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

Proceeding	91207895
Party	Plaintiff Hokie Objective Onomastics Society LLC
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Submission	Other Motions/Papers
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Signature	/Keith Finch/
Date	05/05/2015
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**EXHIBIT A**

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

HOKIE OBJECTIVE ONOMASTICS )  
SOCIETY LLC, )  
 )  
Opposer, )  
v. ) Opposition No. 91207895  
 )  
VIRGINIA POLYTECHNIC INSTITUTE ) Serial No. 85-531,923  
AND STATE UNIVERSITY, )  
 )  
Applicant. )

**DECLARATION OF JAMES CREEKMORE IN OPPOSITION TO  
APPLICANT’S SECOND MOTION FOR SUMMARY JUDGMENT**

The undersigned does hereby declare as follows:

1. I am an adult citizen and resident of the Commonwealth of Virginia and am competent to make this declaration.
2. I make this declaration on behalf of Opposer Hokie Objective Onomastics Society LLC (“Opposer”), in my capacity as Manager of Opposer.
3. Opposer is a not-for-profit company, tax-exempt under Section 501(c)(4) of the Internal Revenue Code.
4. Until recently Opposer had not seen any need to file an application for recognition of its tax-exempt status, as no such application is legally required for a Section 501(c)(4) organization, which may “self-declare” its tax-exempt status without filing any application.
5. However, Opposer now has filed such an application using IRS Form 1024, which is included as **Attachment A**.
6. Historical research has shown that the term HOKIE, when used to mean a student, athlete, alumnus or supporter of Virginia Polytechnic Institute and State University

("VPI&SU"), or when used to refer to connections and relationships to VPI&SU, first arose organically around 1949.

7. The public thus spontaneously gave the term HOKIE its present meaning and made it part of the normal, everyday English language.
8. At the time when the public created the term HOKIE, the main nicknames for VPI&SU students, athletes and supporters were GOBBLERS and TECHMEN. Not until the 1970s did HOKIE become the more popular nickname.
9. During all this period, lasting for two or three decades, VPI&SU did not use the term HOKIE as a trademark.
10. VPI&SU finally switched its official nickname from GOBBLERS to HOKIES around 1978.
11. By the time when VPI&SU made its first trademark use of the term HOKIE, the term already had spent several decades in the public domain, having the everyday, ordinary meaning of a student, athlete, alumnus or supporter of VPI&SU, or else being used to refer to a connection or relationship to VPI&SU.
12. Despite this, VPI&SU has for several years made a policy of intimidating, harassing and suing local businesses that continue to use the term HOKIE for its ordinary, everyday English meaning.
13. In particular, in 2010, VPI&SU sued a local real estate brokerage, Hokie Real Estate, for trademark infringement, even though VPI&SU did not and had never offered real estate brokerage services.
14. VPI&SU also has intimidated and harassed other businesses and groups that have used HOKIE and its derivatives in a purely generic and/or descriptive sense, and has developed a network of third parties (such as newspaper advertising departments and t-shirt vendors) who facilitate this harassment by routinely reporting to VPI&SU on their

customers' use of such terms. Some examples of such harassment, obtained from VPI&SU, are included as **Attachment B**. There are other such examples.

15. Since its formation, Opposer has offered and provided educational services, including lectures, symposia, and presentations, under the service marks HOKIE OBJECTIVE ONOMASTIC SOCIETY and HOKIE FAN. (Opposer has legally registered HOKIE FAN as a fictitious name with the Virginia State Corporation Commission.)

16. **Attachment C** includes photographs from five such lectures / presentations.

17. One of these lectures / presentations, given on April 18, 2015, was given under the auspices of the VT CLASS program operated by VPI&SU itself, at the request of the VT CLASS administrator. (See pages HOOS-000590 through HOOS-000597 in Attachment C.) As the program occurs off-campus, Opposer did not itself realize the connection to VPI&SU until after the lecture / presentation was scheduled.

**Attachment D** is a copy of the VT CLASS web page operated by VPI&SU.

18. Opposer also would be glad to provide such lectures / presentations at an educational conference or exhibition. This would be a natural expansion of Opposer's services.

19. These lectures / presentations touch upon subjects such as history, sociology, etymology, linguistics and law, in examining whether VPI&SU has any right to prevent others from using the term HOKIE. A copy of the slide deck used in these lectures / presentations is included as **Attachment E**.

20. Since its formation, Opposer also has offered and provided educational and/or advertising materials on these same subjects. Copies of such materials are included as **Attachment F**.

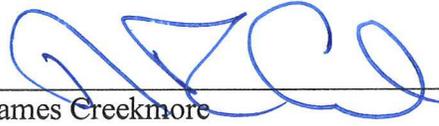
21. Because Opposer offers and provides services very similar to those offered and provided by VPI&SU, Opposer is afraid that VPI&SU may take measures against

Opposer because of Opposer's use of its HOKIE OBJECTIVE ONOMASTIC SOCIETY and HOKIE FAN marks in connection with Opposer's services.

22. If VPI&SU's application to the USPTO for registration of HOKIE (the "Application") is granted, then this may enhance Applicant's ability to take such measures against Opposer.
23. Opposer presently is contemplating whether to seek to register either or both of its marks on the Principal Register in International Class 41 for educational services. This is the same International Class in which VPI&SU has applied for registration of the term HOKIE.
24. If the Application is granted, then it is likely that Opposer's application or applications for registration will be denied because of the then-existing registration of the mark described in the Application. The granting of the Application thus could foreclose Opposer from obtaining registration of its marks. Opposer therefore believes that it will be damaged by the registration of the mark described in the Application.
25. The included **Attachment G** consists of a copy of a brochure documenting the use of Opposer's HOKIE OBJECTIVE ONOMASTIC SOCIETY mark at a United Way "casino night" charity event at which Opposer sponsored a "horse" in a mock horse race, as well as photographs from that event.
26. The included **Attachment H** consists of excerpts from the transcript of my deposition in this matter, taken on September 30, 2014.

25. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 4th day of May, 2015

By:   
James Creekmore

# Attachment A

## Application for Recognition of Exemption Under Section 501(a)

OMB No. 1545-0057

If exempt status is approved,  
 this application will be open  
 for public inspection.

Read the instructions for each Part carefully. **A User Fee must be attached to this application.**  
 If the required information and appropriate documents are not submitted along with Form 8718 (with payment  
 of the appropriate user fee), the application may be returned to the organization.

**Complete the Procedural Checklist on page 6 of the instructions.**

**Part I. Identification of Applicant** (Must be completed by all applicants; also complete appropriate schedule.)  
 Submit only the schedule that applies to your organization. Do not submit blank schedules.

Check the appropriate box below to indicate the section under which the organization is applying:

- a  Section 501(c)(2)—Title holding corporations (Schedule A, page 7)
- b  Section 501(c)(4)—Civic leagues, social welfare organizations (including certain war veterans' organizations), or local associations of employees (Schedule B, page 8)
- c  Section 501(c)(5)—Labor, agricultural, or horticultural organizations (Schedule C, page 9)
- d  Section 501(c)(6)—Business leagues, chambers of commerce, etc. (Schedule C, page 9)
- e  Section 501(c)(7)—Social clubs (Schedule D, page 11)
- f  Section 501(c)(8)—Fraternal beneficiary societies, etc., providing life, sick, accident, or other benefits to members (Schedule E, page 13)
- g  Section 501(c)(9)—Voluntary employees' beneficiary associations (Parts I through IV and Schedule F, page 14)
- h  Section 501(c)(10)—Domestic fraternal societies, orders, etc., not providing life, sick, accident, or other benefits (Schedule E, page 13)
- i  Section 501(c)(12)—Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (Schedule G, page 15)
- j  Section 501(c)(13)—Cemeteries, crematoria, and like corporations (Schedule H, page 16)
- k  Section 501(c)(15)—Mutual insurance companies or associations, other than life or marine (Schedule I, page 17)
- l  Section 501(c)(17)—Trusts providing for the payment of supplemental unemployment compensation benefits (Parts I through IV and Schedule J, page 18)
- m  Section 501(c)(19)—A post, organization, auxiliary unit, etc., of past or present members of the Armed Forces of the United States (Schedule K, page 19)
- n  Section 501(c)(25)—Title holding corporations or trusts (Schedule A, page 7)

<b>1a</b> Full name of organization (as shown in organizing document)  <b>Hokie Objective Onomastics Society LLC</b>	<b>2</b> Employer identification number (EIN) (if none, see <b>Specific Instructions</b> on page 2)  <b>46-5170371</b>		
<b>1b</b> c/o Name (if applicable)  	<b>3</b> Name and telephone number of person to be contacted if additional information is needed  <b>Keith Finch, Attorney at Law</b>  <b>( 540 ) 443-9350 x 703</b>		
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><b>1c</b> Address (number and street) <b>318 N. Main Street</b></td> <td style="width: 50%;"><b>Room/Suite</b></td> </tr> </table>		<b>1c</b> Address (number and street) <b>318 N. Main Street</b>	<b>Room/Suite</b>
<b>1c</b> Address (number and street) <b>318 N. Main Street</b>		<b>Room/Suite</b>	
<b>1d</b> City, town or post office, state, and ZIP + 4 If you have a foreign address, see <b>Specific Instructions</b> for Part I, page 2.  <b>Blacksburg</b>			
<b>1e</b> Web site address <a href="https://www.facebook.com/AnyoneCanBeAHokie">https://www.facebook.com/AnyoneCanBeAHokie</a>	<b>4</b> Month the annual accounting period ends  <b>December</b>		
<b>5</b> Date incorporated or formed  <b>August 3, 2012</b>			

**6** Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code?  Yes  No  
 If "Yes," attach an explanation.

**7** Has the organization filed Federal income tax returns or exempt organization information returns?  Yes  No  
 If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.  
**2012 / F990EZ / Ogden • 2013 / F990EZ Ogden**

**8** Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING.

- a  Corporation— Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official; also attach a copy of the bylaws.
- b  Trust— Attach a copy of the Trust Indenture or Agreement, including all appropriate signatures and dates.
- c  Association— Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence that the organization was formed by adoption of the document by more than one person. Also include a copy of the bylaws.

If this is a corporation or an unincorporated association that has not yet adopted bylaws, check here

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization, and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

**PLEASE SIGN HERE**

\_\_\_\_\_  
 (Signature)

**James Robert Creekmore, Manager**  
 \_\_\_\_\_  
 (Type or print name and title or authority of signer)

**5/4/15**  
 \_\_\_\_\_  
 (Date)

**Part II. Activities and Operational Information** (Must be completed by all applicants)

- 1 Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted.

Since 2012, the management of the organization, with volunteer assistance, has offered and provided, and continues to offer and provide, educational lectures, symposia and presentations to classes, organizations, businesses and individuals on subjects such as history, sociology, etymology, linguistics and law as they relate to the public's rights to use words and phrases associated with Virginia Tech in connection with their businesses, in connection with descriptions of themselves, in their everyday language, and in other ways. This activity has been carried out at various locations in Southwestern Virginia. This activity occupies about 90% of the time spent by the organization on its activities.

Since 2012, the management of the organization has operated, and continues to operate, a publicly-available educational web site for the purpose of distributing educational materials on subjects such as history, sociology, etymology, linguistics and law. The purpose of this web site is to spread information and knowledge to the public about the public's rights to use words and phrases associated with Virginia Tech in connection with their businesses, in connection with descriptions of themselves, in their everyday language, and in other ways. The web site contains many documents, images, and commentaries on these subjects. This activity is carried out at the offices of the organization. This activity occupies about 5% of the time spent by the organization on its activities.

Since 2012, the management of the organization has distributed, and continues to distribute, educational materials designed to spread information and knowledge to the public about the public's rights to use words and phrases associated with Virginia Tech in connection with their businesses, in connection with descriptions of themselves, in their everyday language, and in other ways. These educational materials also promote its web site and its lectures. This activity has been carried out at various locations in Southwestern Virginia. This activity occupies about 5% of the time spent by the organization on its activities.

- 2 List the organization's present and future sources of financial support, beginning with the largest source first.
- contributions from management
  - contributions from others

**Part II. Activities and Operational Information** (continued)

**3** Give the following information about the organization's governing body: **Board of Directors**

<b>a</b> Names, addresses, and titles of officers, directors, trustees, etc.	<b>b</b> Annual compensation
<p><b>James Robert Creekmore, Director — 318 N. Main Street, Blacksburg VA 24060</b></p>	<p><b>none</b></p>

**4** If the organization is the outgrowth or continuation of any form of predecessor, state the name of each predecessor, the period during which it was in existence, and the reasons for its termination. Submit copies of all papers by which any transfer of assets was effected.  
**not applicable**

**5** If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees).  
**The organization shares office space with The Creekmore Law Firm PC. The organization does not pay anything for this office space.**

**6** If the organization has capital stock issued and outstanding, state: **(1)** class or classes of the stock; **(2)** number and par value of the shares; **(3)** consideration for which they were issued; and **(4)** if any dividends have been paid or whether your organization's creating instrument authorizes dividend payments on any class of capital stock.  
**not applicable**

**7** State the qualifications necessary for membership in the organization; the classes of membership (with the number of members in each class); and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Attach sample copies of all types of membership certificates issued.  
**not applicable (the only function of the sole Member of the organization was to permit the adoption of its Operating Agreement; see Section 2.1 of the Operating Agreement)**

**8** Explain how your organization's assets will be distributed on dissolution.  
**Pursuant to Section 7.2 of its Operating Agreement, upon dissolution the assets of the organization will be (a) distributed exclusively for the exempt purposes of the organization or to organization(s) organized and operated exclusively for the same exempt purposes, or (b) disposed of by the Circuit Court of the County in which the principal office of the organization is then located exclusively for such purposes or to such organization or organizations as the Court shall determine that are organized and operated exclusively for such purposes.**

**Part II. Activities and Operational Information** (continued)

9 Has the organization made or does it plan to make any distribution of its property or surplus funds to shareholders or members? . . . . .  Yes  No  
 If "Yes," state the full details, including: (1) amounts or value; (2) source of funds or property distributed or to be distributed; and (3) basis of, and authority for, distribution or planned distribution.

10 Does, or will, any part of your organization's receipts represent payments for services performed or to be performed? .  Yes  No  
 If "Yes," state in detail the amount received and the character of the services performed or to be performed.

11 Has the organization made, or does it plan to make, any payments to members or shareholders for services performed or to be performed? . . . . .  Yes  No  
 If "Yes," state in detail the amount paid, the character of the services, and to whom the payments have been, or will be, made.

