitions, arts and crafts booths, a powwow, traditional games, sports tournaments, special children's activities, traditional feasts, and Indian vendors.

INFRASTRUCTURE

Electricity. The Oklahoma Gas and Electric Public Service Company, along with the state's Grand River Dam Authority and dozens of rural electric cooperatives, provide energy to the Cherokee Nation. Fourteen electric generating plants are operating on the Cherokee Nation with a capacity of 5,000 megawatts. Several of the dams and power heads are located on a portion of the Arkansas River owned by the Cherokee Nation, and the tribe is conducting a feasibility study on constructing a power head in Sequoyah County.

Fuel. The Oklahoma Gas and Electric Public Service Company provide energy to the Cherokee Nation.

Water Supply. The Nation's Water and Sanitation Services Program provides water and sewer repair for tribal members.

Waste Management. An important source of tribal revenue is the Nation's Sanitary Landfill, located on 160 acres in Adair County. Just outside Stilwell, this landfill is environmentally safe and has maintained high-quality inspection grades. The landfill services three Oklahoma counties and several Arkansas cities.

Transportation. More than 500 miles of four-lane highways and an additional 5,000 miles of U.S. and state highways crisscross the Cherokee Nation, insuring rapid movement of materials to and from all points of the country. The southern portion of the Cherokee Nation is crossed by I-40, connecting Fort Smith, Arkansas, with Oklahoma City, Oklahoma. To the north, Joplin, Missouri, and Tulsa, Oklahoma, are connected by I-44. Three of the state's six turnpikes—Will Rogers, Indian Nation, and Muskogee—dissect Cherokee Nation lands, as do U.S. 69 and U.S. 62, at Tahlequah.

A network of major railroad lines connects the Nation with all United States cities, markets, and ports: Santa Fe, Kansas City Southern, Missouri-Pacific, the Frisco, and Katy. In addition there are 11 piggyback ramps in 5 nearby cities. More than 30 motor freight common carriers offer service to all areas, including Consolidated Freightways, Roadway Express, Transcon, Tucker Freight Lines, Arkansas Best Freight, and Yellow Transit.

Completion of the McClellan-Kerr Navigation System along the Arkansas River in 1971 opened another avenue to surrounding United States markets and world ports. Barge tonnage reached 1,379,000 tons in 1983 and continues to increase through the system's ports. The Port of Catoosa, in Rogers County, sits at the head of the navigation channel near Tulsa, 440 miles from the Mississippi River. The port boasts complete warehousing and cargo facilities and has been designated a Foreign Trade Zone. The Port of Muskogee is served by five major highways, including the Muskogee Turnpike, which connects with Tulsa and I-40.

The Tulsa International Airport represents the region's largest commercial airport. The Fayetteville Airport, located 25 miles from the Cherokee Nation in Arkansas, offers large-scale air transportation, as does the Fort Smith Regional Airport, located just across the Arkansas border from the Nation. The Cherokee Nation also has 27 privately owned and municipal

airports, including a facility at Tahlequah, where improvements have extended runways to handle small corporate jets.

COMMUNITY FACILITIES AND SERVICES

The Cherokee Nation offers a plethora of community facilities, including the W.W. Keeler Tribal Complex located in Tahlequah. There is an excellent vocational training program for members, including the Talking Leaves Job Corps Center and the Cherokee Nation Employment Assistance Readiness Network and Self-Determination Program. Three vocational/technical schools serve six communities in the Cherokee Nation, and a skills center is located in Tahlequah. The Cherokee Nation's Career Services Department offers literacy centers where basic computer skills training, internet access, individualized tutoring, and employment and training assistance is offered.

The housing authority offers a homebuyers education course, various rural rental (assistance) programs, such as a Section 8 Welfare to Work Program, 202 Elderly Housing and Low Income Rentals, a Title VI Homeownership Program, and a Mortgage Assistance Program. In 2002, the Nation's Housing Authority obtained a drug elimination grant and used it to establish a cultural renewal program. That year, a total of 62 youth participated in research activities, interviewing elders, doing arts and crafts, studying language programs, playing traditional games, and listening to various presenters from the tribe and surrounding communities. Future goals include participation in community service projects, additional language programs, economic development in the form of entrepreneurship training, leadership skills training, and job shadowing.

The Cherokee Family Research Center, which houses a genealogical research library, is located in the Cherokee Heritage Center Museum. The archives include access to Dawes Rolls. The 44-acre facility, located in Park Hill, Oklahoma, includes a 1,500-seat outdoor amphitheater, Tsa-La-Gi Ancient Village, Adams Corner Rural Village and Farm, and the Cherokee National Museum. The museum features permanent and temporary exhibits, the annual Trail of Tears Art Show, and a shop where books, publications, and authentic arts and crafts are available for purchase.

The Nation opened its own Veteran's Office in 2001, and that same year they opened a tribal office in Washington, D.C.

Public Safety. Forest fires are combated by the Fire Dancers, an arm of the U.S. Forest Service Firefighters since 1988.

Education. There are numerous educational facilities throughout the Cherokee Nation from Head Start programs to advanced university education. The Children's Village Circle of Friend's complex includes a Child Care Resource Center, a pregnancy prevention program called "Serving Teens through Education," Even Start, and Head Start. The Nation's Education Department oversees programs that support educational opportunities for Cherokee students, preschool through graduate education. Special programs called Cherokee Nation Language Immersion Centers are key components of the Cultural Resource Center's efforts to work in collaboration with the schools to increase Native language usage among the Nation's youngsters.

Two comprehensive state-supported universities, the University of Oklahoma and Oklahoma State University, serve the area, and there are two medical schools and two private universities in nearby Tulsa. Northeastern State University is located in Tahlequah.

Sequoyah High School, an Indian boarding school, was originally established in Talequah in 1871 as an asylum for orphans of Civil War casualties. The 40-acre facility was sold to the Department of Interior in 1914, and in 1925 the name was changed to Sequoyah Orphan Training School. In November 1985, the Nation resumed operations, and the campus now consists of 90 acres and at least 12 classroom and dormitory buildings.

The Cherokee Nation Education Corporation, a nonprofit organization, sponsors a Memorial Scholarship Fund for application by any tribal resident of Adair County desiring to further their education beyond high school. Awards of up to \$2,000 may be obtained. The Nation also offers scholarships of \$1,000 per semester via the Cherokee Nation Higher Education Program.

Health Care. Throughout the Cherokee Nation, there are a number of health clinics and community health representative programs. Thirty hospitals serve the Cherokee Nation, including the W.W. Haslings Indian Hospital, the Claremore Indian Hospital and a Veterans Hospital in Muskogee. A cooperative agreement between the Cherokee Nation Health

Service and the NSU College of Optometry provides vision care via the Cherokee Rural Health Network. Chemical dependency can be treated at the Jack Brown Center, a residential treatment facility.

ENVIRONMENTAL CONCERNS

The Nation has its own Office of Environmental Protection and Environmental Health Program to ensure that all tribal facilities are operated in environmentally sound ways, encouraging tribal members to lead lives of ecological balance. The Nation's Environmental Health Program staff participates on an Inter-Tribal Environmental Council. The tribe preserves 25 acres of blue stem grass in Cherokee County, Oklahoma. Another 317 acres are preserved as native meadow in Kay County. Acreage dedicated to wildlife habitat preservation is set aside near Talequah. Issues of concern in 2004 included: 1) a tribal chicken farm that potentially threatens water quality in the surrounding area, and 2) involvement in a water-rights dispute with the U.S. Army Corps of Engineers over storage rights on Lake Tenkiller. The Nation claims full ownership of 14,000 acre-feet of rights under past treaties between the tribe and the federal government. There are 96 miles of Arkansas River bed crossing the Nation's lands.

Cherokee

Honoring Nations Honoree 2002

Cherokee Nation History Course, Department of Human Resources
Cherokee Nation (Talequah, Oklahoma)

Required as mandatory training for tribal employees, the Cherokee Nation History Course has given employees, both Cherokee and non-Cherokee alike, a stronger sense of pride and a better understanding of self-governance. Indeed, this successful and innovative history and leadership course has stimulated a shift in employees' and citizen's thinking. Tribal employees see themselves not only as service providers, but as leaders of their nation; tribal members no longer see themselves as mere recipients of services, but as active citizens of a sovereign nation.

