

ESTTA Tracking number: **ESTTA429563**

Filing date: **09/09/2011**

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

Notice of Opposition

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

Opposers Information

Name	Cherokee Nation
Granted to Date of previous extension	09/14/2011
Address	17675 South Muskogee Tahlequah, OK 74465-0948 UNITED STATES

Name	Cherokee Nation Entertainment, L.L.C.
Granted to Date of previous extension	10/26/2011
Address	777 West Cherokee Catoosa, OK 74015 UNITED STATES

Attorney information	Anthony J. Jorgenson Hall Estill Hardwick Gable Golden & Nelson, P.C. 320 S. Boston Ave., Suite 200 Tulsa, OK 74103-3706 UNITED STATES ajorgenson@hallestill.com Phone:918-594-0631
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Applicant Information

Application No	85192179	Publication date	05/17/2011
Opposition Filing Date	09/09/2011	Opposition Period Ends	09/14/2011
Applicant	Spell C. LLC 6835 Valjean Avenue Van Nuys, CA 91406 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Clothing, namely, men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long sleeved shirts, shorts, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, skirts; footwear; headgear, namely, hats and caps</p>

Applicant Information

Application No	85181103	Publication date	05/17/2011
Opposition Filing Date	09/09/2011	Opposition Period Ends	
Applicant	Spell C. LLC 6835 Valjean Avenue Van Nuys, CA 91406 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long sleeved shirts, shorts, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, skirts; footwear; headgear, namely, hats and caps

Applicant Information

Application No	85189358	Publication date	05/17/2011
Opposition Filing Date	09/09/2011	Opposition Period Ends	
Applicant	Spell C LLC 6835 Valjean Avenue Van Nuys, CA 91406 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long sleeved shirts, shorts, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, skirts; footwear; headgear, namely, hats and caps

Applicant Information

Application No	85230635	Publication date	06/28/2011
Opposition Filing Date	09/09/2011	Opposition Period Ends	
Applicant	Spell C LLC 6835 Valjean Avenue Van Nuys, CA 91406 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long sleeved shirts, shorts, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, skirts; footwear; headgear, namely, hats and caps

Grounds for Opposition

Immoral or scandalous matter	Trademark Act section 2(a)
Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Applicant's proposed marks have not acquired sufficient distinctiveness under Section 2(a) of the Trademark Act; the United States government's fiduciary trust obligation to Opposer precludes registration of Applicant's proposed marks.

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3592624	Application Date	01/21/2008
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	CHEROKEE PHOENIX		
Design Mark			
Description of Mark	The mark consists of the wording "CHEROKEE PHOENIX" in English, the Cherokee characters meaning "CHEROKEE PHOENIX", and a design featuring a phoenix rising from flames beneath a banner topped with seven stars containing the Cherokee characters meaning "CHEROKEE PHOENIX".		
Goods/Services	<p>Class 016. First use: First Use: 1828/02/00 First Use In Commerce: 1828/02/00 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</p> <p>Class 041. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 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</p>		

U.S. Registration No.	3641872	Application Date	02/02/2008
Registration Date	06/23/2009	Foreign Priority Date	NONE
Word Mark	GWY		

Design Mark	
Description of Mark	The mark consists of the wording "GWY" followed by non-Latin characters within a banner; beneath the banner design is a phoenix bird with wings spread rising out of a fire; in the background there are rays emanating out of the sun.
Goods/Services	Class 021. First use: First Use: 2007/07/00 First Use In Commerce: 2007/07/00 coasters, not of paper and other than table linen; cups and mugs; portable beverage coolers; portable coolers Class 025. First use: First Use: 2006/09/00 First Use In Commerce: 2006/09/00 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	Foreign Priority Date	NONE
Word Mark	CHEROKEE CASINO RESORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2004/09/08 First Use In Commerce: 2004/09/08 Entertainment services, namely, providing golf course and gaming facilities Class 043. First use: First Use: 2004/09/08 First Use In Commerce: 2004/09/08 Resort lodging, hotel, restaurant and bar services		