12 Does the organization have any arrangement to provide insurance for members, their dependents, or others (including provisions for the payment of sick or death benefits, pensions, or annuities)? . . . . .  Yes  No  
 If "Yes," describe and explain the arrangement's eligibility rules and attach a sample copy of each plan document and each type of policy issued.

13 Is the organization under the supervisory jurisdiction of any public regulatory body, such as a social welfare agency, etc.? . . . . .  Yes  No  
 If "Yes," submit copies of all administrative opinions or court decisions regarding this supervision, as well as copies of applications or requests for the opinions or decisions.

14 Does the organization now lease or does it plan to lease any property? . . . . .  Yes  No  
 If "Yes," explain in detail. Include the amount of rent, a description of the property, and any relationship between the applicant organization and the other party. Also, attach a copy of any rental or lease agreement. (If the organization is a party, as a lessor, to multiple leases of rental real property under similar lease agreements, please attach a single representative copy of the leases.)

15 Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization? . .  Yes  No  
 If "Yes," explain in detail and list the amounts spent or to be spent in each case.

16 Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? . . . . .  Yes  No  
 If "Yes," attach a recent copy of each.

**Part III. Financial Data** (Must be completed by all applicants)

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.

**A. Statement of Revenue and Expenses**

	(a) Current Tax Year	3 Prior Tax Years or Proposed Budget for Next 2 Years			(e) Total
	From To 1/2015 5/2015	(b) 2014	(c) 2013	(d) 2012	
<b>Revenue</b>					
1 Gross dues and assessments of members . . . . .	0	0	0	0	0
2 Gross contributions, gifts, etc. . . . .	400	282	176	447	1305
3 Gross amounts derived from activities related to the organization's exempt purpose (attach schedule) (Include related cost of sales on line 9.)	0	0	0	0	0
4 Gross amounts from unrelated business activities (attach schedule)	0	0	0	0	0
5 Gain from sale of assets, excluding inventory items (attach schedule) . . . . .	0	0	0	0	0
6 Investment income (see page 3 of the instructions)	0	0	0	0	0
7 Other revenue (attach schedule). . . . .	0	0	0	0	0
8 Total revenue (add lines 1 through 7) . . . . .	400	282	176	447	1305
<b>Expenses</b>					
9 Expenses attributable to activities related to the organization's exempt purposes. . . . .	400	282	176	447	1305
10 Expenses attributable to unrelated business activities	0	0	0	0	0
11 Contributions, gifts, grants, and similar amounts paid (attach schedule). . . . .	0	0	0	0	0
12 Disbursements to or for the benefit of members (attach schedule)	0	0	0	0	0
13 Compensation of officers, directors, and trustees (attach schedule)	0	0	0	0	0
14 Other salaries and wages. . . . .	0	0	0	0	0
15 Interest . . . . .	0	0	0	0	0
16 Occupancy . . . . .	0	0	0	0	0
17 Depreciation and depletion . . . . .	0	0	0	0	0
18 Other expenses (attach schedule) . . . . .	0	0	0	0	0
19 Total expenses (add lines 9 through 18) . . . . .	400	282	176	447	1305
20 Excess of revenue over expenses (line 8 minus line 19) . . . . .	0	0	0	0	0

**B. Balance Sheet (at the end of the period shown)**

		Current Tax Year as of 5/2015	
<b>Assets</b>			
1	Cash . . . . .	1	0
2	Accounts receivable, net . . . . .	2	0
3	Inventories . . . . .	3	0
4	Bonds and notes receivable (attach schedule) . . . . .	4	0
5	Corporate stocks (attach schedule). . . . .	5	0
6	Mortgage loans (attach schedule) . . . . .	6	0
7	Other investments (attach schedule) . . . . .	7	0
8	Depreciable and depletable assets (attach schedule) . . . . .	8	0
9	Land . . . . .	9	0
10	Other assets (attach schedule) . . . . .	10	0
11	<b>Total assets</b> . . . . .	11	0
<b>Liabilities</b>			
12	Accounts payable . . . . .	12	0
13	Contributions, gifts, grants, etc., payable . . . . .	13	0
14	Mortgages and notes payable (attach schedule) . . . . .	14	0
15	Other liabilities (attach schedule) . . . . .	15	0
16	<b>Total liabilities</b> . . . . .	16	0
<b>Fund Balances or Net Assets</b>			
17	Total fund balances or net assets . . . . .	17	0
18	<b>Total liabilities and fund balances or net assets</b> (add line 16 and line 17) . . . . .	18	0

If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation.

**Part IV. Notice Requirements (Sections 501(c)(9) and 501(c)(17) Organizations Only)**

**1** Section 501(c)(9) and 501(c)(17) organizations:

Are you filing Form 1024 within 15 months from the end of the month in which the organization was created or formed as required by section 505(c)?  Yes  No

If "Yes," skip the rest of this Part.

If "No," answer question 2.

**2** If you answer "No" to question 1, are you filing Form 1024 within 27 months from the end of the month in which the organization was created or formed?  Yes  No

If "Yes," your organization qualifies under Regulation section 301.9100-2 for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 3 and 4.

If "No," answer question 3.

**3** If you answer "No" to question 2, does the organization wish to request an extension of time to apply under the "reasonable action and good faith" and the "no prejudice to the interest of the government" requirements of Regulations section 301.9100-3?  Yes  No

If "Yes," give the reasons for not filing this application within the 27-month period described in question 2. See Specific Instructions, Part IV, Line 3, page 4, before completing this item. Do not answer question 4.

If "No," answer question 4.

**4** If you answer "No" to question 3, your organization's qualification as a section 501(c)(9) or 501(c)(17) organization can be recognized only from the date this application is filed. Therefore, does the organization want us to consider its application as a request for recognition of exemption as a section 501(c)(9) or 501(c)(17) organization from the date the application is received and not retroactively to the date the organization was created or formed?  Yes  No

**Schedule B Organizations Described in Section 501(c)(4) (Civic leagues, social welfare organizations (including posts, councils, etc., of veterans' organizations not qualifying or applying for exemption under section 501(c)(19)) or local associations of employees.)**

- 1 Has the Internal Revenue Service previously issued a ruling or determination letter recognizing the applicant organization (or any predecessor organization listed in question 4, Part II of the application) to be exempt under section 501(c)(3) and later revoked that recognition of exemption on the basis that the applicant organization (or its predecessor) was carrying on propoganda or otherwise attempting to influence legislation or on the basis that it engaged in political activity? . . .  Yes  No

If "Yes," indicate the earliest tax year for which recognition of exemption under section 501(c)(3) was revoked and the IRS district office that issued the revocation.

- 2 Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings? . . .  Yes  No

If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here.)

- 3 If the organization is claiming exemption as a homeowners' association, is access to any property or facilities it owns or maintains restricted in any way? . . .  Yes  No

If "Yes," explain.

- 4 If the organization is claiming exemption as a local association of employees, state the name and address of each employer whose employees are eligible for membership in the association. If employees of more than one plant or office of the same employer are eligible for membership, give the address of each plant or office.

## **Attachments to Part I, Section 8**

# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

*Richmond, August 3, 2012*

*This is to certify that the certificate of organization of*

Hokie Objective Onomastics Society LLC

*was this day issued and admitted to record in this office and that the said limited liability company is authorized to transact its business subject to all Virginia laws applicable to the company and its business. Effective date: August 3, 2012*



*State Corporation Commission*

*Attest:*

*Joel H. Peck*  
*Clerk of the Commission*

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 3, 2012

The State Corporation Commission has found the accompanying articles submitted on behalf of  
Hokie Objective Onomastics Society LLC

to comply with the requirements of law, and confirms payment of all required fees. Therefore, it  
is ORDERED that this

CERTIFICATE OF ORGANIZATION

be issued and admitted to record with the articles of organization in the Office of the Clerk of the  
Commission, effective August 3, 2012.

STATE CORPORATION COMMISSION

By



Mark C. Christie  
Commissioner

DLLCACPT  
CISECOM  
12-08-03-5544

HOOS-000608

**OPERATING AGREEMENT  
OF  
HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC**

(A Virginia Not-for-Profit Limited Liability Company)

ARTICLE I

NAME AND PURPOSE: OFFICES AND REGISTERED AGENT

Section 1.1. Company Name. The name of the company, as formed and existing under and by virtue of the Virginia Limited Liability Company Act, as amended (hereinafter referred to as the “Act”), shall be “Hokie Objective Onomastics Society LLC” (hereinafter referred to as the “Society”).

Section 1.2. Articles of Organization. The Member, acting through an organizer, filed Articles of Organization for record in the office of the Virginia State Corporation Commission on August 3, 2012 (the “Effective Date”), thereby creating the Society.

Section 1.3. Purpose. Pursuant to Section 13.1-1008 of the Virginia Code, the Society is organized exclusively for not-for-profit purposes, specifically, the carrying on of educational activities and the promotion of knowledge regarding the rights of the public (including in particular members of the Blacksburg and Virginia Tech communities) to use words, phrases and symbols associated with Virginia Tech in their everyday language, in reference to themselves and to others, in connection with their business and not-for-profit activities, and in other ways; and related activities.

Section 1.4. Principal Office. The Society shall have and continuously maintain a principal office at such location in the Commonwealth of Virginia as the Board of Directors of the Society shall from time to time determine. The Society may have such other offices, within or without the Commonwealth of Virginia as the Board of Directors shall from time to time determine.

Section 1.5. Registered Office and Agent. The Society shall have and continuously maintain a registered office and agent in the Commonwealth of Virginia in accordance with the requirements of the Act. The registered office may be, but need not be, identical with that of the principal office of the Society.

ARTICLE II

MEMBERS

Section 2.1. Members. The Society will have a single Member. The Member’s sole function will be to permit the adoption of this Operating Agreement pursuant to Section 13.1-1023 of the Virginia Code and to thereafter, in cases where the Act may require action by the members of a limited liability company, take such action under the Act as the Manager may direct. The Member will not be entitled to any distributions of profits or losses from the Society,

nor to any distributions of the assets of the Society upon its liquidation, nor will any other profits, losses or assets of the Society inure to the Member in any way. The Member will have no power over, or role in, the governance of the Society, except that as aforesaid the Member will be required to take such action under the Act as the Manager may direct. All money, property and other things of value that the Member may contribute to the Society will be considered a donation by the Member to the Society, and the Member will not receive any rights in exchange therefor; if any law or regulation requires the Member to have, or to be deemed to have, a capital account with the Society, then the value of such capital account will be \$0.00. The Board of Directors may remove the Member at any time for any reason. If the Member should die or become incapacitated, or resign from the position of Member, then the Board of Directors will have the sole power to name a replacement Member, and such person will become the Member upon execution of a written instrument of joinder to this Operating Agreement. The Member may not transfer, sell, pledge or otherwise alienate or hypothecate the Member's interest in the Society, nor will the Member's interest in the Society pass to his or her heirs by inheritance, devise, or otherwise. The initial Member of the Society will be James Robert Creekmore.

### ARTICLE III

#### DIRECTORS

Section 3.1. General Powers. Except as otherwise expressly provided by law, the property and affairs of the Society shall be managed by or under the direction of a Board of Directors, which shall be the governing body of the Society. The Board of Directors may exercise all the powers, rights, and privileges of the Society, whether expressed or implied in the Articles of Organization or conferred by the Act or otherwise, and may do all acts and things which may have been done by the Society. The directors shall have voting power, and each director shall be entitled to one full vote on each matter, including the election of directors.

Section 3.2. Number and Qualifications. The number of directors of the Society shall be one at its inception. The initial director of the Society will be James Robert Creekmore. The number of directors may not be decreased to fewer than one, but may be increased to any number or decreased by the affirmative vote of the majority of the directors then in office. No decrease shall have the effect of shortening the term of an incumbent director.

Section 3.3. Resignation and Removal. Any director may resign by written notice delivered to the Board of Directors, its Chairperson, or to the Manager of the Society. A resignation is effective when the notice is delivered unless the notice specifies a future date. The pending vacancy may be filled pursuant to Section 3.11 before the effective date of the resignation. Any director may be removed, with or without cause, by the affirmative vote of a majority of the directors then in office.

Section 3.4. Term of Office. The term of office of each director shall be for three years or until his or her successor shall have been elected and qualified.

Section 3.5. Honorary Directors. The Board of Directors may elect honorary directors. The honorary directors shall be entitled to attend all meetings of the Board, but shall have no vote.

Section 3.6. Meetings of Directors. No annual or other regularly-scheduled meetings of the Board of Directors are required. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Virginia, for the holding of regular meetings without other notice than such resolution. Failure to hold a meeting at the designated time and place shall not work a forfeiture or dissolution of the Society. Special meetings of the Board of Directors may be called at any time by or at the request of the Manager or any director. The place of such meetings shall be the registered office of the Society or such other place, either within or without the State of Virginia, as may be designated by the person or persons calling the meeting.

Section 3.7. Notice. Notice of any special meeting of the Board of Directors shall be given at least two days previous thereto by written notice to each director at such address as he or she may have advised the Manager of the Society to use for such purpose, except that no special meeting of the Board of Directors may remove a director unless written notice of the proposed removal is delivered to all directors at least twenty days prior to such meeting. If personally delivered, such notice shall be deemed to be given when delivered. If mailed, such notice shall be deemed to be given two business days after it is deposited in the United States mail so addressed, with postage thereon prepaid, and if given by facsimile, such notice shall be deemed to be given the next business day following the day the facsimile is sent by such facsimile machine. A waiver of notice in writing signed by the director entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent to the giving of such notice. Attendance at any meeting shall constitute waiver of notice thereof unless the person attends the meeting for the express purpose of objecting to the transacting of business at the meeting because the meeting is not lawfully called or convened. Neither the affairs to be conducted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting, unless the purpose of the special meeting is to remove a director.

Section 3.8. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors; provided that, if less than a majority of the directors are present, then the directors present may adjourn the meeting from time to time without further notice than announcement at the meeting.

Section 3.9. Information Action by Directors. Any action required to be taken, or which may be taken, at a meeting of the Board of Directors may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof. Any consent may be signed in counterparts with the same force and effect as if all directors had signed the same copy. All signed copies of such written consent shall be delivered to the Secretary of the Society to be filed in its records. The action taken shall be effective when all the directors have signed the consent unless said consent specifies a different effective date. Any such consent signed by all of the directors shall have the same effect as a unanimous vote.

Section 3.10. Manner of Acting. The affirmative votes of the majority of the directors present at a meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors. No director may act by proxy on any matter.