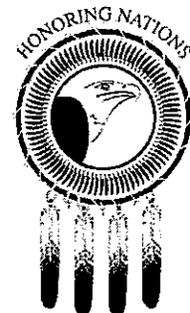
The Cherokee Nation has a long and well-documented history. In the eighteenth century, Cherokee citizens suffered from smallpox, genocidal warfare, and encroachment brought on by early white settlers. Later, in 1838, the US Government forcibly removed the Cherokees from their homelands in the eastern US to Oklahoma along the infamous "Trail of Tears." Thousands of Cherokees died en route. At the end of the nineteenth century, the Dawes Allotment Act—designed to assimilate Indians into mainstream society by privatizing Indian lands—brought about the calamitous loss of Cherokee lands in Oklahoma. Unfortunately, Cherokees fared no better in the twentieth century. In 1906, the US Government "dissolved" the Nation's elected government by federal legislation. In the Depression of the 1930s, a "second" or "economic" Trail of Tears occurred, as tens of thousands of Cherokees migrated away from the Cherokee country, seeking work in distant places, especially California and Texas. World War II and the relocation projects of the Bureau of Indian Affairs (BIA) created additional expatriates in the 1950s and 1960s, presenting further challenges to the Cherokee Nation's political and social cohesion.

Less known of the Cherokees is their history of innovation and adaptation in response to these destructive events. Especially notable is the Nation's unwavering commitment to educating its citizens and to preserving and exercising its governmental

powers. In the nineteenth century, the Nation adopted a first-of-its-kind syllabary of the Cherokee language, founded the first institution of higher learning for women west of the Mississippi, constructed a men's seminary, and opened 150 day schools, which represented the first system of co-educational public instruction in the world. The Cherokees attained a literacy rate of 90 percent—a rate three times higher than that of surrounding communities. In 1827, even before the Trail of Tears, the Cherokee Nation adopted a written constitution. After the removal—but 150 years prior to formal congressional recognition of the importance of tribal courts—the Cherokee Nation constructed a courthouse that stands to this day. In the 1970s, the Cherokee Nation rebounded from the disastrous federal policies of termination and relocation by formally reconstituting its government. Within several years, it reinstated the elections of a principal chief and rejuvenated the tripartite government that had been constitutionally established in the 1800s.

Regrettably, the Nation's enormous resilience and flexibility in the face of adversity has too often been overshadowed by the more commonly told stories of economic and political deprivation. Many Cherokee citizens, unaware of their long tradition of innovation and excellence, have been left feeling disempowered. Despite the reorganization of the Cherokee Nation in the 1970s, many Cherokees today have struggled to regain an understanding of their citizenry and sovereignty as a nation. Several years ago, a Cherokee tribal attorney overheard another tribal employee cut off a problem-solving conversation with the comment, "We can't do that. The Bureau of Indian Affairs won't let us." The employee's deference to the BIA revealed a failure to appreciate a history of innovation and adaptation by the Cherokee people.

In 1992, the tribal attorney organized a course to teach the legal history of the Cherokee Nation. Eventually it evolved into the Cherokee Nation History Course—a forty-hour college-level



Honoring Nations
Honoree 2002

Text in its entirety from:
The Harvard Project On
American Indian Economic
Development

John F. Kennedy School
of Government
Harvard University

To: Spell C. LLC (trademarkdocket@jmbm.com)
Subject: TRADEMARK APPLICATION NO. 77556232 - CHEROKEE MY DOLL - 57240-0777
Sent: 12/10/2008 7:46:01 AM
Sent As: ECOM107@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 12/10/2008 FOR
APPLICATION SERIAL NO. 77556232

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77556232&doc_type=OOA& (or copy and paste this URL into the address field of your browser), or visit <http://tmportal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 12/10/2008.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in**

the ABANDONMENT of your application.

Exhibit 15

Thursday, June 02, 2011

Text Siz

Search...

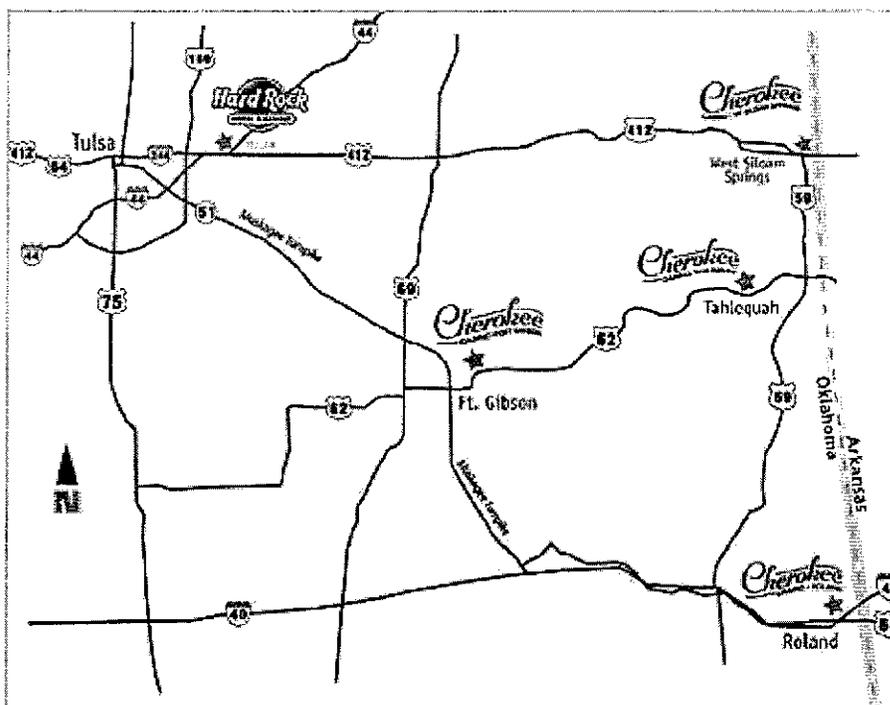
[Home](#) [Advantages](#) [Professionals](#) [Industries](#) [Employment](#) [Internships](#) [Sponsorships](#)

Cherokee Nation Entertainment is the gaming and hospitality arm of the Cherokee Nation. CNE owns and operates Hard F Hotel & Casino, seven Cherokee Casinos, Cherokee Casino Will Rogers Downs, three hotels, two golf courses and many retail operations in northeast Oklahoma. CNE's casinos, hotels and resort have made northeast Oklahoma the entertainment spot of the region. Each facility offers top-notch restaurants, gaming and entertainment that rivals Las Vegas.

The Driving Force

CNE is a driving force of the Cherokee Nation economy. CNE has brought more than 3,200 stable jobs with competitive benefits to northeast Oklahoma. It has also helped the Cherokee Nation increase funding to vital services such as, health care, housing, education and many other programs.

Cherokee Casino Locations



Our Industries

- Hospitality
- Environmental
- Industrial
- IT Services
- Economic Development

Our Advantages

- Advantages at a Glance
- Doing Business in the Cherokee Nation
- Investing and Partnering
- Types of Partnerships

Our Professionals

- Board of Directors
- Executive Staff
- Business Development
- Communications
- Legal
- Contracts and Risk Management
- Audit Services

© 2011 Cherokee Nation Businesses

Exhibit 16

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:49:27 ET

Serial Number: 77957542 Assignment Information Trademark Document Retrieval

Registration Number: 3835089

Mark



—WILL ROGERS DOWNS—

(words only): CHEROKEE CASINO WILL ROGERS DOWNS

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-08-17

Filing Date: 2010-03-12

Transformed into a National Application: No

Registration Date: 2010-08-17

Register: Principal

Law Office Assigned: LAW OFFICE 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-08-17

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Cherokee Nation Entertainment, L.L.C.