U.S. Registration No.	2961562	Application Date	04/21/2004
Registration Date	06/07/2005	Foreign Priority Date	NONE
Word Mark	CHEROKEE HILLS GOLF CLUB		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2004/09/08 First Use In Commerce: 2004/09/08 Entertainment services; namely, providing golf course facilities

U.S. Registration No.	3426163	Application Date	08/27/2007
Registration Date	05/13/2008	Foreign Priority Date	NONE
Word Mark	TEAM CHEROKEE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2006/08/06 First Use In Commerce: 2006/08/06 customer loyalty services and customer club services, for commercial, promotional and/or advertising purposes Class 041. First use: First Use: 2006/08/06 First Use In Commerce: 2006/08/06 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	Foreign Priority Date	NONE

Word Mark	CHEROKEE STAR REWARDS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Providing casino services featuring stored value membership cards for redeeming cash, discounts and other benefits

U.S. Registration No.	3835089	Application Date	03/12/2010
Registration Date	08/17/2010	Foreign Priority Date	NONE

Word Mark	CHEROKEE CASINO WILL ROGERS DOWNS
Design Mark	
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".
Goods/Services	Class 041. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 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.	3693880	Application Date	08/27/2008
Registration Date	10/06/2009	Foreign Priority Date	NONE

Word Mark	CHEROKEE STAR REWARDS
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Design Mark	
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.
Goods/Services	Class 035. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 arranging and conducting incentive reward programs to promote the sale of gaming, casino, hotel and resort services

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHEROKEE KIDS		
Goods/Services	Clothing; namely, childrens' t-shirts		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHEROKEE		
Goods/Services	Governmental, cultural, social, financial, educational, and other services, as well as numerous goods, including without limitation, Men's, women's and children's clothing.		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHEROKEE NATION		
Goods/Services	Governmental, cultural, social, financial, educational, and other services, as well as numerous goods, including without limitation, Men's, women's and children's clothing.		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CHEROKEE NATION ENTERTAINMENT		
Goods/Services	Entertainment, advertising and business services, as well as numerous goods, including without limitation, men's, women's and children's clothing.		

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

Word Mark	CHEROKEE NATION ENTERPRISES
Goods/Services	Entertainment, advertising and business services, as well as numerous goods, including without limitation, men's, women's and children's clothing.

Attachments	77376451#TMSN.jpeg (1 page)(bytes) 77387126#TMSN.jpeg (1 page)(bytes) 78405573#TMSN.jpeg (1 page)(bytes) 78405555#TMSN.jpeg (1 page)(bytes) 77265446#TMSN.jpeg (1 page)(bytes) 77557222#TMSN.jpeg (1 page)(bytes) 77957542#TMSN.jpeg (1 page)(bytes) 77557255#TMSN.jpeg (1 page)(bytes) Consolidated Notice of Opposition.pdf (10 pages)(285151 bytes)
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Certificate of Service

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

Signature	/Anthony J. Jorgenson/
Name	Anthony J. Jorgenson
Date	09/09/2011

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

In the matter of Trademark Application Serial Nos.: 85192179, 85181103, 85189358, 85230635
For the marks: **CHEROKEE, HERITAGE AND HOME CHEROKEE AN AMERICAN
STANDARD SINCE 1973, CHEROKEE AN AMERICAN STANDARD, CHEROKEE
THE NEW STANDARD SINCE 1973**
Published in the Official Gazette on: May 17, 2011 and June 28, 2011

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

Opposers,

v.

Opposition No. _____

SPELL C. LLC,

Applicant.

CONSOLIDATED 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 marks shown in the above-identified applications, 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, cultural, social, financial, educational, and other services to its tribal citizens. There are approximately 117,816 citizens who live within Opposer **CHEROKEE NATION**'s Tribal Jurisdictional Service Area and approximately 310,635 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, cultural, 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 1999 Constitution, which was ratified by the Cherokee voters.