Section 3.11. Vacancies. A vacancy in the Board of Directors occurring by reason of death, resignation, or removal of a director shall be filled, or a vacancy occurring because of an increase in the number of directors shall be filled, by vote of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

Section 3.12. Reimbursement and Compensation. The directors shall receive no compensation for their services as directors. Directors shall be entitled to reimbursement for out-of-pocket expenses reasonably incurred in the discharge of their duties as directors.

Section 3.13. Organization. At meetings of the Board of Directors, the Chairman of the Board of Directors or, in the absence of the Chairman, the Manager of the Society, if he or she is a director and is present, shall act as chairperson of the meeting; otherwise a person chosen by a majority vote of the directors present at the meeting shall act as chairperson of the meeting. The Secretary of the Society or, in the absence of the Secretary, a person appointed by the chairperson of the meeting, shall act as secretary of the meeting. The chairperson of the meeting shall have the right to decide, without appeal, the order of business for such meeting and all procedural matters, including the right to limit discussion that is unreasonably cumulative, prolonged, or irrelevant.

Section 3.14. Presumption of Assent. A director who is present at a meeting of the Board of Directors at which action on any matter is taken shall be conclusively presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered or certified mail to the Secretary of the Society immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 3.15. Mode of the Meeting. Members of the Board of Directors or any other committee designated by the Board of Directors may participate in and act at any meeting thereof through use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear one another. Participation in a meeting by such means shall constitute attendance and presence in person at the meeting of the person or persons so participating for all purposes, including fulfilling the requirements of Section 3.8 and 3.10.

Section 3.16. Director Conflicts of Interest.

(A) A conflict of interests transaction is a transaction with the Society in which a director of the Society has a direct or indirect personal interest. A conflict of interests transaction

is not voidable by the Society solely because of the director's interest in the transaction if any of the following is true:

1. The material facts of the transaction and the director's interest were disclosed or known to the Board of Directors and the Board of Directors authorized, approved or ratified the transaction; or
2. The material facts of the transaction and the director's interest were disclosed to the directors entitled to vote and they authorized, approved or ratified the transaction; or
3. The transaction was fair to the Society;

(B) For purposes of this section, a director of the Society has an indirect personal interest in a transaction if (i) another entity in which he or she has a material financial interest is a party to the transaction or (ii) another entity of which he is a director, officer or trustee is a party to the transaction, and the transaction is or should be considered by the Board of Directors of the Society.

(C) A conflict of interests transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the Board of Directors, or on the committee, who have no direct or indirect personal interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director, unless the Society has only a single director. If a majority of the directors who have no direct or indirect personal interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect personal interest in the transaction does not affect the validity of any action taken under paragraph 1 of subsection (A) of this section if the transaction is otherwise authorized, approved or ratified as provided in that subsection.

#### ARTICLE IV

#### MANAGEMENT

Section 4.1. Designation and Qualifications. A single Manager, elected by the Board of Directors, will have full responsibility for managing the Society and its affairs. The initial Manager of the Society will be James Robert Creekmore. The Board of Directors also may appoint a Secretary and/or such other officers as the Board of Directors may deem appropriate from time to time. Any two or more offices may be held by the same person. Officers whose authority and duties are not prescribed in this Operating Agreement shall have the authority and perform the duties prescribed from time to time by the Board of Directors.

Section 4.2. Term of Office, Resignation, and Removal. The Manager and any officers of the Society shall serve for an indefinite term, and until their respective successors shall have been elected and qualified, provided that the term of any Manager or officer may be terminated sooner by death, resignation, or removal. A Manager or officer may be removed by the Board of

Directors at any time, with or without cause, whenever a majority of the Board of Directors determines that the best interests of the Society would be served thereby.

Section 4.3. Vacancies. A vacancy in any office, however arising, if filled, shall be filled for the unexpired portion of the term in the same manner as provided for election to the office.

Section 4.4. Control by Board of Directors. The powers and duties of the Manager and officers of the Society as prescribed by this Article or elsewhere in this Operating Agreement are subject to alteration or suspension by the Board of Directors, from time to time either in general or specific instances or for specific purposes, as set forth in a resolution of the Board of Directors effecting such alteration or suspension.

Section 4.5. Reimbursement and Compensation. The Manager and officers of the Society shall serve without compensation. Officers shall be entitled to reimbursement for out-of-pocket expenses reasonably incurred in the discharge of their duties.

Section 4.6. Manager. The Manager shall be the principal executive officer of the Society and, subject to the direction and control of the Board of Directors, shall have general charge of the affairs of the Society. In general, the powers and duties of the Manager shall be those established by Section 13.1-1024 of the Code of Virginia, and shall include the powers and duties ordinarily exercised or performed by the chief executive officer of a for-profit corporation and such other powers and duties as may be assigned to the Manager by the Board of Directors. Without limiting the generality of the foregoing by this specification, in addition to presiding at meetings as provided elsewhere in this Operating Agreement, the Manager shall see that the resolutions and directions of the Board of Directors are carried into effect. Except in those instances in which the authority to execute is expressly delegated to another officer or agent of the Society, or a different mode of execution is expressly prescribed by the Board of Directors or this Operating Agreement, the Manager may execute for the Society such documents as needed for the conduct of the Society's affairs in the ordinary course, as well as any contracts or checks or other documents which the Board of Directors has authorized to be executed, and he or she may accomplish such execution either individually or with the Secretary or any other officer thereunto authorized by the Board of Directors, according to the requirements of the form of the document.

Section 4.7. Secretary. In general, the powers and duties of the Secretary shall be those ordinarily incident to the office of the secretary of a for-profit corporation and such other duties as may be assigned to the Secretary to the Board of Directors or by the Manager. Without limiting the generality of the foregoing by this specification, the Secretary shall (a) attend all meetings of the Board of Directors, record the minutes of the meetings of the Board of Directors in one or more books provided for that purpose, and shall include in such books the actions by written consent of the Board of Directors; (b) see that all notices are duly given in accordance with the provisions of this Operating Agreement or as required by law; (c) be the custodian of the records of the Society and certify any resolutions of the Board of Directors and any committees of the Board of Directors, and other documents of the Society as being true and correct copies thereof; (d) keep a register of the mailing and/or post-office address of each

director which shall be furnished to the Secretary by such director; (e) sign with the Manager, or any other officer thereunto authorized by the Board of Directors, any contracts or other documents which the Board of Directors has authorized, and he or she may (without previous authorization by the Board of Directors) sign with such other officers as aforesaid such contracts and other documents as the conduct of the Society's affairs in its ordinary course requires, in each case according to the requirements of the form of the document, except when a different mode of execution is expressly prescribed by the Board of Directors or this Operating Agreement; and (g) keep and fill all reports, statements, and other documents required by law, except where the duty is expressly imposed on some other officer or agent. When the office of Secretary is vacant, the functions of the Secretary will be fulfilled by the Manager.

## ARTICLE V

### STANDING AND SPECIAL COMMITTEES

Section 5.1. Formation. The Board of Directors may by resolution create one or more additional standing or special committees, each of which shall consist of such persons as the Board of Directors designates. Each committee shall have as a member at least one director of the Society. The Manager shall be a member, ex officio, with voting privileges, of each committee created pursuant to this section.

Section 5.2. Powers. Each committee created under this Article, to the extent provided in the resolution creating such committee and not restricted by law, shall have the authority to act with all the powers of the Society in conducting the ordinary affairs of the Society.

Section 5.3. Tenure. Members of committees appointed pursuant to this Article shall serve for one year and until their successors have been appointed, unless prior thereto the committee is dissolved by the Board of Directors by resolution, or a committee member's service is sooner terminated by resignation, inability or unwillingness to serve, death, or removal by the Board of Directors.

Section 5.4. Meetings. The Board of Directors shall designate one of the members of each committee as its chairperson. The chairperson shall preside at meetings of the committee. In the absence of the chairperson, the committee members present shall appoint one of their number as a temporary chairperson. Notice of the time and place of meetings of committees shall be given to committee members at least two days in advance of the meeting, but such notice may be waived in writing or by attendance at the meeting.

Section 5.5. Quorum. Unless otherwise provided by the Board of Directors, a majority of the committee shall constitute a quorum. If a quorum is not present at a meeting, a majority of the members present may adjourn the meeting from time to time without further notice.

Section 5.6. Manner of Acting. The act of a majority of the members of a committee present at a meeting at which a quorum exists shall be the act of the committee. Any action which may be taken at a meeting of a committee may be taken without a meeting if a consent in writing setting forth such action shall be signed by all the members of the committee.

Section 5.7. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in Section 5.1.

## ARTICLE VI

### INDEMNIFICATION

Section 6.1. Indemnification. The Society shall, to the fullest extent to which it is empowered to do so by the Act or any other applicable laws as may from time to time be in effect, indemnify any person who was or is a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a Member, director, Manager, officer, or agent of the Society (each an "Agent") against all judgments, fines, reasonable expenses (including attorney's fees), and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding.

Section 6.2. Contract with the Society. The provisions of this Article VI shall be deemed to be a contract between the Society and each Agent who serves in any capacity at any time while this Article is in effect, and any repeal or modification of this Article VI shall not affect any rights or obligations hereunder with respect to any state of facts then or theretofore existing or any action, suit, or proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

Section 6.3. Payment of Expenses in Advance. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Society in advance of the final disposition of such action, suit, or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the Agent to repay such amount, unless it shall ultimately be determined that such Agent is not entitled to be indemnified by the Society as authorized by this Article VI.

Section 6.4. Insurance Against Liability. The Society may purchase and maintain insurance on behalf of any person who is or was an Agent against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Society would have the power to indemnify such person against such liability under the provisions of this Operating Agreement.

Section 6.5. Other Rights of Indemnification. The indemnification provided or permitted by this Article VI shall not be deemed exclusive of any other rights to which those indemnified may be entitled by law or otherwise, and shall continue as to a person who has ceased to be an Agent and shall inure to the benefit of the heirs, executors, and administrators of such person.

## ARTICLE VII

### TAX PROVISIONS

Section 7.1. Inuring of Benefits. The Society is intended to qualify as an organization exempt from taxation pursuant to Section 501(c)(4) of the United States Internal Revenue Code. No part of the net earnings of the Society shall inure to the benefit of, or be distributable to, its Member, its Manager, or any of its directors or officers, or to any other private persons, except that the Society shall be authorized to pay reasonable compensation for services rendered and to make payments in furtherance of the purposes set forth in the Society's Articles of Organization and this Operating Agreement. Notwithstanding any other provision of this Operating Agreement, the Society shall not carry on any other activities not permitted to be carried on by an entity exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code

Section 7.2. Distribution of Assets Upon Distribution. Upon the dissolution of the Society, the assets of the Society remaining after the satisfaction of liabilities shall be distributed exclusively for such purposes or to such organization or organizations which are organized and operated exclusively for such purposes as are set forth in Section 1.3 above. Any such assets not so disposed of shall be disposed of by the Circuit Court of the County in which the principal office of the Society is then located exclusively for such purposes or to such organization or organizations as said Court shall determine which are organized and operated exclusively for such purposes.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.1. Loans. No loans shall be contracted on behalf of the Society, and no evidence of indebtedness shall be issued in its name, except with the approval of the Board of Directors.

Section 8.2. Leases. The Society shall have the power to lease equipment needed to conduct the affairs of the Society. No leases of land or buildings, whether written or oral, shall be made on behalf of the Society, either as lessor or lessee.

Section 8.3. Contracts. Except as limited by Section 8.2 above, the Board of Directors may authorize any person to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Society, and such authority may be general or confined to specific instances; provided, however, that this Section 8.3 shall not be a limitation on the powers of office granted under Article IV of this Operating Agreement.

Section 8.4. Checks, Drafts, Etc. All checks, drafts, or other orders for the payment of money by the Society shall be signed by the Manager or by such officer or officers, agent or agents of the Society and in such manner as shall from time to time be determined by resolution of the Board of Directors, or by an officer or officers of the Society designated by the Board of Directors to make such determination.

Section 8.5. Inspection of Books and Records. All books, records, and minutes of the Society shall be kept at the principal office of the Society in the Commonwealth of Virginia and may be inspected by any director entitled to vote, or that director's agent or attorney, for any proper purpose at any reasonable time.

Section 8.6. Gifts. The Board of Directors, the Manager, and any standing or special committee designated by the Board of Directors to have such authority, may accept on behalf of the Society, any contribution, gift, bequest, or devise for the general purpose or for any special purpose of the Society.

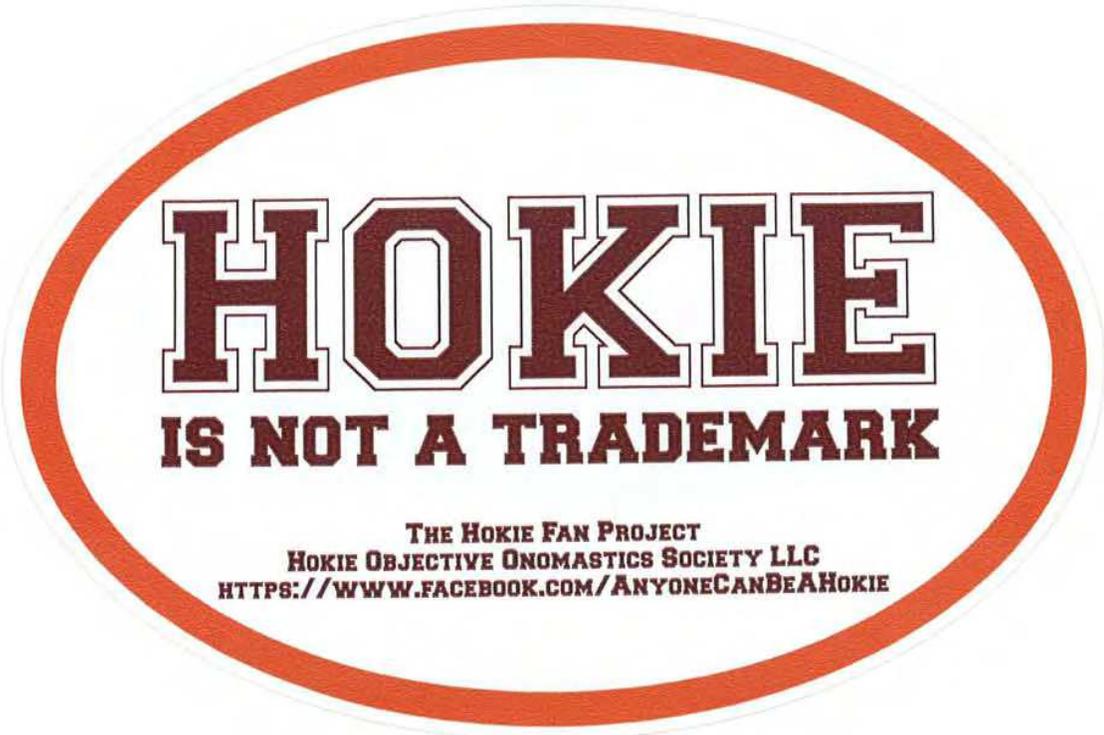
Section 8.7. Fiscal Year. For accounting and related purposes, the fiscal year of the Society shall begin on the first day of January and end on the last day of December in each year.