Address:

Cherokee Nation Entertainment, L.L.C.
777 West Cherokee
Catoosa, OK 74015
United States

Legal Entity Type: limited liability company chartered and wholly owned by the Cherokee Nation, a federally recognized Indian tribe

State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

Entertainment services, namely, conducting horse racing and rodeo events; horse training; horse showing; entertainment services, namely, casino gaming; casinos; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; providing casino facilities

Basis: 1(a)

First Use Date: 2005-12-00

First Use in Commerce Date: 2005-12-00

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Disclaimer: "CASINO" AND "DOWNS"

Description of Mark: The mark consists of the stylized words "Cherokee Casino", incorporating curved lines; over the words "Will Rogers Downs" in block letters, with multiple lines on each side thereof, along with a stylized horse and rider over the word "Cherokee".

Name Portrait Consent: The name "WILL ROGERS" does not identify a living individual.

Design Search Code(s):

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals;
Riding animals, humans

03.05.01 - Horses

26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)

26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal

26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Prior Registration Number(s):

2822523

2961563

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-08-17 - Registered - Principal Register
2010-06-01 - Notice Of Publication E-Mailed
2010-06-01 - Published for opposition
2010-04-27 - Law Office Publication Review Completed
2010-04-27 - Assigned To LIE
2010-04-14 - Approved for Pub - Principal Register (Initial exam)
2010-04-14 - Examiner's Amendment Entered
2010-04-14 - Notification Of Examiners Amendment E-Mailed
2010-04-14 - Examiners amendment e-mailed
2010-04-14 - Examiners Amendment -Written
2010-04-12 - Assigned To Examiner
2010-03-18 - Notice Of Design Search Code Mailed
2010-03-17 - New Application Office Supplied Data Entered In Tram
2010-03-16 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph D. Fincher

Correspondent

JOSEPH D. FINCHER
HALL ESTILL HARDWICK GABLE GOLDEN & NELS
320 S BOSTON AVE STE 200
TULSA, OK 74103-3705
Phone Number: (918) 594-0428
Fax Number: (918) 594-0505

Exhibit 17

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:50:52 ET

Serial Number: 78405555 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2961562

Mark



(words only): CHEROKEE HILLS GOLF CLUB

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-07-14

Filing Date: 2004-04-21

Transformed into a National Application: No

Registration Date: 2005-06-07

Register: Principal

Law Office Assigned: LAW OFFICE 116

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: M70 -TMO Law Office 116

Date In Location: 2010-07-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CHEROKEE NATION ENTERTAINMENT, L.L.C.

Address:

CHEROKEE NATION ENTERTAINMENT, L.L.C.
777 WEST CHEROKEE
CATOOSA, OK 74015
United States
Legal Entity Type: Limited Liability Company
State or Country Where Organized: (NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 041
Class Status: Active
Entertainment services; namely, providing golf course facilities
Basis: 1(a)
First Use Date: 2004-09-08
First Use in Commerce Date: 2004-09-08

ADDITIONAL INFORMATION

Color(s) Claimed: The colors green, brown and tan are claimed as a feature of the mark.

Description of Mark and Any Color Part(s): The design portion of the mark depicts a golfer completing his swing, with his shadow cast in the background. The jacket is green, the trousers and shoes are tan, and the socks are brown.

Disclaimer: "GOLF CLUB"

Design Search Code(s):

02.01.31 - Men, stylized, including men depicted in caricature form
02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
21.03.22 - Clubs for golf; Golf clubs; Putters for golf
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved
26.17.13 - Letters or words underlined and/or overlined by one or more strokes or lines; Overlined words or letters; Underlined words or letters

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-07-14 - Section 8 (6-year) accepted & Section 15 acknowledged

2010-07-14 - Case Assigned To Post Registration Paralegal

2010-06-25 - TEAS Section 8 & 15 Received
2009-07-08 - Automatic Update Of Assignment Of Ownership
2008-05-21 - Automatic Update Of Assignment Of Ownership
2005-06-07 - Registered - Principal Register
2005-03-18 - Law Office Registration Review Completed
2005-03-11 - Assigned To LIE
2005-03-04 - Allowed for Registration - Principal Register (SOU accepted)
2005-03-03 - Statement Of Use Processing Complete
2005-02-15 - Use Amendment Filed
2005-02-15 - TEAS Statement of Use Received
2005-01-04 - NOA Mailed - SOU Required From Applicant
2004-10-12 - Published for opposition
2004-09-22 - Notice of publication
2004-08-03 - Law Office Publication Review Completed
2004-07-30 - Assigned To LIE
2004-07-28 - Approved For Pub - Principal Register
2004-07-28 - Examiners amendment e-mailed
2004-07-16 - Assigned To Examiner
2004-05-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph D. Fincher

Correspondent

Joseph D. Fincher

Hall Estill Hardwick Gable Golden & Nels

320 S. Boston Ave., Suite 200

TULSA OK 74103-3706

Phone Number: (918) 594-0428

Fax Number: (918) 594-0505

Exhibit 18

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:51:31 ET

Serial Number: 77265446 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3426163

Mark

TEAM CHEROKEE

(words only): TEAM CHEROKEE

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-05-13

Filing Date: 2007-08-27

Transformed into a National Application: No

Registration Date: 2008-05-13

Register: Principal

Law Office Assigned: LAW OFFICE 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-05-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CHEROKEE NATION ENTERTAINMENT, L.L.C.

Address:

CHEROKEE NATION ENTERTAINMENT, L.L.C.
777 WEST CHEROKEE
CATOOSA, OK 74015
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: (NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes

Basis: 1(a)

First Use Date: 2006-08-06

First Use in Commerce Date: 2006-08-06

International Class: 041

Class Status: Active

conducting and providing facilities for special events featuring casino and gaming contests and tournaments; gambling services; casinos; conducting and providing facilities for special events featuring casino and gaming contests and tournaments; entertainment services, namely, arranging and conducting of competitions for casinos and gaming events; entertainment in the nature of competitions in the field of casinos and gaming; providing casino facilities; providing facilities for gaming tournaments; entertainment in the nature of gaming tournaments; entertainment services, namely, conducting live poker, blackjack and other Class II and III card game tournaments

Basis: 1(a)

First Use Date: 2006-08-06

First Use in Commerce Date: 2006-08-06

ADDITIONAL INFORMATION

Prior Registration Number(s):

2961563

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-08 - Automatic Update Of Assignment Of Ownership

2008-05-21 - Automatic Update Of Assignment Of Ownership
2008-05-13 - Registered - Principal Register
2008-02-26 - Published for opposition
2008-02-06 - Notice of publication
2008-01-19 - Law Office Publication Review Completed
2008-01-19 - Assigned To LIE
2007-12-06 - Approved for Pub - Principal Register (Initial exam)
2007-12-06 - Examiner's Amendment Entered
2007-12-06 - Notification Of Examiners Amendment E-Mailed
2007-12-06 - Examiners amendment e-mailed
2007-12-06 - Examiners Amendment -Written
2007-12-05 - TEAS Voluntary Amendment Received
2007-12-04 - Assigned To Examiner
2007-12-04 - Assigned To Examiner
2007-08-30 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph D. Fincher

Correspondent

JOSEPH D. FINCHER
HALL ESTILL HARDWICK GABLE GOLDEN & NELS
320 S. BOSTON AVE., SUITE 400
TULSA, OK 74103-3708
Phone Number: (918) 594-0428
Fax Number: (918) 594-0505

Exhibit 19

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:52:21 ET

Serial Number: 77557222 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3690437

Mark

CHEROKEE STAR REWARDS

(words only): CHEROKEE STAR REWARDS

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-09-29

Filing Date: 2008-08-27

Transformed into a National Application: No

Registration Date: 2009-09-29

Register: Principal

Law Office Assigned: LAW OFFICE 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-08-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CHEROKEE NATION ENTERTAINMENT, L.L.C.

Address:

CHEROKEE NATION ENTERTAINMENT, L.L.C.
777 WEST CHEROKEE
CATOOSA, OK 74015
United States

Legal Entity Type: LIMITED LIABILITY COMPANY OWNED BY AND CHARTERED UNDER THE LAWS OF THE CHEROKEE NATION, A FEDERALLY RECOGNIZED INDIAN TRIBE.