3. Since its initial use of its **CHEROKEE NATION** and **CHEROKEE** marks, Opposer **CHEROKEE NATION** has continuously used, advertised, promoted, and offered its governmental, cultural, social, financial, educational and other services, as well as numerous goods, including without limitation, men's women's and children's clothing, 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 **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, cultural, social, financial, educational and other services, as well as numerous goods, including without limitation, men’s, women’s and children’s clothing, 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** is the gaming and hospitality arm of the **CHEROKEE NATION**. **CNE** provides the **CHEROKEE NATION** with funding for the **CHEROKEE NATION**'s vital services including health care, housing, education, and other services and programs.

9. Opposer **CNE** owns and operates Hard Rock Hotel & Casino, seven **CHEROKEE** Casinos, **CHEROKEE CASINO WILL ROGERS DOWNS** (a 236-acre horse racetrack), three hotels, two golf courses, seven retail tobacco shops, and three gift shops. Opposer **CNE** employs over 3,200 persons. Thirty percent of Opposer **CNE**'s net profits are paid to the **CHEROKEE NATION** to fund governmental operations to provide 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** also uses the mark **CHEROKEE KIDS** in conjunction with its goods, namely, children's t-shirts, since April, 2011. **CNE**'s **CHEROKEE KIDS** products promote the history and culture of the **CHEROKEE NATION**.

12. 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; Registration No. 3835089 for the mark **CHEROKEE CASINO WILL ROGERS DOWNS**, issued August 17, 2010; 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).

13. Since its initial use of its **CHEROKEE NATION ENTERPRISES** mark, and more recently its **CHEROKEE NATION ENTERTAINMENT** and **CHEROKEE KIDS** marks, and the Related Registrations, Opposer CNE has continuously used, advertised, promoted, and offered its goods, including without limitation, men’s, women’s and children’s clothing, as well as its entertainment services under the **CHEROKEE NATION ENTERPRISES**, **CHEROKEE NATION ENTERTAINMENT**, **CHEROKEE KIDS** marks, and the Related Registrations, with the result that individuals have come to know and recognize Opposer CNE’s **CHEROKEE NATION ENTERPRISES**, **CHEROKEE NATION ENTERTAINMENT**, **CHEROKEE KIDS** marks and the Related Registrations and to associate the same with Opposer CNE and/or Opposer CNE’s goods and services.

14. On information and belief, on December 7, 2010, Applicant filed an Application for Registration of the mark **CHEROKEE**. The application was assigned Serial No. 85192179, and was published for opposition in the Official Gazette of May 17, 2011, for:

Clothing, namely men’s and women’s clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children’s

clothing, namely, t-shirts, sweaters, long-sleeved shirts, short, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, shirts; footwear; headgear, namely, hats and caps

in International Class 025.

15. On information and belief, on November 19, 2010, Applicant filed an Application for Registration of the mark **HERITAGE AND HOME CHEROKEE AN AMERICAN STANDARD SINCE 1973**. The application was assigned Serial No. 85181103, and was published for opposition in the Official Gazette of May 17, 2011, for:

Clothing, namely men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long-sleeved shirts, short, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, shirts; footwear; headgear, namely, hats and caps

in International Class 025.

16. On information and belief, on December 2, 2010, Applicant filed an Application for Registration of the mark **CHEROKEE AN AMERICAN STANDARD**. The application was assigned Serial No. 85189358, and was published for opposition in the Official Gazette of May 17, 2011, for:

Clothing, namely men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long-sleeved shirts, short, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, shirts; footwear; headgear, namely, hats and caps

in International Class 025.