Section 8.8. Amendment of Operating Agreement. This Operating Agreement may be altered, amended, or repealed, and a new Operating Agreement may be adopted, by the Board of Directors at any time or from time to time by the vote of a majority of the directors of the Society then in office. The Member hereby waives any right to require approval of such Amendment.

This Operating Agreement is hereby adopted by the initial Member of the Society, effective as of the Effective Date.

  
\_\_\_\_\_  
JAMES ROBERT CREEKMORE  
MEMBER

## **Attachments to Part II, Section 16**



**HOKIE**  
**IS NOT A TRADEMARK**

**THE HOKIE FAN PROJECT**  
**HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC**  
**[HTTPS://WWW.FACEBOOK.COM/ANYONECANBEAHOKIE](https://www.facebook.com/ANYONECANBEAHOKIE)**

"Can I use the word HOKIE in a sandwich name?"

"I ordered t-shirts with the word HOKIE on them, but the t-shirt company refused to make them. Can they do that?"

"I tried to use GO HOKIES in a newspaper ad, but the newspaper wouldn't let me!"

"Where does the word HOKIE come from, anyway?"

"The University says it owns the word HOKIE."

# YOU'RE INVITED

to the inaugural meeting of

## HOKIE FAN

a new not-for profit society dedicated to dispelling myths about the use of the word HOKIE and other words associated with Virginia Tech.

**LEARN** about your right, as a Blacksburg resident or business, to use the word HOKIE

**DISCUSS** tactics used by the University to discourage free use of the word HOKIE

**DISCOVER** the origins and history of the word HOKIE

**ENJOY** refreshments and the company of other concerned Blacksburg merchants and residents

**WIN** attractive HOKIE gifts!

Dear Sir/Madam:

As you probably know, Virginia Polytechnic Institute, commonly known as Virginia Tech, owns federal trademarks including "Virginia Tech" and "Hokies". We have taken action about the unauthorized use of our trademarks.



### TUESDAY, MARCH 5, 7:00 PM

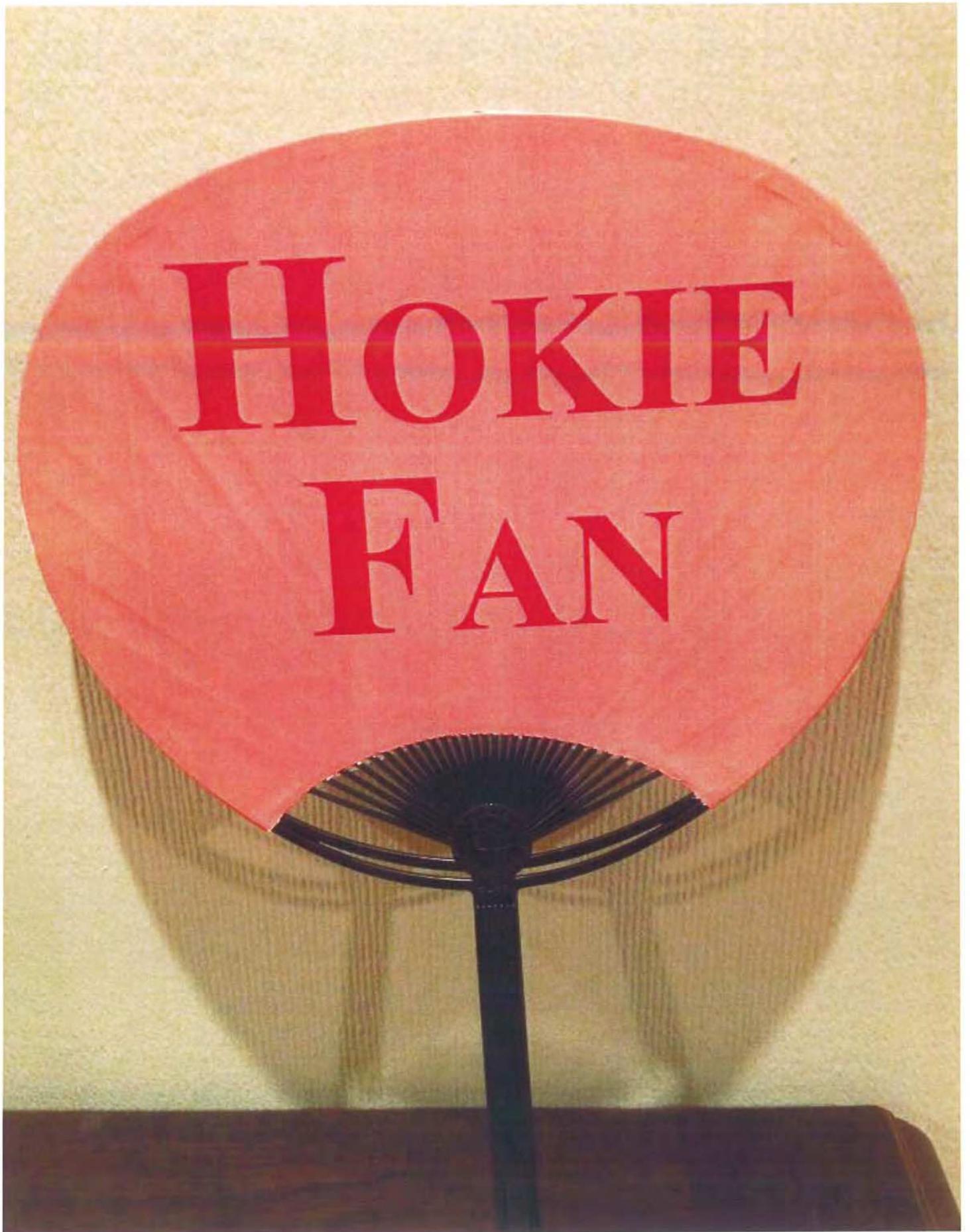
at The Artful Place, 106 Faculty Street (behind PK's)

**FREE OF CHARGE**

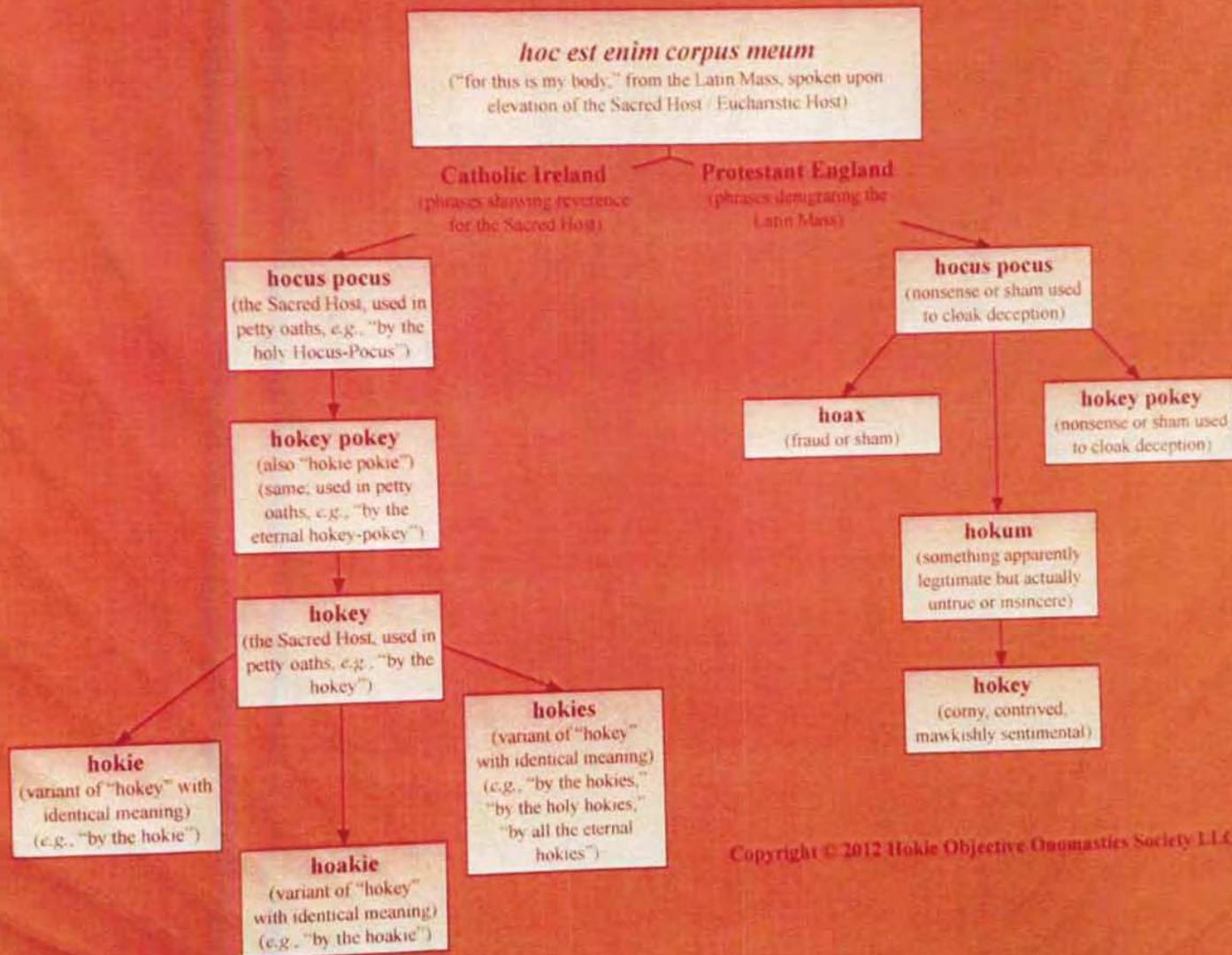
Please RSVP to [AnyoneCanBeAHokie@gmail.com](mailto:AnyoneCanBeAHokie@gmail.com) or to 971-231-5396

Attendance is by invitation only. Hokie Fan is a project of Hokie Objective Onomastics Society LLC.

<http://www.facebook.com/AnyoneCanBeAHokie>



# Historical origin of the word "Hokie"



**User Fee for Exempt Organization  
 Determination Letter Request**

▶ **Attach this form to determination letter application.  
 (Form 8718 is NOT a determination letter application.)**

For IRS Use Only	OMB No. 1545-1798
	Control number _____
	Amount paid _____ User fee screener _____

1 Name of organization <b>Hokie Objective Onomastics Society LLC</b>	2 Employer Identification Number <b>46-5170</b>
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**Caution.** Do not attach Form 8718 to an application for a pension plan determination letter. Use Form 8717 instead.

**3 Type of request** **Fee**

a  Initial request for a determination letter for:

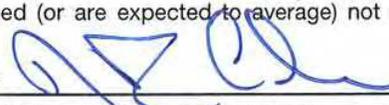
- An exempt organization that has had annual gross receipts averaging not more than \$10,000 during the preceding 4 years or
- A new organization that anticipates gross receipts averaging not more than \$10,000 during its first 4 years ▶ **\$400**

**Note.** If you checked box 3a, you must complete the *Certification* below.

**Certification**

I certify that the annual gross receipts of Hokie Objective Onomastics Society LLC  
name of organization

have averaged (or are expected to average) not more than \$10,000 during the preceding 4 (or the first 4) years of operation.

Signature ▶  Title ▶ **Manager**

b  Initial request for a determination letter for:

- An exempt organization that has had annual gross receipts averaging more than \$10,000 during the preceding 4 years or
- A new organization that anticipates gross receipts averaging more than \$10,000 during its first 4 years . ▶ **\$850**

c  Group exemption letters . . . . . ▶ **\$3,000**

**Instructions**

The law requires payment of a user fee with each application for a determination letter. The user fees are listed on line 3 above. For more information, see Rev. Proc. 2009-8; 2009-1 I.R.B. 229, or latest annual update.

Check the box or boxes on line 3 for the type of application you are submitting. If you check box 3a, you must complete and sign the certification statement that appears under line 3a.

Attach to Form 8718 a check or money order payable to the "United States Treasury" for the full amount of the user fee. If you do not include the full amount, your application will be returned. Attach Form 8718 to your determination letter application.

Generally, the user fee will be refunded only if the Internal Revenue Service declines to issue a determination.

**Where To File**

Send the determination letter application and Form 8718 to:

Internal Revenue Service  
 P.O. Box 12192  
 Covington, KY 41012-0192

**Who Should File**

Organizations applying for federal income tax exemption, other than Form 1023 filers. Organizations submitting Form 1023 should refer to the instructions in that application package.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want your organization to be recognized as tax-exempt by the IRS, you are required to give us this information. We need it to determine whether the organization meets the legal requirements for tax-exempt status.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating

to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. The rules governing the confidentiality of Form 8718 are covered in section 6104.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 5 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, see *Where To File* above.



# Attachment B

## Hincker, Larry

---

**From:** Hincker, Larry  
**Sent:** Thursday, October 14, 2010 7:03 PM  
**To:** mkhurt@vt.edu  
**Subject:** Trademark infringement

Matthew,

It's come to my attention that the university chapter of College Republicans is using one of the university registered trademarks without permission. Please know that we do not authorize use of university marks in political campaigns. We have notified college Republicans and college Democrats on many occasions over the years, and also notified the state party offices, that Hokie is a registered mark (this would include the plural derivative Hokies). The use of university marks in any political campaign is not allowed.

Please know that I am not singling out Republicans or your candidate. Over the years, I have written letters like this informing candidates on both sides of the aisle.

Lawrence G. Hincker  
Associate Vice President  
University Relations  
314 Burruss Hall  
Virginia Tech, VA 24061  
[hincker@vt.edu](mailto:hincker@vt.edu)  
540 231 5396

----- Forwarded message from "Matthew Hurt [Students for Prosperity at VT]" <[mkhurt@vt.edu](mailto:mkhurt@vt.edu)> -----

Date: Thu, 14 Oct 2010 09:57:39 -0400  
From: "Matthew Hurt [Students for Prosperity at VT]" <[mkhurt@vt.edu](mailto:mkhurt@vt.edu)>  
Reply-To: [mkhurt@vt.edu](mailto:mkhurt@vt.edu)  
Subject: Homecoming Parade!  
To: [VTCOLLEGEREPUBLICANS@LISTSERV.vt.edu](mailto:VTCOLLEGEREPUBLICANS@LISTSERV.vt.edu)

Hey everybody!