State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

Providing casino services featuring stored value membership cards for redeeming cash, discounts and other benefits

Basis: 1(a)

First Use Date: 2008-08-00

First Use in Commerce Date: 2008-08-00

ADDITIONAL INFORMATION

Disclaimer: "REWARDS"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-09-29 - Registered - Principal Register

2009-08-26 - Law Office Registration Review Completed

2009-08-21 - Allowed for Registration - Principal Register (SOU accepted)

2009-08-21 - Examiner's Amendment Entered

2009-08-21 - Notification Of Examiners Amendment E-Mailed

2009-08-21 - EXAMINERS AMENDMENT E-MAILED

2009-08-21 - SU-Examiner's Amendment Written

2009-08-20 - Statement Of Use Processing Complete

2009-07-21 - Use Amendment Filed
2009-08-20 - Case Assigned To Intent To Use Paralegal
2009-07-21 - TEAS Statement of Use Received
2009-07-08 - Automatic Update Of Assignment Of Ownership
2009-06-09 - NOA Mailed - SOU Required From Applicant
2009-03-17 - Published for opposition
2009-02-25 - Notice of publication
2009-02-12 - Law Office Publication Review Completed
2009-02-12 - Assigned To LIE
2009-02-04 - Approved For Pub - Principal Register
2009-02-04 - Examiner's Amendment Entered
2009-02-04 - Notification Of Examiners Amendment E-Mailed
2009-02-04 - EXAMINERS AMENDMENT E-MAILED
2009-02-04 - Examiners Amendment -Written
2009-01-08 - Teas/Email Correspondence Entered
2009-01-07 - Communication received from applicant
2009-01-07 - TEAS Response to Office Action Received
2008-09-17 - Notification Of Non-Final Action E-Mailed
2008-09-17 - Non-final action e-mailed
2008-09-17 - Non-Final Action Written
2008-09-11 - Assigned To Examiner
2008-09-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Joseph D. Fincher

Correspondent

JOSEPH D. FINCHER
HALL ESTILL HARDWICK GABLE GOLDEN & NELS
320 S. BOSTON AVE., SUITE 200
TULSA, OK 74103-3708
Phone Number: (918) 594-0428
Fax Number: (918) 594-0505

Exhibit 20

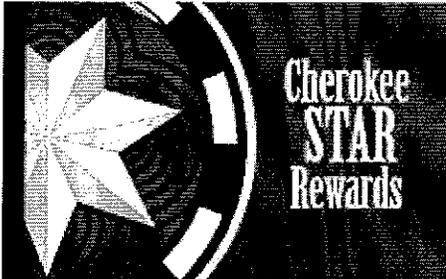
Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:52:04 ET

Serial Number: 77557255 Assignment Information Trademark Document Retrieval

Registration Number: 3693880

Mark



(words only): CHEROKEE STAR REWARDS

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2009-10-06

Filing Date: 2008-08-27

Transformed into a National Application: No

Registration Date: 2009-10-06

Register: Principal

Law Office Assigned: LAW OFFICE 107

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-09-02

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CHEROKEE NATION ENTERTAINMENT, L.L.C.

Address:

CHEROKEE NATION ENTERTAINMENT, L.L.C.
777 WEST CHEROKEE
CATOOSA, OK 74015
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

arranging and conducting incentive reward programs to promote the sale of gaming, casino, hotel and resort services

Basis: 1(a)

First Use Date: 2008-08-00

First Use in Commerce Date: 2008-08-00

ADDITIONAL INFORMATION

Color(s) Claimed: The color(s) red, white, black and gray is/are claimed as a feature of the mark.

Disclaimer: "REWARDS"

Description of Mark: The mark consists of the words "CHEROKEE STAR REWARDS" in white, located to the right of the seven pointed "Cherokee" Nation star symbol in gray and white, surrounded by an alternating white and black circle, all on a red background.

Design Search Code(s):

01.01.05 - Stars - one or more stars with seven or more points

01.01.11 - Incomplete stars; Stars, incomplete

26.01.03 - Circles, incomplete (more than semi-circles); Incomplete circles (more than semi-circles)

26.01.05 - Circles made of broken or dotted lines

26.01.12 - Circles with bars, bands and lines

26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles

26.01.21 - Circles that are totally or partially shaded.

26.11.21 - Rectangles that are completely or partially shaded

Prior Registration Number(s):

2961562

2961563

3426163

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-10-06 - Registered - Principal Register

2009-09-02 - Law Office Registration Review Completed

2009-09-01 - Allowed for Registration - Principal Register (SOU accepted)

2009-08-20 - Statement Of Use Processing Complete

2009-07-21 - Use Amendment Filed

2009-08-20 - Case Assigned To Intent To Use Paralegal

2009-07-21 - TEAS Statement of Use Received

2009-07-08 - Automatic Update Of Assignment Of Ownership

2009-05-26 - NOA Mailed - SOU Required From Applicant

2009-03-03 - Published for opposition

2009-02-11 - Notice of publication

2009-01-28 - Law Office Publication Review Completed

2009-01-28 - Assigned To LIE

2009-01-15 - Approved For Pub - Principal Register

2009-01-10 - Teas/Email Correspondence Entered

2009-01-08 - Communication received from applicant

2009-01-08 - TEAS Response to Office Action Received

2008-09-16 - Notification Of Non-Final Action E-Mailed

2008-09-16 - Non-final action e-mailed

2008-09-16 - Non-Final Action Written

2008-09-11 - Assigned To Examiner

2008-09-03 - Notice Of Design Search Code Mailed

2008-09-02 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph D. Fincher

Correspondent

JOSEPH D. FINCHER
HALL ESTILL HARDWICK GABLE GOLDEN & NELS
320 S. BOSTON AVE., SUITE 200
TULSA, OK 74103-3708
Phone Number: (918) 594-0428
Fax Number: (918) 594-0505

Exhibit 21

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:48:49 ET

Serial Number: 78405573 Assignment Information Trademark Document Retrieval

Registration Number: 2961563

Mark



(words only): CHEROKEE CASINO RESORT

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2005-06-07

Filing Date: 2004-04-21

Transformed into a National Application: No

Registration Date: 2005-06-07

Register: Principal

Law Office Assigned: LAW OFFICE 116

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-04-25

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CHEROKEE NATION ENTERTAINMENT, L.L.C.

Address:

CHEROKEE NATION ENTERTAINMENT, L.L.C.
777 WEST CHEROKEE
CATOOSA, OK 74015
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: (NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

Entertainment services, namely, providing golf course and gaming facilities

Basis: 1(a)

First Use Date: 2004-09-08

First Use in Commerce Date: 2004-09-08

International Class: 043

Class Status: Active

Resort lodging, hotel, restaurant and bar services

Basis: 1(a)

First Use Date: 2004-09-08

First Use in Commerce Date: 2004-09-08

ADDITIONAL INFORMATION

Color(s) Claimed: The colors red, black, white and gray are claimed as a feature of the mark.

Description of Mark and Any Color Part(s): The mark consists of a stylized version of the Seal of the Cherokee Nation in black, red, white and gray.

Disclaimer: "CASINO" and "RESORT"

Design Search Code(s):

01.01.05 - Stars - one or more stars with seven or more points

26.01.07 - Circles with a decorative border, including scalloped, ruffled and zig-zag edges

26.01.20 - Circles within a circle

26.01.21 - Circles that are totally or partially shaded.

26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

26.17.13 - Letters or words underlined and/or overlined by one or more strokes or lines; Overlined words or letters; Underlined words or letters

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-08 - Automatic Update Of Assignment Of Ownership
2008-05-21 - Automatic Update Of Assignment Of Ownership
2005-06-07 - Registered - Principal Register
2005-03-18 - Law Office Registration Review Completed
2005-03-18 - Assigned To LIE
2005-03-04 - Allowed for Registration - Principal Register (SOU accepted)
2005-03-03 - Statement Of Use Processing Complete
2005-02-15 - Use Amendment Filed
2005-02-15 - TEAS Statement of Use Received
2005-01-04 - NOA Mailed - SOU Required From Applicant
2004-10-12 - Published for opposition
2004-09-22 - Notice of publication
2004-08-03 - Law Office Publication Review Completed
2004-07-30 - Assigned To LIE
2004-07-28 - Approved For Pub - Principal Register
2004-07-28 - Examiners amendment e-mailed
2004-07-16 - Assigned To Examiner
2004-05-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph D. Fincher, Esq.