17. On information and belief, on January 31, 2011, Applicant filed an Application for Registration of the mark **CHEROKEE THE NEW STANDARD SINCE 1973**. The

application was assigned Serial No. 85230635, and was published for opposition in the Official Gazette of May 17, 2011, for:

Clothing, namely men's and women's clothing, namely, pants, slacks, jeans, shorts, skirts, shirts, blouses, sweaters, t-shirts, tank tops, dresses, vests, socks, hosiery, jackets, coats, scarves, gloves, neckties, belts, swimwear, underwear, slippers, camisoles, bras, nightgowns, pajamas, robes; infants and children's clothing, namely, t-shirts, sweaters, long-sleeved shirts, short, pants, jumpers, jumpsuits, overalls, one-piece playsuits, pajamas, socks, dresses, shirts; footwear; headgear, namely, hats and caps

in International Class 025.

18. On information and belief, Applicant's goods 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' marks.

19. Applicant's marks all feature the word **CHEROKEE** and so closely resemble Opposers' marks that the registration and use of Applicant's marks 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.

20. Applicant's marks, which all include the word **CHEROKEE**, so closely resemble Opposers' marks that the registration and use of Applicant's marks 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.

21. Applicant's marks, including their use of the words **CHEROKEE**, **HERITAGE**, and **AMERICAN**, are 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)).

22. Applicant's proposed registration and use of its marks is disparaging to the **CHEROKEE NATION** and its members and will bring Opposers' and their 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.

23. Applicant's marks are not entitled to registration because Applicant's use of those marks has been insufficient, and therefore, the marks have not acquired sufficient distinctiveness under Section 2(f) of the Trademark Act of 1946 (15 U.S.C. § 1052(f)).

24. 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 marks featuring the word, **CHEROKEE**, 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 and identities to identify such goods and/or services now or in the future in violation of the federal government's trust obligation to Opposers.

25. Opposers believe that they will be damaged by the registration by Applicant of its marks, as set forth in Applicant's Application, Serial Nos. 85192179, 85181103, 85189358, and 85230635, and that if registration of the opposed applications is granted, and the presumptions accorded to such registration are conferred under the Trademark Act of 1946, as amended, Applicant will receive benefits to which it is not entitled, to the damage and detriment of Opposers, and their marks.

WHEREFORE, and in view of Opposers' registration and use of its marks, marks to which Applicant's marks are confusingly similar, Opposers pray that this opposition be sustained and that registration of the mark: (i) **CHEROKEE**, based on Applicant's Application Serial No. 85192179, filed December 7, 2010; (ii) **HERITAGE AND HOME CHEROKEE AN AMERICAN STANDARD SINCE 1973**, based on Applicant's Application Serial No. 85181103, filed on November 19, 2010; (iii) **CHEROKEE AN AMERICAN STANDARD**, based on Applicant's Application Serial No. 85189358, filed on December 2, 2010; and (iv) **CHEROKEE THE NEW STANDARD SINCE 1973**, based on Applicant's Application Serial No. 85230635, filed on January 31, 2011, be refused and denied.

Respectfully submitted this 9th day of September, 2011.


Anthony J. Jorgenson, OBA #17074
**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**
320 South Boston, Suite 200
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Facsimile (918) 594-0505

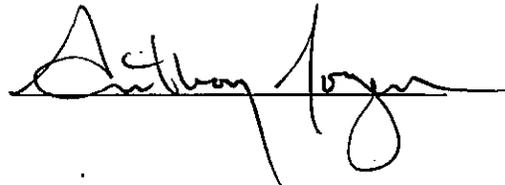
and

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

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

CERTIFICATE OF TRANSMISSION

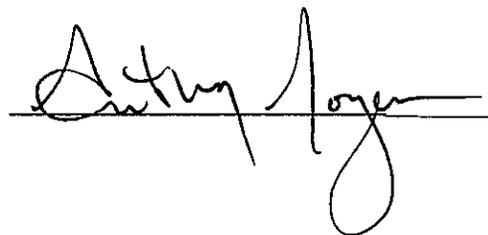
I hereby certify that this correspondence is being electronically transmitted via ESTTA to the United States Patent and Trademark Office on this 9th day of September, 2011.



CERTIFICATE OF SERVICE

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