This weekend is Homecoming, and the College Republicans will be in the Homecoming parade. We need all the volunteers we can get to walk in the parade, hold banners and wave signs. We're working on getting signs for candidates in other districts as well, since people from all over the state will be here this weekend. We want to show people that Republicans have a lot of support from college students this November, we please consider coming and walking in the parade with us.

Two incentives: anyone who walks in the parade with us gets a free Hokies for Griffith t-shirt! PLUS, Morgan Griffith will be walking with us in the parade!  
Let's make sure he walks in this parade with more than just a few people.

The parade starts at 11 a.m. this Saturday. Those walking in the parade need to be meet at 10:30 in the parking lot for the old Blacksburg Middle School.

I've attached a map showing where that is in relation to Main Street, and it is within walking distance of campus. Hope everyone can make it!

Let's make a good showing of support for Republicans and let's take back the House this November!

Matthew Hurt  
First Vice-Chairman  
College Republicans at Virginia Tech

----- End forwarded message -----

## Dudding, Sharon

---

**From:** White, Locke  
**Sent:** Tuesday, September 14, 2010 8:33 AM  
**To:** Dudding, Sharon  
**Subject:** RE: Let's Go Hokies

You told them NO, correct?

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark  
Southgate Drive (0161)  
Blacksburg, VA 24061  
(540) 231-3748

-----Original Message-----

From: Dudding, Sharon  
Sent: Friday, September 10, 2010 2:17 PM  
To: White, Locke  
Subject: FW: Let's Go Hokies

Who would this need to go to?

-----Original Message-----

From: Lynn Hurst [<mailto:lynn.hurst@collegemedia.com>]  
Sent: Friday, September 10, 2010 1:51 PM  
To: Dudding, Sharon  
Subject: Let's Go Hokies

Sharon,

Thank you for taking the time to speak with me today.

To recap, we have an advertiser, Gumby's Pizza here in town, who is running an ad with coupons. They would like to change the heading of their ad from "Welcome Back Students" to "Let's Go Hokies!!" We told the client that we would check, and that is why you are hearing from me. Our staff is trained to be aware of licensing and trademark issues and bring any questions to management. The last thing we want to do is cause a problem for ourselves or our clients.

Thank you for checking on this for me.

Sincerely,

Lynn Hurst

--

G. L. "Lynn" Hurst  
Advertising & Marketing Adviser  
Educational Media Company at Virginia Tech  
(540) 961-9143

## White, Locke

---

**From:** david@hipeak.com  
**Sent:** Tuesday, November 10, 2009 8:50 AM  
**To:** White, Locke  
**Subject:** RE: Licence approval  
**Attachments:** image001 2.jpg; image002.jpg

Not a problem,  
We do not print anything without your approval.

Thanks!



David,

NOT APPROVED. I believe this is the mechanical Hokie bird on stilts. I told him that he can go through the parking lots but he cannot turn it into a business. If you have already printed them they need to be destroyed.

Do not let them go out the door.

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark  
Southgate Drive (0161)  
Blacksburg, VA 24061  
(540) 231-3748

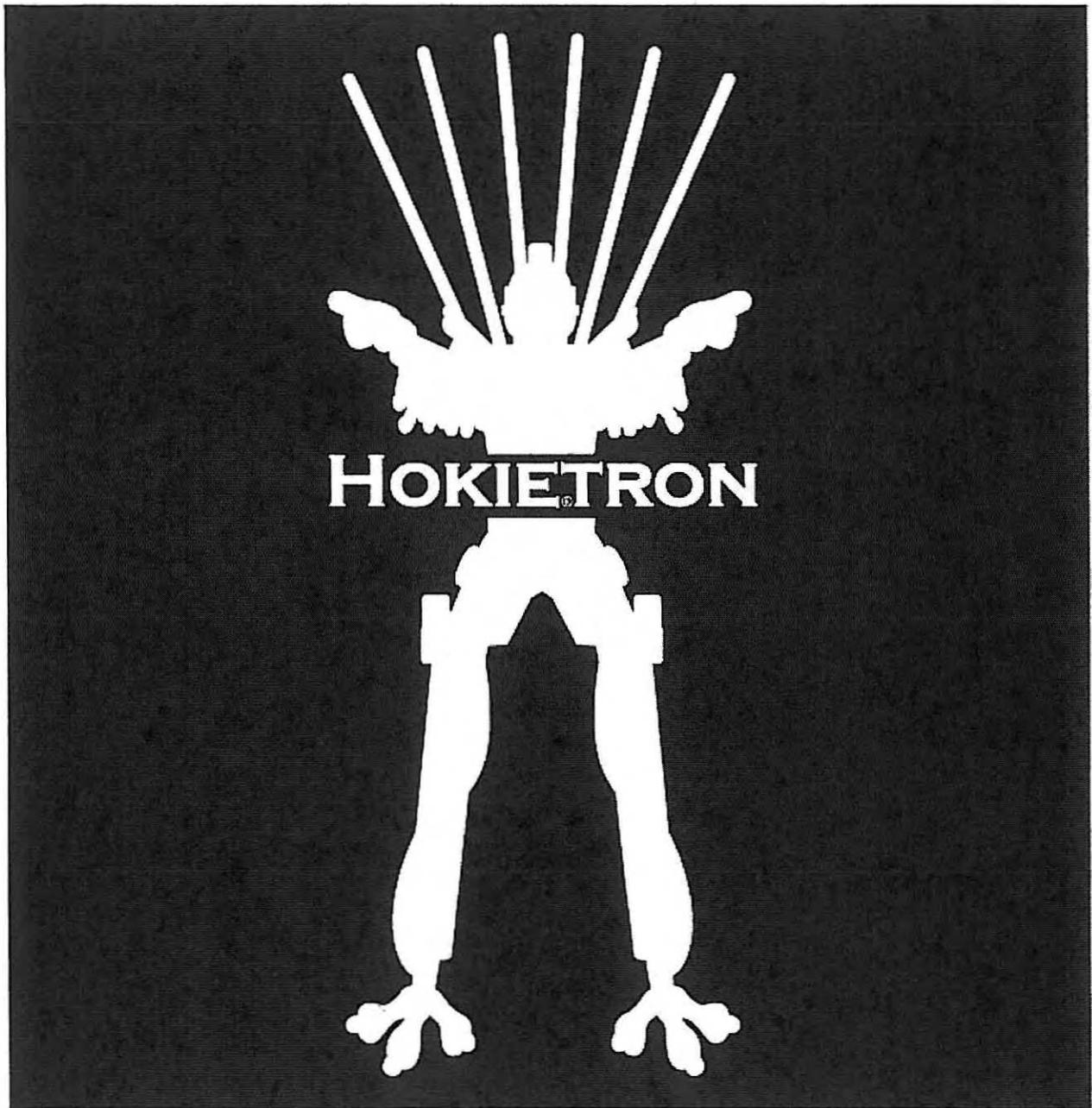


**From:** david@hipeak.com [mailto:david@hipeak.com]  
**Sent:** Monday, November 09, 2009 3:29 PM  
**To:** White, Locke  
**Cc:** blacksburg@hipeak.com  
**Subject:** Licence approval

This is a rush job we received that needs to print tomorrow so I am emailing you directly.

Here is art for order #709652 under the name Jesse Johnson, to be screenprinted on 100 black tee shirts. Please let me know about license approval at your earliest convenience.

Here is the art for front.



Thanks and have a great day!

--

David Marsh  
Graphic Artist  
High Peak Sportswear, Inc.  
2323 Memorial Ave., Ste. 17

Lynchburg Virginia 24501  
846-5223 ext. 122

--

This message has been scanned for viruses and dangerous content by **MailScanner**, and is believed to be clean.

Content-Type: image/jpeg; name="image001.jpg"  
Content-Description: image001.jpg  
Content-Disposition: inline; filename="image001.jpg"; size=3521;  
creation-date="Tue, 10 Nov 2009 08:30:33 GMT";  
modification-date="Tue, 10 Nov 2009 08:30:33 GMT"  
Content-ID: <[image001.jpg@01CA61E0.1223DFF0](mailto:image001.jpg@01CA61E0.1223DFF0)>

Content-Type: image/jpeg; name="image002.jpg"  
Content-Description: image002.jpg  
Content-Disposition: inline; filename="image002.jpg"; size=55833;  
creation-date="Tue, 10 Nov 2009 08:30:33 GMT";  
modification-date="Tue, 10 Nov 2009 08:30:33 GMT"  
Content-ID: <[image002.jpg@01CA61E0.1223DFF0](mailto:image002.jpg@01CA61E0.1223DFF0)>

--

David Marsh  
Graphic Artist  
High Peak Sportswear, Inc.  
2323 Memorial Ave., Ste. 17  
Lynchburg Virginia 24501  
846-5223 ext. 122

## White, Locke

---

**From:** White, Locke  
**Sent:** Thursday, December 09, 2010 12:34 PM  
**To:** 'Rick Barakat'  
**Subject:** RE: Question about Virginia Tech merchandise  
**Attachments:** image001.jpg; image002.jpg

Agree.

Sorry for the briefness but I am slammed with the lawsuit.

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark (0161)  
202C Media Building  
Blacksburg, VA 24061  
(540) 231-3748



**From:** Rick Barakat [mailto:RBarakat@ISPSports.com]  
**Sent:** Thursday, December 09, 2010 12:19 PM  
**To:** White, Locke  
**Subject:** RE: Question about Virginia Tech merchandise

Locke,

Just fyi, I have some trepidation about the operations of this group. We have had to police them for usage of marks/logos/names in their ads. To clarify, we do not allow all of our sponsors these benefits...it requires an investment level and that includes the use of terms like "Go Hokies" that feature trademarked names. Please monitor this closely and let me know if I can assist or be involved with any of the usage approvals in these ads. I understand your position on retailers but we need to make sure it doesn't turn into usage that is of marketing, promotional and advertising benefit to the advertisers.

Thanks,  
Rick

---

**From:** White, Locke [mailto:lowwhite@vt.edu]  
**Sent:** Thursday, December 09, 2010 8:04 AM  
**To:** 'Chris Church'  
**Cc:** Richards, Melissa; Crow, Cecelia; Hincker, Larry; Rick Barakat; Dudding, Sharon  
**Subject:** RE: Question about Virginia Tech merchandise

Chris,

We understand that the ad is proprietary but we ask that before you run it you see something in writing from us granting permission if it has one of our registered trademarks on it. If you cannot show us the ad then the onus will be on the advertiser to come to us for that permission. All they need to do is to send me an email with the artwork and I will usually reply the same day.

Our University Bookstore will not need permission and can use our trademarks as they see fit. There are a number of other retailers selling our Hokie products that we would encourage them to use the trademarks but we just need to look over their shoulder. Other retailers/advertisers that are not carrying our products and want to just benefit from the association with us obviously we would not allow their use. This might include convenience stores and mom and pop stores.

Any questions just let me know.

Thanks

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark (0161)  
202C Media Building  
Blacksburg, VA 24061  
(540) 231-3748



**From:** Chris Church [mailto:Chris.Church@roanoke.com]  
**Sent:** Tuesday, December 07, 2010 4:27 PM  
**To:** White, Locke  
**Subject:** RE: Question about Virginia Tech merchandise

Hi Locke,

I just wanted to quickly follow up concerning us sending you ads with VT merchandise for approval.

Unfortunately, we can't send you a customer's ad proof for approval since the ad is proprietary between The Roanoke Times and that particular customer. What we can do is communicate with our customers and make sure they understand that they need your approval to run any photos featuring VT merchandise in their advertising.

We want our customers who are advertising the VT brand to communicate directly with the university to ensure any and all graphics that come to us are "pre-approved" by you and your staff. Please let me know if you have any questions and thanks again for your help!

-Chris

Christopher Church  
Design Team Leader  
The Roanoke Times | roanoke.com  
(P) 540-777-6834  
(F) 540-981-3204  
[chris.church@roanoke.com](mailto:chris.church@roanoke.com)

---

**From:** White, Locke [mailto:lowwhite@vt.edu]  
**Sent:** Monday, December 06, 2010 11:44 AM  
**To:** Chris Church  
**Subject:** RE: Question about Virginia Tech merchandise

Chris,

See answers below in red.

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark (0161)  
202C Media Building  
Blacksburg, VA 24061  
(540) 231-3748



**From:** Chris Church [mailto:Chris.Church@roanoke.com]  
**Sent:** Monday, December 06, 2010 11:39 AM  
**To:** White, Locke  
**Subject:** RE: Question about Virginia Tech merchandise

Hello Locke,

Sorry for the confusion! We are trying to look out for our advertisers and ensure that those retailers who want to use VT products, logos and expressions (Go Hokies) in their advertising have an official business relationship with the university and it is documented.

Thanks.....We really appreciate it.

Just so I understand, if the products shown in the ads are officially licensed then the advertiser can show them in their ads without being listed as a sponsor on this website <http://www.hokiesports.com/sponsors/> ?

That is correct because we love it when people sell our licensed stuff! Again though, we need to look at the ad first for approval.

Do you have a list of official retailers who are allowed to showcase VT merchandise? It would just help us know who can/can't use pics of the merchandise in ads. We won't always know if something is officially licensed. Any info you can give on this would be very helpful!

Our website (<http://www.branding.unirel.vt.edu/licensing/licensees.html>) has a list of retailers which should take care of 99% of the retailers who advertise with you guys.

We can send you the ads but with our tight deadlines I didn't want to bombard you or the staff with approving a bunch of ads at deadline. The current ad that needs approval is attached. Please let me know if it's good to run. Thanks so much, Locke!

FYI the ad is fine.....Again thanks!

Christopher Church  
Design Team Leader  
The Roanoke Times | roanoke.com  
(P) 540-777-6834  
(F) 540-981-3204  
[chris.church@roanoke.com](mailto:chris.church@roanoke.com)

---

**From:** White, Locke [mailto:lowwhite@vt.edu]  
**Sent:** Monday, December 06, 2010 11:22 AM  
**To:** Crow, Cecelia; Chris Church  
**Subject:** RE: Question about Virginia Tech merchandise

Chris,

Thanks for contacting us and I was a little confused with this last week when this issue came through Jeremy. Since those are licensed products the retailer can use our logos in the merchandising/advertising. We just ask that the retailer and/or The Roanoke Times let us look at the ad for approval before it runs.