Correspondent

Joseph D. Fincher, Esq.
Hall, Estill, Hardwick, Gable, Golden &
320 South Boston Ave., Suite 400
Tulsa, OK 74103-3708

Phone Number: (918) 594-0428

Fax Number: (918) 594-0505

Exhibit 22

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-06-16 14:53:05 ET

Serial Number: 78336636 Assignment Information Trademark Document Retrieval

Registration Number: 2893642

Mark

BLUE RIBBON DOWNS

(words only): BLUE RIBBON DOWNS

Standard Character claim: Yes

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2011-04-28

Filing Date: 2003-12-04

Transformed into a National Application: No

Registration Date: 2004-10-12

Register: Principal

Law Office Assigned: LAW OFFICE 116

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: M70 -TMO Law Office 116

Date In Location: 2011-04-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CHEROKEE NATION ENTERTAINMENT, LLC

Address:

CHEROKEE NATION ENTERTAINMENT, LLC
777 WEST CHEROKEE STREET
CATOOSA, OK 740150399
United States
Legal Entity Type: LLC
State or Country Where Organized: United States

GOODS AND/OR SERVICES

International Class: 036

Class Status: Active

Provision of horse track services, namely, on-track, off-track and inter-track betting and wagering services

Basis: 1(a)

First Use Date: 1963-00-00

First Use in Commerce Date: 1963-00-00

International Class: 041

Class Status: Active

Entertainment services, namely, organizing and conducting live and simulcast horse racing; provision of horse track services, namely conducting horse races, organizing and conducting pre- and post-race activities, namely providing party facilities rental services at racetracks for businesses and organizations; providing pre- and post-race entertainment services in the nature of live music performances at racetracks; providing pre- and post-race entertainment services in the nature of car shows and exhibitions at racetracks; and providing live commentary of horse races

Basis: 1(a)

First Use Date: 1963-00-00

First Use in Commerce Date: 1963-00-00

ADDITIONAL INFORMATION

Disclaimer: "DOWNS"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-04-28 - Section 8 (6-year) accepted & Section 15 acknowledged

2011-04-27 - Case Assigned To Post Registration Paralegal

2011-04-12 - TEAS Section 8 & 15 Received

2010-10-25 - Attorney Revoked And/Or Appointed
2010-10-25 - TEAS Revoke/Appoint Attorney Received
2010-10-13 - Automatic Update Of Assignment Of Ownership
2004-10-12 - Registered - Principal Register
2004-07-20 - Published for opposition
2004-06-30 - Notice of publication
2004-04-30 - Approved for Pub - Principal Register (Initial exam)
2004-04-30 - EXAMINERS AMENDMENT E-MAILED
2004-04-16 - Communication received from applicant
2004-04-19 - Email Received
2004-01-29 - Non-final action e-mailed
2004-01-28 - Assigned To Examiner
2003-12-30 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph D. Fincher

Correspondent

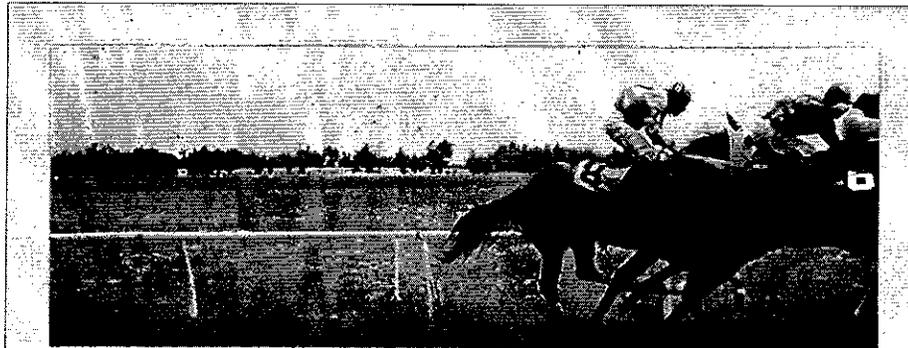
Joseph D. Fincher
Hall Estill Hardwick Gable Golden & Nels
320 S. BOSTON AVE., SUITE 200
TULSA OK 74103-3706
Phone Number: (918) 594-0428
Fax Number: (918) 594-0505

Exhibit 23

PROMOTIONS | CASINOS | ACCOMMODATIONS | MEETINGS & EVENTS | CHEROKEE TOURISM



- [Overview](#)
- [The Races](#)
- [Casino Games](#)
- [Nightlife](#)
- [Dining](#)
- [RV & Group Tours](#)
- [Meetings & Events](#)
- [Promotions](#)
- [Star Stories](#)



The Races

The sport of horse racing is like no other. The pounding hooves and pounding hearts give the sport its own rhythm, its own intensity, even its own language. At Will Rogers Downs, you'll experience the thrill of horse racing at its best.

Watch lightning fast quarterhorse racing September through November and thoroughbred racing from March to May. Some of the fastest Thoroughbred, Quarter, Paint and Appaloosa horses from Oklahoma and around the country will be on our track for the 2011 season. For more horse racing action, check out our simulcast rooms with more than 100 screens broadcasting live racing daily.

Race dates and post times are subject to change and additions without prior notice.

Racing photography provided by Coady Photography.
For reorders call 214-455-7732 or visit coadyphotography.com

- [Stall App and Horseman's Info](#)
- [Entries](#)
- [Overnight](#)
- [Result Charts](#)
- [Workouts](#)
- [Stake Nominations](#)
- [Past Performance Programs](#)
- [Informacion en Español](#)

TB SPRING MEET 2011

[CONDITION BOOK #3](#)

[INDEX BOOK #3](#)

[JOCKEY AGENTS!!](#)

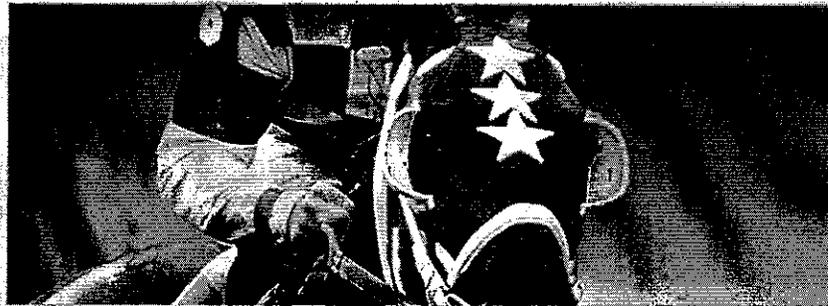
[2011 Race Day Calendar-REVISED RACING BEGINS](#)
[MAR. 7, 2011](#)

[Contact](#) | [Career Opportunities](#) | [Press Room](#) | [Tax Information](#) | [Play Smart](#) | [Privacy Statement](#) | [Terms of Use](#)
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PROMOTIONS | CASINOS | ACCOMMODATIONS | MEETINGS & EVENTS | CHEROKEE TOURISM



- Overview
- The Races
- Casino Games
- Nightlife
- Dining
- RV & Group Tours
- Meetings & Events
- Promotions
- Star Stories



Overview

Just 20 minutes from downtown Tulsa, you can experience the thrill of Oklahoma's #1 racino - Cherokee Casino Will Rogers Downs offers all the exciting casino gaming action you could want and a whole lot more.

Experience the thrill of live horse racing with trackside excitement including quarterhorse racing September through November and thoroughbred racing from March to May and hot simulcast racing action from around the country every day. The new casino and entertainment complex, open seven days a week, features exciting Las Vegas style electronic games and video poker. If you love great food, fabulous entertainment and dancing, then northeast Oklahoma's newest hotspot, Dog Iron Saloon is the place to be.

- One-mile racetrack
- 1/2 mile training track
- 2,700 grandstand seats
- 250 electronic gaming machines
- 100 simulcast TVs
- Turf Club seating for up to 400 people
- Over 42,000 sq ft of meeting/banquet space
- Dog Iron Saloon
- Mercedes Room
- 400 RV hook-ups
- RV guest clubhouse
- 600 horse stalls
- Paved Parking

Must be 18 years of age and have valid photo ID to wager on horses and play electronic gaming machines. Must be 21 years of age and have valid photo ID to enter bar area or drink alcoholic beverages at the Dog Iron Saloon.