Just shoot the ad my way and again sorry that there was some confusion.

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark (0161)  
202C Media Building  
Blacksburg, VA 24061  
(540) 231-3748



**From:** Crow, Cecelia  
**Sent:** Monday, December 06, 2010 11:15 AM  
**To:** Chris Church  
**Cc:** White, Locke  
**Subject:** RE: Question about Virginia Tech merchandise  
**Importance:** High

Chris –

Yes, you do need to become an official licensee to offer merchandise using the word Hokie or use the Virginia Tech athletic or university marks. I've copied Locke White, Licensing Manager, on your request.

Thank you,  
Cecelia

**Cecelia H. Crow**  
**Brand Marketing Manager**  
University Relations  
202-A Media Building  
Blacksburg, VA 24061  
540/231-3899



**From:** Chris Church [mailto:Chris.Church@roanoke.com]  
**Sent:** Monday, December 06, 2010 11:04 AM  
**To:** Crow, Cecelia  
**Subject:** Question about Virginia Tech merchandise

Hello Cecelia,

My name is Chris Church and I work at The Roanoke Times. I was referred to you by Andy Hollander and I hope you can help me answer a question about some VT merchandise.

I have attached a picture that the Willow Grove store would like to show in their ad. I understand from speaking with Jeremy Wells that no advertiser can use the words "Go Hokies" or picture the mascot or the "VT" logo without being a sponsor. I checked the VT sponsorship page and Willow Grove is not listed in the Retail Sales section.

I was wondering if showcasing this merchandise was considered a different situation and if they're allowed to show the merch in this ad. Any help you could give on this would be greatly appreciated. Thanks and have a wonderful day!

Christopher Church  
Design Team Leader  
The Roanoke Times | [roanoke.com](http://roanoke.com)  
(P) 540-777-6834  
(F) 540-981-3204  
[chris.church@roanoke.com](mailto:chris.church@roanoke.com)

# Attachment C





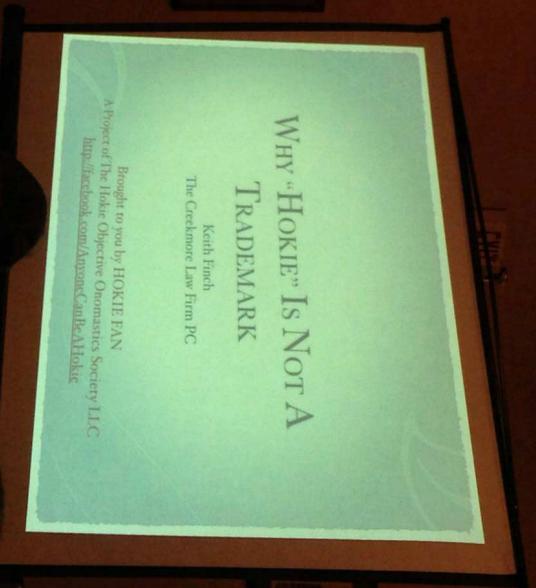


HOOS-000015







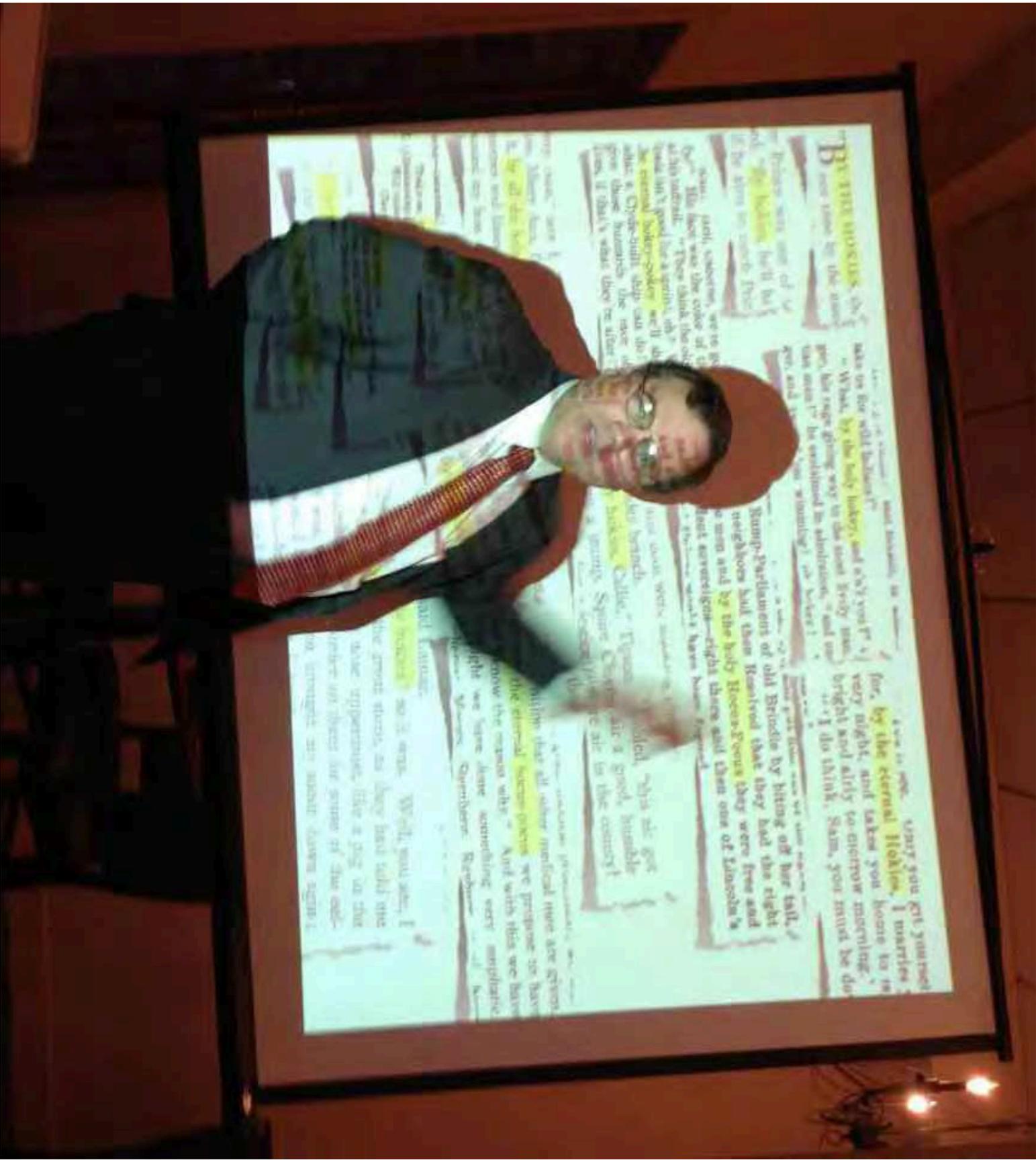


# WHY "HOKIE" IS NOT A TRADEMARK

Keith Finch  
The Crekmore Law Firm PC

Brought to you by HOKIE FAN  
A Project of The Hokie Objective Optimists Society LLC  
<http://facebook.com/AnytimeCantBeAHokie>





**B**Y THE HISTORY OF THE

... the history of the ...



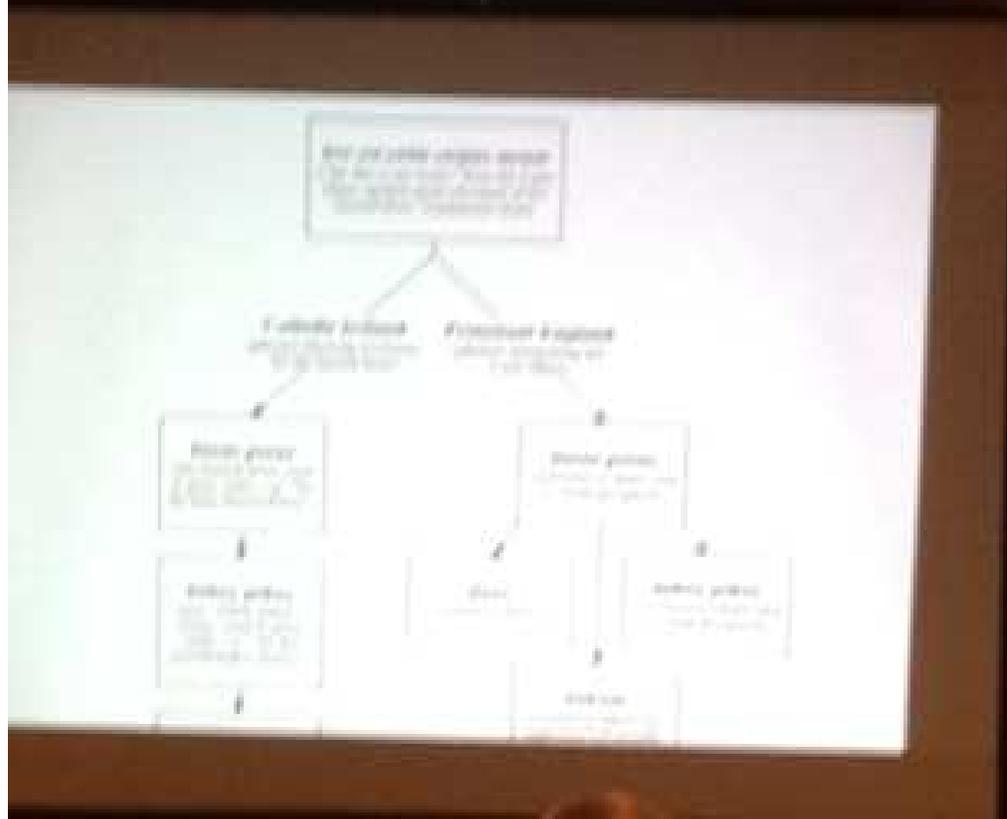




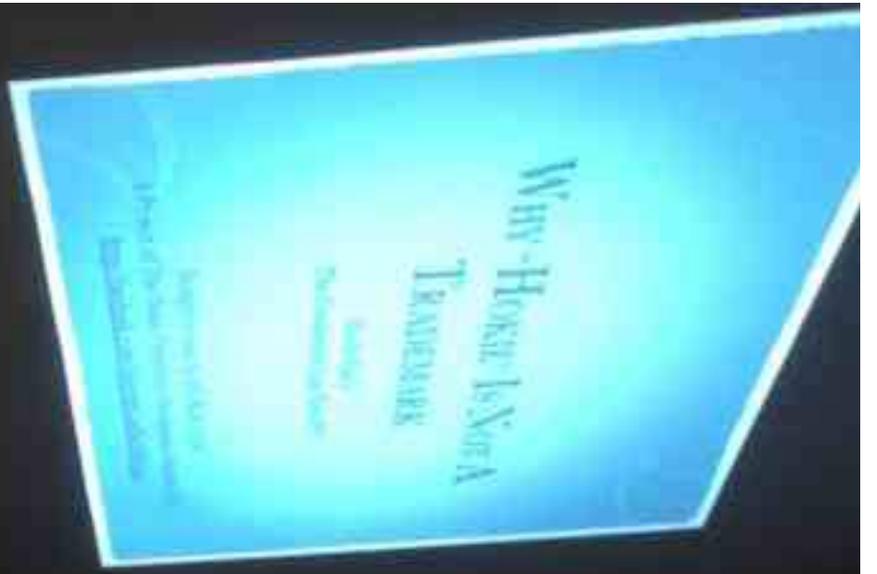
HOOS-000460











# WHY "HOKIE" IS NOT A TRADEMARK

Keith Finch  
The Creekmore Law Firm PC

Brought to you by HOKIE FAN  
A Project of The Hokie Objective Optimists Society, LLC  
<http://facebook.com/AnyoneCanBeAHokie>



HOOS-000483



















# Attachment D

## General Information

### General Information

### Courses

### Speakers/Presenters

### Sponsors

### Registration

No Tests, No Papers, No Grades—Learning for the Love of It. Continuing and Professional Education (CPE) proudly presents the Virginia Tech Creative Learning Academy for Senior Scholars (VT CLASS).

CPE at Virginia Tech has joined other universities with their fingers on the pulse of the nation's changing demographics. At a time when people are living longer and more healthy lives, we have taken on a project to promote lifelong learning. Baby Boomers began reaching age 65 in 2010, and by 2050 those over 65 will make up 20 percent of the population as opposed to 12 percent today.

**VT CLASS** programs are designed for people 50 and older and offer opportunities for those folks to continue their learning through informative classes along with a variety of experiences. Opportunities may include sampler courses that offer a series of one-time classes, or a more in-depth concentrated series of classes covering one particular subject. Most presenters will be local people sharing their knowledge in their fields of expertise.



Information about the VT CLASS **Spring Course** now available.

**On-line registration** is open.

### 2015 Spring Course

The Spring course will meet for six consecutive Tuesdays, starting on March 10 and ending on April 14, 2015 and will feature two classes in the morning. The classes run from 9:00 - 10:15am and 10:30 -11:45am. Participants pay one low fee of \$50, which enables them to attend any or all of the 12 sessions for the entire six weeks.

The topics provide interesting facts and fascinating insights to culture and history. Our distinguished and talented speakers will share their passion on a variety of topics that will pique your interest and give you a better understanding of the world around you. Refreshments—coffee, water, snacks, will be provided as part of your registration fee.

### Location

We are pleased to announce that the VT CLASS program will return to the beautiful new Warm Hearth Village Community Center just completed in the spring of 2013. Warm Hearth Village has been a loyal sponsor of VT CLASS from the beginning and is excited about the program returning to their new Center. The Center is very accessible with ample, convenient parking.

Also, if you'd like to stay for lunch, which would be on your own, their Café is in the same building and will be serving a variety of sandwiches, soups, and salads, in addition to a selection of specialty drinks and coffees.

**Directions:** Directions: From U.S. 460 East Business (South Main Street) turn right beside National Bank onto Hightop Road. Take first right at the bottom of the hill onto Farmview Drive, follow this into Warm Hearth Village (Approx. 1.5 miles). Take second left once inside the Village to the Community Center. For GPS folks, the address is 2387 Warm Hearth Drive, Blacksburg, VA 24060.

### Registration

[On-line registration is now open!](#)

# Attachment E

# WHY “HOKIE” IS NOT A TRADEMARK

Keith Finch  
The Creekmore Law Firm PC

Brought to you by HOKIE FAN  
A Project of The Hokie Objective Onomastics Society LLC  
<http://facebook.com/AnyoneCanBeAHokie>

-----Original Message-----

From: [REDACTED].com]

Sent: Friday, September 10, 2010 1:51 PM

To: Dudding, Sharon

Subject: Let's Go Hokies

Sharon,

Thank you for taking the time to speak with me today.

To recap, we have an advertiser, [REDACTED] Pizza here in town, who is running an ad with coupons. They would like to change the heading of their ad from "Welcome Back Students" to "Let's Go Hokies!!" We told the client that we would check, and that is why you are hearing from me. Our staff is trained to be aware of licensing and trademark issues and bring any questions to management. The last thing we want to do is cause a problem for ourselves or our clients.

Thank you for checking on this for me.

Sincerely,

[REDACTED]

--

[REDACTED]

Advertising & Marketing Adviser

[REDACTED]

**From:** White, Locke  
**Sent:** Tuesday, September 14, 2010 8:33 AM  
**To:** Dudding, Sharon  
**Subject:** RE: Let's Go Hokies

You told them NO, correct?

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark  
Southgate Drive (0161)  
Blacksburg, VA 24061  
(540) 231-3748

-----Original Message-----

**From:** Dudding, Sharon  
**Sent:** Friday, September 10, 2010 2:17 PM  
**To:** White, Locke  
**Subject:** FW: Let's Go Hokies

Who would this need to go to?

-----Original Message-----

**From:** [REDACTED] [REDACTED] [com]  
**Sent:** Friday, September 10, 2010 1:51 PM  
**To:** Dudding, Sharon  
**Subject:** Let's Go Hokies

Sharon,

Thank you for taking the time to speak with me today.

To recap, we have an advertiser, [REDACTED] Pizza here in town, who is running an ad with coupons. They would like to change the heading of their ad from "Welcome Back Students" to "Let's Go Hokies!" We told the client that we would check, and that is why you are hearing from me. Our staff is trained to be aware of licensing and trademark issues and bring any questions to management. The last thing we want to do is cause a problem for ourselves or our clients.

Thank you for checking on this for me.

Sincerely,

[REDACTED]

--

[REDACTED]  
Advertising & Marketing Adviser

HOOS-000330

**From:** [REDACTED]@roanoke.com]

**Sent:** Monday, December 06, 2010 11:04 AM

**To:** Crow, Cecelia

**Subject:** Question about Virginia Tech merchandise

Hello Cecelia,

My name is [REDACTED] and I work at The Roanoke Times. I was referred to you by Andy Hollander and I hope you can help me answer a question about some VT merchandise.

I have attached a picture that the [REDACTED] would like to show in their ad. I understand from speaking with Jeremy Wells that no advertiser can use the words "Go Hokies" or picture the mascot or the "VT" logo without being a sponsor. I checked the VT sponsorship page and [REDACTED] is not listed in the Retail Sales section.

I was wondering if showcasing this merchandise was considered a different situation and if they're allowed to show the merch in this ad. Any help you could give on this would be greatly appreciated. Thanks and have a wonderful day!

[REDACTED]  
Design Team Leader  
The Roanoke Times | roanoke.com

(P)  
(F) [REDACTED]  
[REDACTED]@roanoke.com

**From:** [REDACTED].com]

**Sent:** Monday, November 09, 2009 3:29 PM

**To:** White, Locke

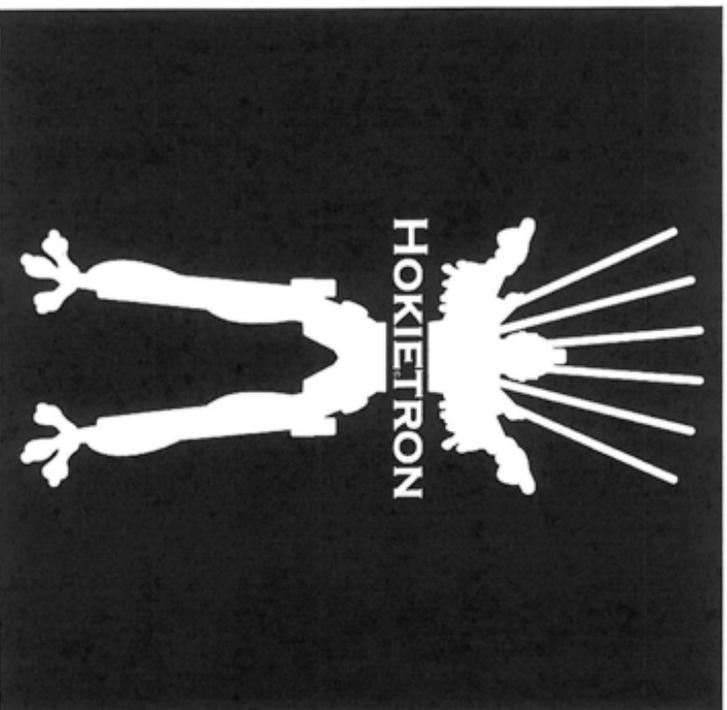
**Cc:** [REDACTED].com

**Subject:** Licence approval

This is a rush job we received that needs to print tomorrow so I am emailing you directly.

Here is art for order #709652 under the name [REDACTED], to be screenprinted on 100 black tee shirts. Please let me know about license approval at your earliest convenience.

Here is the art for front.



Thanks and have a great day!

--

Graphic Artist

[REDACTED] Inc.

Lynchburg Virginia 24501

HOOS-000332

[REDACTED],

NOT APPROVED. I believe this is the mechanical Hokie bird on stilts. I told him that he can go through the parking lots but he cannot turn it into a business. If you have already printed them they need to be destroyed.

Do not let them go out the door.

Locke White

Director of Licensing

Virginia Tech Licensing & Trademark

Southgate Drive (0161)

Blacksburg, VA 24061

(540) 231-3748



**White, Locke**

---

**From:** [REDACTED]  
**Sent:** Tuesday, November 10, 2009 8:50 AM  
**To:** White, Locke  
**Subject:** RE: Licence approval  
**Attachments:** image001 2.jpg; image002.jpg

Not a problem,  
We do not print anything without your approval.

Thanks!

[REDACTED],

NOT APPROVED. I believe this is the mechanical Hokie bird on stilts. I told him that he can go through the parking lots but he cannot turn it into a business. If you have already printed them they need to be destroyed.

Do not let them go out the door.

Locke White  
Director of Licensing  
Virginia Tech Licensing & Trademark  
Southgate Drive (0161)  
Blacksburg, VA 24061  
(540) 231-3748

 **VirginiaTech**  
*Invent the Future*

Hokie Real Estate™, Inc. is not affiliated with Virginia Polytechnic Institute and State University.

# HOKIE REAL ESTATE, INC.

318 N. Main Street Blacksburg, VA 24060-3990

Fax: (888)813-5452

[Home](#) [Listings](#) [Contact](#)



## Welcome to Hokie Real Estate, Inc.

We strive to offer great service and attention to detail. Please feel free to contact any of us to discuss listing your property, buying a property, or any other real estate-related question you may have. We are experienced REALTORS that are happy to help clients ranging from the first-time buyer to the seasoned investor. Thanks in advance for giving us the opportunity to work for you.

Sincerely,

John

## Our Agents

John Wilburn  
REALTOR®, Broker,  
ABR, CRI  
540-998-1276  
john@hokierealestate.com

Nicole Harless  
REALTOR®,  
ABR, CRI  
540-250-5887  
nicole@hokierealestate.com

Nina Wilburn  
REALTOR®,  
Licensed Assistant  
540-998-1275  
nina@hokierealestate.com



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

OCT 18 2010

JULIA G. RUPLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

CLERK'S OFFICE  
AT ROANOKE, VA  
FILED

Virginia Polytechnic Institute and  
State University,  
Plaintiff

7-10-cv-00466 (Judge Conrad)

Civil Action No. \_\_\_\_\_

v.  
Hokie Real Estate, Inc.,  
Defendant

COMPLAINT

Plaintiff Virginia Polytechnic Institute and State University presents now its  
complaint as follows:

Jurisdiction and Venue

1. This is an action for false designation of origin and trademark dilution arising under the Lanham Act, Title 15 of the U.S. Code, and for the pendant Virginia state law claim for common law unfair competition. Accordingly, the Court has jurisdiction over this matter of this action pursuant to 28 U.S.C. §§ 1331 and

# COLLEGIATE TIMES

107th year, issue 118

News, page 2

Weekend, page 6

Opinions, page 3

Sports, page 5

Classifieds, page 4

Sudoku, page 4

## Movie inspiration speaks out at Tech



## Case looming over 'Hokie' usage

JAY SPEIDELL  
NEWS STAFF WRITER

Virginia Tech is preparing legal action against local real estate firm Hokie Real Estate for using the word "Hokie" without permission.

Tech spokesman Larry Hincker said the university has stopped allowing retail establishments to use "Hokie" in their names.

"The thing about a trademark is that you've got to control it to keep it," Hincker said.

While other business use "Hokie" in their names, including Hokie Hair, Hokie Spokes and Hokie House, their naming rights have been grandfathered into the policy with permission from Tech.

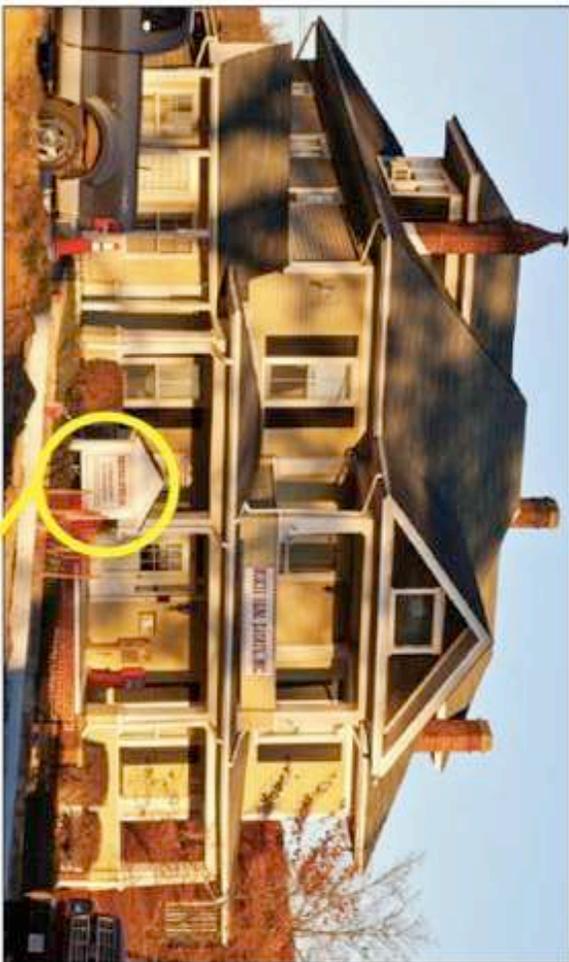
"(Tech has) been using Hokie for more than a century," Hincker said. "It was created by us and has no meaning outside of the university."

Hokie Real Estate owner John Wilburn is a Tech alumnus, but the university made it clear its not his identification as a Hokie that's the problem.

"John Wilburn clearly made a commercial business decision to use the name," said John Thomms, an attorney speaking on behalf of the university. "He didn't call it Wilburn Real Estate and then say he's a Hokie."

Wilburn's attorney said the use of the name doesn't affect Tech because it is in a different business.

"Our client is a real estate broker, he provides real estate broker services," said Keith Pinch, an attorney representing Wilburn. "They don't state



Estate has affiliation or authorization from Virginia Tech," Thomms said.

Thomms noted Tech's affiliation to the Hokie Homes project.

Started in 2005, Hokie Homes was created to license the unique "Collegiate Gothic" look of Tech in architectural plans for residential homes. The project is a collaborative project between Tech and architectural group Balzer & Associates, Inc.

Thomms said the Hokie Real Estate name could cause confusion for consumers looking for Hokie Homes.

"People will want that Hokie Home



# Company can keep Hokie name

## Virginia Tech sued Hokie Real Estate for infringing on the "famous" moniker, but it appears John Wilburn got the better end of the deal.

By Tonia Moxley  
tonia.moxley@roanoke.com  
301-1675

A Virginia Tech alumnus sued by the university for using the term Hokie in his real estate business name may not only keep using the moniker, but now gets free tickets to Tech football home games, among other incentives.

legal fees and unspecified damages.

The university sued John Wilburn, and his Blacksburg company Hokie Real Estate, last fall in the U.S. District Court for Western Virginia. The university alleged that in using the term "Hokie," Wilburn infringed on the institution's exclusive right to the "famous Hokies and Hokie trademarks," and asked that the company be ordered to cease using the name and pay Tech's

Wilburn counter-sued, claiming the university had perpetrated a fraud on the U.S. Patent and Trademark Office in its application for and use of trademarks. The countersuit asked for monetary damages and other punishments, but was dismissed on grounds that as a state agency, Tech is immune to the damage claims.

After months of negotiations, Wilburn seems to have won the upper hand, securing the right to use the Hokie name and receiving tens of thousands of dollars' worth of university goods and services.

Reached by phone Friday, Wilburn was reluctant to comment on the terms

See NAME, 12

# Obama pitches plan in Richmond

## The president sounded like he was on the campaign trail as he touted his jobs package.

By Julian Walker  
The (Merfeld) Virginian-Pilot

RICHMOND — Amplifying a message delivered the night before to Congress, President Barack Obama on Friday pitched a crowd of thou-

# Woman faces one more obstacle to overcome



**N.Y., Washington, aware of terrorism threat, not afraid**  
Undaunted by talk of a new threat of terrorism, New Yorkers and Washingtonians wove among police armed with assault rifles and waited with varying degrees of patience at security checkpoints Friday. **PAGE 3**

## VIRGINIA



**Roanoke pair to take steps to honor**

# Company can keep Hokie name

## Virginia Tech sued Hokie Real Estate for infringing on the "famous" moniker, but it appears John Wilburn got the better end of the deal.

By Tonia Moxley  
tonia.moxley@roanoke.com  
381-1675

A Virginia Tech alumnus sued by the university for using the term Hokie in his real estate business name may not only keep using the moniker, but he gets free tickets to Tech football games, among other incentives.

The university sued John Wilburn, and his Blacksburg company Hokie Real Estate, last fall in the U.S. District Court for Western Virginia. The university alleged that in using the term "Hokie," Wilburn infringed on the institution's exclusive right to the "famous

legal fees and unspecified damages. Wilburn countered, claiming the university had perpetrated a fraud on the U.S. Patent and Trademark Office in its application for and use of trademarks. The countersuit asked for monetary damages and other punishments, but was dismissed on grounds that as

After months of negotiations, Wilburn seems to have won the upper hand, securing the right to use the Hokie name and receiving tens of thousands of dollars' worth of university goods and services. Reached by phone Friday, Wilburn was reluctant to comment on the terms

“Wilburn will continue to have a license with the university to use the Hokie moniker free of charge.”