Links

- [Thoroughbred Racing Association of Oklahoma](#)
- [Oklahoma Racing Information](#)

Monday – Thursday
11 a.m. – 1 a.m.

Friday
11 a.m. – 4 a.m.

Saturday
10 a.m. – 4 a.m.

Sunday
10 a.m. – 1 a.m.

Simulcast
Daily at 10 a.m.
[Simulcast Calendar](#)

Exhibit 24

Exhibit 25

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77663620
LAW OFFICE ASSIGNED	LAW OFFICE 107
MARK SECTION (no change)	
ADDITIONAL STATEMENTS SECTION	
SECTION 2(f) BASED ON EVIDENCE	The mark has become distinctive of the goods/services, as demonstrated by the attached evidence.
2(f) EVIDENCE FILE NAME(S)	<u>\\TICRS\EXPORT8\IMAGEOUT8</u> <u>\\776\636\77663620\xml1\RO A0002.JPG</u>
	<u>\\TICRS\EXPORT8\IMAGEOUT8</u> <u>\\776\636\77663620\xml1\RO A0003.JPG</u>
SECTION 2(i)	The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.
MISCELLANEOUS STATEMENT	The applicant would like to clarify that her "Cherokee Arabians" mark is used for her business in breeding "Arabian" horses, NOT Cherokee horses. The word "Cherokee" refers to her own Heritage. Ms. Taylor is a descendant of the Cherokee Native American people. As such, her "Cherokee Arabians" brand reflects the adaptation of the Cherokee people's tradition in breeding ethics to the separate "Arabian" breed of horses. These Arabian horses are descendants from the desert horses developed over 2000 years ago in the Middle East. This is also evident in the pictures attached to this response that are available at www.CherokeeArabians.com . These pictures, showing the applicant dressed in Cherokee clothing with the Arabian horses, document the distinctive description of the Cherokee people in conjunction with Arabian horses.
SIGNATURE SECTION	
DECLARATION SIGNATURE	/s/
SIGNATORY'S NAME	Sonja Taylor

SIGNATORY'S POSITION	Owner
DATE SIGNED	10/31/2009
RESPONSE SIGNATURE	/slt/
SIGNATORY'S NAME	Sonja Taylor
SIGNATORY'S POSITION	Owner
DATE SIGNED	10/31/2009
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Sat Oct 31 10:54:49 EDT 2009
TEAS STAMP	USPTO/ROA-76.106.5.30-200 91031105449347693-7766362 0-4607e7bc4362cd6827f6328 25a54af73530-N/A-N/A-2009 1031103810172604

PTO Form 1957 (Rev 9/26/05)
OMB No. 0651-0050 (Exp. 04/30/2011)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77663620** has been amended as follows:

ADDITIONAL STATEMENTS

Section 2(f), based on Evidence

The mark has become distinctive of the goods/services, as demonstrated by the attached evidence.

[2\(f\) evidence-1](#)

[2\(f\) evidence-2](#)

Section 2(f), based on Use

The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.

The applicant would like to clarify that her "Cherokee Arabians" mark is used for her business in breeding "Arabian" horses, NOT Cherokee horses. The word "Cherokee" refers to her own Heritage. Ms. Taylor is a descendant of the Cherokee Native American people. As such, her "Cherokee Arabians" brand reflects the adaptation of the Cherokee people's tradition in breeding ethics to the separate "Arabian" breed of horses. These Arabian horses are descendants from the desert horses developed over 2000 years ago in the Middle East. This is also evident in the pictures attached to this response that are available at

www.CherokeeArabians.com. These pictures, showing the applicant dressed in Cherokee clothing with the Arabian horses, document the distinctive description of the Cherokee people in conjunction with Arabian horses.

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 244. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /slt/ Date: 10/31/2009

Signatory's Name: Sonja Taylor

Signatory's Position: Owner

Response Signature

Signature: /slt/ Date: 10/31/2009

Signatory's Name: Sonja Taylor

Signatory's Position: Owner

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

Serial Number: 77663620

Internet Transmission Date: Sat Oct 31 10:54:49 EDT 2009

TEAS Stamp: USPTO/ROA-76.106.5.30-200910311054493476

93-77663620-4607e7bc4362cd6827f632825a54

af73530-N/A-N/A-20091031103810172604





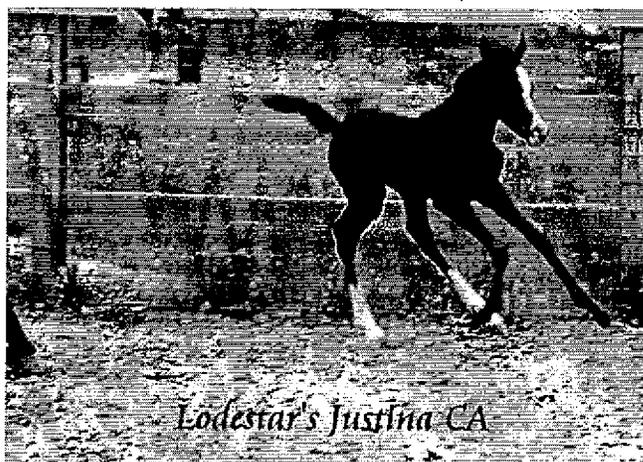
Exhibit 26



Cherokee Arabians ®
Cherokee Ranch

[Home](#)  [Our Stallions](#)  [Sale Horses](#)  [Contact](#)  [Videos & Links](#)

■ Home



Welcome to our Farm!

Cherokee Ranch started with a little girls dream. There is nothing better than to be able to live your passion. Cherokee Ranch/Cherokee Arabians was born, breeding Straight Egyptian Arabians, Arabians, and Paints. Being of Native American descent, I have strived to keep true to the Native American discriminative breeding practices; Beautiful athletic horses, great conformation coupled with willing trainable minds. The passion for the American Paint Horse, I come by quite honestly. The Native Americans believe they are a gift from the Great Spirit.

A beautiful Half-Arabian bay mare was my first horse. Once being around these majestic horses, I can't imagine ever being without them.

~~~~~

## THE EXQUISITE ARABIAN

From the ancient deserts of the Middle East evolved the oldest known breed of riding horse the Arabian. Even King Solomon, in all his wisdom, "...had horses brought out of Egypt." And he had "...forty thousand stalls of horses for his chariots and twelve thousand horsemen." Indeed, the heritage of the Egyptian Arabian evokes images of classic beauty and heroic gallantry. It is easy to understand why they have been admired and sought after by Kings, Pharaohs, and mankind throughout the ages. The Egyptian Arabian horse has been valued as an extremely productive source of the classic refinement for which the Arabian breed is well-known. Trace in every line of its pedigree to horses born in Arabia Deserta. Because the Arabian was bred and reared in close contact with man from the earliest records, the Arabian developed an unequalled ability to bond with humans. The Arabian is gentle, affectionate and has maintained a reputation as the horse of beauty, intelligence, courage, endurance and romance. The Straight Egyptian Arabian accounts for less the 3% of the total Arabian horse population. The Arabians have a way of captivating you and you are never the same!



### Cherokee Ranch

#### Our Performance Quarter Horses and Paints

Our main focus is in breeding Arabians and Arabian crosses. We still have a few Quarter Horses and Paints. The Paint and Arabian crosses will continue here at Cherokee Arabians. In our news flash above is the product of our cross with our APHA Overo Paint mare and our Black Straight Egyptian Stallion, Cherokees Lodestar.

Photo of Sheza Smart Cherokee as a yearling with some of our other horses, who have gone on to new homes, looking on. Sheza Smart Cherokee (Smart Colonel (Smart Chic Olena) X Miss Caans Image) Sheza Smart Cherokee is a Cutting/Reining bred Quarter horse mare and sells with a discounted breeding to our stallion.



**Kali, in far left, is one of our Arabian mares, she is still a part of our breeding program.**



**Kali, Rebel, Elvis and Lady awaiting to see the new foal.**

**Please do not hesitate to contact us at anytime, inquiries are always welcome. Please check back as our website is being constructed.**

**Thank You and God Bless,**

**Sonja Taylor**

**John 3:16**

**Cherokee Arabians is a registered trademark  
© 2008 Cherokee Arabians**

**HOME ■ OUR STALLIONS ■ SALE HORSES ■ CONTACT ■ VIDEOS & LINKS**  
2008 Cherokee Arabians ©

| WORK RECORD EFFECT. DATE       | SESSION TRANS. | CLIENT MATTER | NAME DESCRIPTION     | MATTER TYPE  | RATE SET | HOURS | RECORDED RATE | VALUE  | DESCRIPTION                                                                                                                 |
|--------------------------------|----------------|---------------|----------------------|--------------|----------|-------|---------------|--------|-----------------------------------------------------------------------------------------------------------------------------|
| 05/23/11                       | 543358         | 320327        | Edison MissionEnergy | BIL STANDARD |          | .10   | 160.00        | 16.00  | Various emails from Grace re corporate document status.                                                                     |
| 06/01/11                       | 3              | 02010         | Taloga Wind          | UNBILLED     |          |       |               |        |                                                                                                                             |
| 05/23/11                       |                |               | LOCATION: TUL Tulsa  |              |          |       |               |        |                                                                                                                             |
| 05/23/11                       | 543358         | 610261        | Magoon, Bruce        | BIL STANDARD |          | .10   | 160.00        | 16.00  | Emails with B. Connally and A. Wolov re Form BAT190 filing.                                                                 |
| 06/01/11                       | 1              | 00700         | General              | UNBILLED     |          |       |               |        |                                                                                                                             |
| 05/23/11                       |                |               | LOCATION: TUL Tulsa  |              |          |       |               |        |                                                                                                                             |
| 05/23/11                       | 543358         | 912882        | TD WilliamsonJrTrust | BIL STANDARD |          | .20   | 160.00        | 32.00  | Telephone conference and email with A. Wolov re information for TD Williamson Trust accounting. Research emails and resend. |
| 06/01/11                       | 2              | 00575         | Estate Planning      | UNBILLED     |          |       |               |        |                                                                                                                             |
| 05/23/11                       |                |               | LOCATION: TUL Tulsa  |              |          |       |               |        |                                                                                                                             |
| 05/23/11                       | 543358         | 990535        | Zenergy, Inc.        | BIL STANDARD |          | 2.10  | 160.00        | 336.00 | Draft four (4) General Warranty Deeds. Research Tulsa County land records for 2251 E. 7th Street.                           |
| 06/01/11                       | 4              | 02628         | Zinke, Robt&DebraTax | UNBILLED     |          |       |               |        |                                                                                                                             |
| 05/23/11                       |                |               | LOCATION: TUL Tulsa  |              |          |       |               |        |                                                                                                                             |
| 05/23/11                       | 543360         | 999910        | FIRM VACATION        | NON NONBILL  |          | 5.50  | 160.00        | 880.00 | Vacation.                                                                                                                   |
| 06/01/11                       | 1              | 00010         | VACATION             | NONBILLABLE  |          |       |               |        |                                                                                                                             |
| 05/23/11                       |                |               | LOCATION: TUL Tulsa  |              |          |       |               |        |                                                                                                                             |
| TOTALS FOR WORK DATE 05/23/11: |                |               |                      |              |          |       |               |        |                                                                                                                             |
| GRAND TOTALS:                  |                |               |                      |              |          |       |               |        | 1,280.00                                                                                                                    |
| GRAND TOTALS:                  |                |               |                      |              |          |       |               |        | 1,280.00                                                                                                                    |

# Exhibit 27



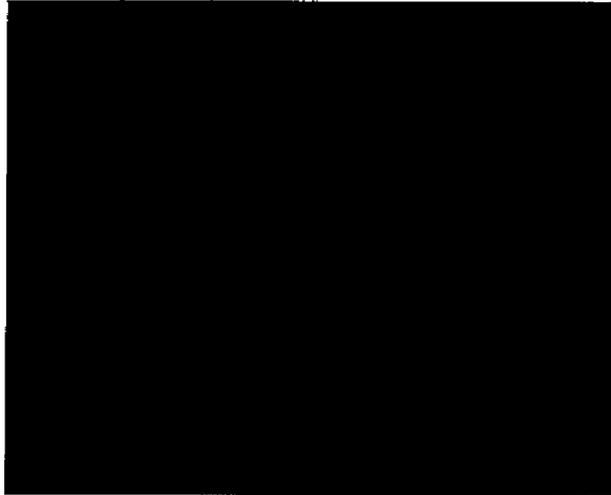
*Cherokee Arabians* ®  
*Cherokee Ranch*

Home  Our Stallions  Sale Horses  Contact  Videos & Links

■ Videos & Links

Some videos can be viewed on the following links:

**Maxs Lady: APHA, Parade of Breeds 2007**



**Cherokees Lodestar; 2004 Straight Egyptian Stallion, This video was made by my son. This is the first time Lodestar had ever left home, though not conditioned, I made the decision to take him to the expo to give him experience of arena and crowds. He was so well behaved, even after spending the night with a mare in heat on the other side of his stall. This was taken care of quickly of course. He was well mannered and I was quite pleased. He will be going into Western Pleasure training this spring.**

**Cherokees Tornado; ( Gatsby CC x April Sonata)**

**\*This video was made in Dec. 2005, 10 months after a head reconstruction surgery, during the New Year's Eve celebrating of fireworks nearby, a scared filly reared up and crushed Tornado's head and eye orbit as she came down with her hoof, and 6 months after a surgery to fuse his upper and lower pastern from an injury he sustained as a 4 month old...He has more heart and character than you can possibly imagine and to add to the travesty, he can never be shown. After this video was made, at the 2006 European Egyptian Event Gatsby CC, Tornado's sire, garnered the Reserve Champion Senior Stallion honors and at the 2006 Egyptian Classic Cup was named Senior Champion Stallion. Gatsby is a multiple winner in Europe. Cherokee Arabians currently own three of his offspring.**

**Tornado video in 2008: Though he is a little dirty, those of you who have watched the video made in 2005 will appreciate this guy having a good run. Tornado had 3 surgeries in a span of less than two years. After each, of which he had a 6 month stall/small paddock recovery period. Tornado has more heart than I could ever try to put into words...**

**CA Amir Al Adeed; April 2007, Grey  
(Al Adeed Al Shaqab X Minstril Serenade) This video was taken at 3 weeks  
old and he is now yearling. He is currently for sale and reasonably priced,  
must sell as I have too many stallions.**

**Channel with all videos:**

**<http://www.youtube.com/indianprincess7>**

**\*\*\*\*\*Be sure to read about the videos!\*\*\*\*\***

**HOME ■ OUR STALLIONS ■ SALE HORSES ■ CONTACT ■ VIDEOS & LINKS**

**2008 Cherokee Arabians ®**

# Exhibit 28

Search

Browse

Movies

Upload

Create Account

Sign In



**American Paint Horse at the PARADE OF BREEDS 2007**

2:28  
 Added: 3 years ago  
 From: indianprincess7  
 Views: 18,698

Sort by time | Sort by thread (beta)

All Comments (18)

[see all](#)

Beautiful costume! YOU LOOK GREAT!  
 All you need now is bareback! AWESOME  
 windsocolor 1 year ago

Hi Sonja,  
 Watching you presenting Lady and reading the comments given, I noticed that something is missing:  
 So far nobody told you, that you did an excellent job riding Lady!  
 Your seat and position show that you are an experienced rider, and the gentle way how you make her sidestep is very good.  
 Congratulations for great riding!  
 But that was 2 years ago.  
 I wonder whether we could see that princess again, riding her beautiful horse now?  
 Is the princess still active riding?  
 heinzstoffregen 1 year ago

american paints are stunning  
 bethanwiltshire 1 year ago

Could you tell me how to get info on this. Im new to Louisiana and this looks like fun!!  
 angel06flyboy 2 years ago

Very pretty paint!! I have a paint stallion!! Do they do this every year.?  
 angel06flyboy 3 years ago

Yes, they do this every year.  
 indianprincess7 2 years ago

I love his markings!  
 hannahrocks945 3 years ago

Lady is a mare. She has a beautiful new foal on the ground, the filly was born in April 2008. Lady is in foal with her in this video.  
 Check out my website to see the filly.  
 indianprincess7 3 years ago

Let all the Grate spirits watch over us natives and keep us safe from harm.  
 GymGirlColorado 3 years ago

Beautiful horse! Love the markings!  
 TxRopinCowgirl 3 years ago

im proud to be part native  
 GymGirlColorado 3 years ago

this is a really good video I love the horse.  
 GymGirlColorado 3 years ago

Nice job girlfriend. I am very proud of you. You said in the previous post that you were half Cherokee. Which half? From the waist up? Or the waist down? Just curious. :)  
 Dwight  
 MIGHTSPIKE 3 years ago

Part Cherokee, not half...the Native American is in the heart and soul as well not just in the blood. By the way...you haven't changed...still always the comedian!  
 indianprincess7 3 years ago

I am also part cherokee, not alot though. Only 1/16 or 1/32... something like that. The rest of me is all Celtic and Irish... weird combo.. haha.  
 iRIDE2010 3 years ago

this is a good video  
 GymGirlColorado 3 years ago

that is a pretty horse and that is a cool dance.  
 GymGirlColorado 3 years ago

wow indain are so cool and im two parts of indain and im glad to be indain.

GymGirlColorado 3 years ago

I had paint once and the horse was part broken and the owner did not tell us that it was borken and the horse bucked me off and i thought my back was broken but it did not break and i was dam lucky my life was on the line.

GymGirlColorado 3 years ago

I am part Cherokee, and I JUST bought a Sorrel Overo Paint, 3 days ago! I call him 'Frankie Blue Eye' (he has 1 gorgeous blue eye)- I added to his registered name 'Sonshine Dandy' watch for videos soon!!

Evalani22 3 years ago

Congratulations! Let me know when they are posted.

indianprincess7 3 years ago

Great vid..I love the paint horses and the attire of the lady ..what great riders and show horses! wow! 5+Stars! Had seen you sent this in response to my Tribute vid, but it wasn't there when I went to approve it...would love for you to resend...this is a beautiful vid...

mariecs1969 3 years ago

Thank you for the positive feedback. I screen all comments because there are too many mean spirited people in this world with foal mouths.. The Lady is myself and I am wearing Traditional Native American Dress, it is a buckskin dress made by a very talented lady in N.C.

indianprincess7 3 years ago

Thank you Jamie for videoing your mom!

indianprincess7 3 years ago

[View all Comments »](#)

[Help](#) [About](#) [Press & Blogs](#) [Copyright](#) [Creators & Partners](#) [Advertising](#) [Developers](#) [Safety](#) [Privacy](#) [Terms](#)

[Report a bug](#) [Language: English](#) [Location: Worldwide](#) [Safety mode: Off](#)

# Exhibit 29

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

**CHEROKEE NATION, a federally  
recognized Indian tribe, and CHEROKEE  
NATION ENTERTAINMENT, L.L.C.,**

**Opposers,**

v.

**Opposition No. 91197038**

**SONJA TAYLOR,**

**Applicant.**

**DECLARATION OF ANTHONY J. JORGENSON**

1. I am an attorney with the law firm of Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C., counsel for the Opposers in this proceeding. I submit this Declaration in support of Opposers' Motion for Summary Judgment.

2. I have personal knowledge of the matters asserted in this Declaration by virtue of my role as counsel for Opposers.

3. Annexed as Exhibit 1 to Opposers' Brief in Support of Motion for Summary Judgment (the "Brief") is a true and correct copy of the Notice of Opposition filed by Opposers, Cherokee Nation and Cherokee Nation Entertainment, LLC, in this proceeding.

4. Annexed as Exhibit 2 to the Brief is a true and correct copy of the Answer to Opposition filed by the Applicant in this proceeding.

5. Annexed as Exhibit 3 to the Brief is a true and correct copy of the 2010 Report to the Cherokee People published by the Cherokee Nation.

6. Annexed as Exhibit 4 to the Brief is a true and correct copy of the Requests for Admissions served on Applicant by the Cherokee Nation on March 16, 2011. To date, Applicant has never responded to or objected to the Requests for Admissions.

7. Annexed as Exhibit 5 to the Brief is a true and correct copy of the Requests for Admission served on Applicant by Cherokee Nation Entertainment, LLC on March 16, 2011. To date, Applicant has never responded to or objected to the Requests for Admission.

8. Annexed as Exhibit 6 to the Brief is a true and correct copy of a printout from <http://www.thefreedictionary.com> reflecting the results of a search performed for the definition of the word, "Cherokee." The search was performed and the printout generated, on June 2, 2011.

9. Annexed as Exhibit 7 to the Brief is a true and correct copy of a printout from <http://horsehints.org> entitled, Choctaw and Cherokee Horses, published by HorseHints.org. The printout was generated on June 2, 2011.

10. Annexed as Exhibit 8 to the Brief is a true and correct copy of a printout from <http://horsehints.org> entitled, Cherokee Indians and Horses, published by HorseHints.org. The printout was generated on June 2, 2011.

11. Annexed as Exhibit 9 to the Brief is a true and correct copy of a printout from [www.doi.gov](http://www.doi.gov) entitled, Cherokee Ancestry, and published on the United States Department of the Interior website. The printout was generated on June 2, 2011.

12. Annexed as Exhibit 10 to the Brief is a true and correct copy of a printout from [www.doi.gov](http://www.doi.gov) entitled, Information on the Dawes Rolls, and published on the United States Department of the Interior website. The printout was generated on June 2, 2011.

13. Annexed as Exhibit 11 to the Brief is a true and correct copy of the Office Action filed in the U.S. Patent and Trademark Office, Serial No. 75506359 on February 11, 1999, concerning the mark, CHEROKEE PROUD.

14. Annexed as Exhibit 12 to the Brief is a true and correct copy of the Office Action filed in the U.S. Patent and Trademark Office, Serial No. 77122071 on June 4, 2007, concerning the mark, CHEROKEE STONEWORKS.

15. Annexed as Exhibit 13 to the Brief is a true and correct copy of the Office Action filed in the U.S. Patent and Trademark Office, Serial No. 76683830 on April 4, 2008, concerning the mark, CHEROKEE CHARCOAL.

16. Annexed as Exhibit 14 to the Brief is a true and correct copy of the Office Action filed in the U.S. Patent and Trademark Office, Serial No. 77556232 on December 10, 2008, concerning the mark, CHEROKEE MY DOLL.

17. Annexed as Exhibit 15 to the Brief is a true and correct copy of a printout from [www.cherokeestationbusinesses.com](http://www.cherokeestationbusinesses.com) entitled, Cherokee Nation Entertainment, published by Cherokee Nation Businesses. The printout was generated on June 2, 2011.

18. Annexed as Exhibit 16 to the Brief is a true and correct copy of the record of the registration for the mark CHEROKEE CASINO RESORT from the TARR databases of the United States Patent and Trademark Office.

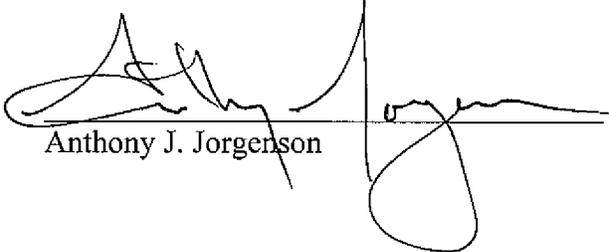
19. Annexed as Exhibit 17 to the Brief is a true and correct copy of the record of the registration for the mark CHEROKEE HILLS GOLF CLUB from the TARR databases of the United States Patent and Trademark Office.

20. Annexed as Exhibit 18 to the Brief is a true and correct copy of the record of the registration for the mark TEAM CHEROKEE from the TARR databases of the United States Patent and Trademark Office.

29. Annexed as Exhibit 27 to the Brief is a true and correct copy of a printout from [www.cherokeearabians.com](http://www.cherokeearabians.com) entitled, Videos & Links, published by Applicant. The printout was generated on June 2, 2011.

30. Annexed as Exhibit 28 to the Brief is a true and correct copy of a printout from [www.youtube.com](http://www.youtube.com) entitled, American Paint Horse at the PARADE OF BREEDS 2007, published by Applicant. The printout was generated on June 2, 2011.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

  
Anthony J. Jorgenson

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