# Obama pitches plan in Richmond

## The president sounded like he was on the campaign trail as he touted his jobs package.

By Julian Walker  
The (Merfeld) Virginian-Pilot

RICHMOND — Amplifying a message delivered the night before to Congress, President Barack Obama on



# obstacle to overcome



N.Y., Washington, aware of terrorism threat, not afraid

Undaunted by talk of a new threat of terrorism, New Yorkers and Washingtonians wove among police armed with assault rifles and waited with varying degrees of patience at security checkpoints Friday. PAGE 3

VIRGINIA



Roanoke pair to take steps to honor

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“ . . . and for five years beginning in 2011 will receive from university President Charles Steger’s allotment four free tickets to all home football games.”

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“ . . . and [for five years] a free parking space near Lane Stadium.”

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See NAME, 12

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“Wilburn will receive 10 years of free Platinum-level Hokie Club membership normally reserved for Virginia Tech Athletic Fund donors who give \$5,000 to \$9,999 a year.”

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125 YEARS

# THE ROANOKE TIMES

ROANOKE, VIRGINIA 75¢

SATURDAY SEPTEMBER 10, 2011

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**“Hokie Real Estate will receive four free half-page ads in the Virginia Tech Magazine, worth about \$2,700.”**

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Virginia Tech did not invent it

## What is a Hokie?

### A Look at Virginia Tech Traditions

Here is the answer to that oft-posed question, "What's a Hokie?" and an explanation of other Tech traditions.

What is a Hokie? The origin of the word "Hokie" has nothing to do with a turkey. It was coined by O. M. Stull (class of 1896), who used it in a spirit yell he wrote for a competition.

Here's how that competition came to be held. Virginia Tech was founded in 1872 as a land-grant institution and was named Virginia Agricultural and Mechanical College. In 1896, the Virginia General Assembly officially changed the college's name to Virginia Agricultural and Mechanical College and Polytechnic Institute, a name so long that citizens shortened it in popular usage to VPI. The original college cheer, which made reference to the original name of the institution, was no longer suitable. Thus, a contest was held to select a new spirit yell, and Stull won the \$5 top prize for his cheer, now known as Old Hokie:

HOKI, HOKI, HOKI, HY.  
TECHS, TECHS, V.P.I.  
SOLA-REX, SOLA-RAH,  
POLYTECHS - VIR-GIN-IA.  
RAE, RI, V.P.I.

Later, the phrase "Team! Team! Team!" was added at the end, and an "e" was added to "Hoki."

Stull later said that he made up the word as an attention-grabber. Though he may not have known it, "Hokie" (in its various forms) has been around at least since 1842. According to Johann Norstedt, now a retired Virginia Tech English professor, "Hokie was] a word that people used to express feeling, approval, excitement, surprise. Hokie, then, is a word like 'hooray,' or 'yeah,' or 'yah.'" Whatever its original meaning, the word in the popular cheer did, as Stull wanted, grab attention and has been a part of Virginia Tech tradition ever since.

Since the university had a new name and a new yell, new college colors seemed to be a desirable next step.

During 1905 a competition was formed



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## Whence Hokie, Whither Hokie?

By Johann A. Norstedt

**I**t is with some trepidation that I venture into the forest of controversy surrounding the word “Hokie” and its meaning — or lack thereof — and appropriateness as a nickname for the athletic teams and backers of Virginia Tech.

Not a year goes by, it seems, that someone or other doesn’t write to some editor or other about this burning issue. Robert Bauer, for example, a student in Industrial Engineering and Operations Research, last year wrote to the editor of the Collegiate Times that “The question I am always confronted with (in his four years at

As an English teacher, I confess to being skeptical that any word is truly “meaningless,” but let’s look more closely at this word “Hokie.” For some, hokie (if spelled “hokey”) is an adjective meaning, in the words of the American Heritage Dictionary, “Corny, trite, phony, artificial.” (This is the most readily accessible meaning of the word in popular dictionaries.) But is this our Hokie? Let us hope not!

I came to Tech — and to this controversy — in 1972, from Ireland where my wife and I had lived for five years while I completed my doctorate in Anglo-Irish literature. I had never

words and meanings. And does the OED have anything to say about “hokie?” Yes, it does, under “hokey” or “hoaky.”

“HOKEY, HOAKY (how-ki). In *by Hokey, by the Hokey*, a petty oath, or asseveration . . . 1842, Richard Barham, *Ingoldsby Legends, Series II, Dead Drummer*, What sounds mingles too? — by the hokey — a Drum! (An asseveration, by the way, is a positive, earnest affirmation.) Now, we’re beginning to get somewhere!

People have been exclaiming — asseverating, if you will — or yelling hokey, or hokie (however you spell it!)

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

OCT 18 2010

JULIA G. RUPLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

CLERK'S OFFICE  
AT ROANOKE, VA  
FILED

Virginia Polytechnic Institute and  
State University,  
Plaintiff

7-10-cv-00466 (Judge Conrad)

Civil Action No. \_\_\_\_\_

v.  
Hokie Real Estate, Inc.,  
Defendant

COMPLAINT

Plaintiff Virginia Polytechnic Institute and State University presents now its  
complaint as follows:

Jurisdiction and Venue

1. This is an action for false designation of origin and trademark dilution arising under the Lanham Act, Title 15 of the U.S. Code, and for the pendant Virginia state law claim for common law unfair competition. Accordingly, the Court has jurisdiction over this matter of this action pursuant to 28 U.S.C. §§ 1331 and

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was a made-up word, a coined  
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MAGAZINE  
FOR RETINA, CONTAX  
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EASTMAN KODAK CO. ROCHESTER, N.Y.  
TRADE MARKS REG. U.S. PAT. OFF. AND THROUGHOUT THE WORLD

A TRADEMARK OF THE HALOID COMPANY





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Here's how that competition came to be held. Virginia Tech was founded in 1872 as a land-grant institution and was named Virginia Agricultural and Mechanical College. In 1896, the Virginia General Assembly officially changed the college's name to Virginia Agricultural and Mechanical College and Polytechnic Institute, a name so long that citizens shortened it in popular usage to VPI. The original college cheer, which made reference to the original name of the institution, was no longer suitable. Thus, a contest was held to select a new spirit yell, and Stull won the \$5 top prize for his cheer, now known as Old Hokie:

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Sola-Rex, Sola-Rah,  
Polytechs - Vir-gin-ia,  
Rae, Ri, V.P.I.

Later, the phrase "Team! Team! Team!" was added at the end, and an "e" was added to "Hoki."

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# Before

# Now



About Virginia Tech



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### Motto, Seal, and Logos

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Also in 1896, the university adopted Ut Prosim, Latin for "That I May Serve," as its motto, and a college seal was developed. However, the Virginia Tech Board of Visitors did not officially adopt the seal, which is still used, until 1963. In 1991, Virginia Tech adopted a university logo, which incorporates an image of the War Memorial with its eight pylons, each representing a different virtue. The inclusion of the

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The university logo was updated in

*Jona.* (*discovering his loss*) Never fetch me, 'f 't dont beet all nater ! capun, it beets the very dragon —they're enamost all gone, and I don know where by the hokey !

*Capt. Horn.* Darnation, Jonathan ! what dewe say ? what have you ben doen on all this here time, you tarnation sleepy houn, you ?

*Jona.* Capun, dont swear so, I beg on't ; for the land sake and masies alive, what would our parson say ? you're a darned sight wos'n a methodist preacher.

*Capt. Horn.* Cuss you ! cuss you Jonathan ! git a long down a board the scheuner, and arter breakfast put things all t'rights, and boil a hock 'f pork and hafe a head 'f cabbage for dinner, and see what else you can 'stroy and lose 'fore I come 'board agin, you farnal——

[*exeunt* Horner, Seldreer, and Jack

*Jona.* There it is agin, by gum ! I knew how't would be. It beets all nater ! never fetch me 'f I dont think how it was that rotten sailor feller cut up all these here witched capers. But it beets every thing tewe see capun Horner git intewe sich a tarnal passion. Jest as it was the fust night we left

THESE WORDS ARE PRINTED IN REVERSE TYPE AND ARE NOT TO BE REPRODUCED OR TRANSCRIBED

*Love and Friendship;  
or, Yankee Notions,  
by A.B. Lindsley,  
1809*

to see a hantle o' that cleck o' yours ta'en out o' ye."

"By my soul, you are right, Gibby, and Hollyoak's wrong. I believe we shall see your calf country, my old boy, very soon.—I say, Mack, what d'ye think's the largest tree in Gibby's country?"

"O, how should I know. But what country d'ye call Gibby's?"

"Why, Shetland, to be sure."

"O! Shetland, is it—there I have you, matey, for many's the good glass of grog I've had in Shetland. The biggest tree that I know that grows in Shetland is, let me see, a large, tall, bushy, full-grown—cabbage! almost as high, by the hokey! as our grog-kid there, ha, ha, ha!"

"Avast, avast there, Mack;—Pshaw! you should'nt be so d—d witty on Gibby's country, my lad, seeing you don't know how much you may be beholden to it yet before you hop the twig. For my part, I'll only say that the man that speaks glummishly of

επε υπερ ερετ εθεερε εηπυηηηηηλ ου εμυηε. εοι υπλ ηεηε I, η ουηλ εελ ερετ ρεροηγευ το ηε λεε ρεηολε λον ροθ ερε εου,ε κηοα ροα υπεεη λον υπλ ρε εηρηλ,ε εομυηλ' υπλ ηεη' εεεηε λον

way. Blast your day-lights, you lubber! if you make me spill this here grog, but I'll dance your rascally ribs into powder."

"Hollo! you sodger, mind your well blacked pins, my boy, and don't capsizes the good stuff."

"Number five!—Number five!—call number five below there!—Here, my old mate, lay hold of the grog-kid; the hatchway's so completely choak-a-block with lobster-backs and barber's clerks, there's no getting down but by the cable."

"Come, come, heave a-head, old skulk-me-ever, and let me pass; our mess is on fire, and here is the water."

"Weel, sirs, and fat d'ye think o' your fine Cockney now;—ha, ha, ha! if I can keep frae laughing at it. D—n me, if the poor singit mumping cat hasna lost his call; and now ye'll hae obliged to wait till a' the sodgers are saired before ye. Saul! the brat was for starting me, sending me through the fleet, and fiend kens a' fat; but,

ερε ηεεε' εηη ηεηη κειε ε, εεε? ρηε' εοι εεεηηεηε ηε' εεηηηεηε ηε εηηοηεη εηηεε ρεηολε λε' εηηη; ερε ρηεε μνε ορηηεεε το μνηε εηη ε, ερε εοηεεηε ελε ρεεηε ηοεε ηηε εηη; εηη ηοα λε η ηεε

Blackwood's  
Edinburgh Magazine,  
1822

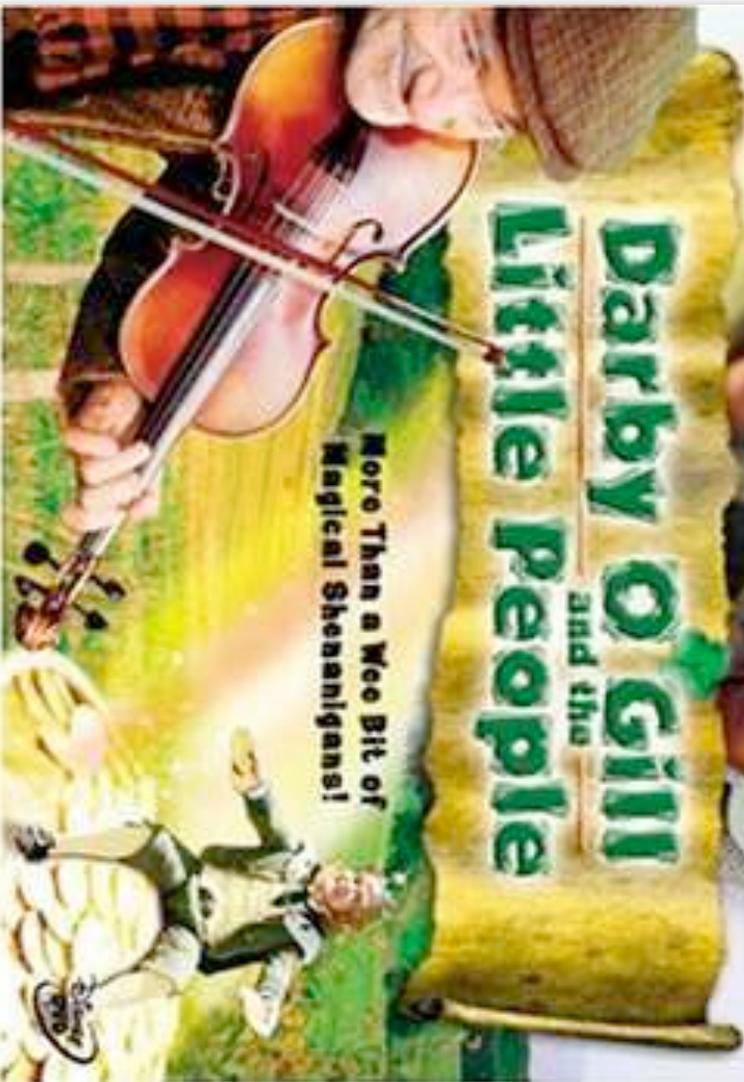
Walt Disney Presents

**ALBERT SHARPE JANET MUNRO SEAN CONNERY**



# **Darby O'Gill** and the **Little People**

**More Than a Wee Bit of  
Magical Sheeanigans!**



## **Darby O'Gill and the Little People**

<b>Directed by</b>	Robert Stevenson
<b>Produced by</b>	Walt Disney
<b>Written by</b>	H. T. Kavanagh (stories) Lawrence Edward Watkin
<b>Starring</b>	Albert Sharpe Janet Munro Sean Connery Jimmy O'Dea
<b>Music by</b>	Oliver Wallace
<b>Cinematography</b>	Winton Hoch
<b>Editing by</b>	Stanley Johnson
<b>Distributed by</b>	Buena Vista Distribution
<b>Release date(s)</b>	June 26, 1959
<b>Running time</b>	93 minutes
<b>Language</b>	English



HOOS-000357



***hoc est enim corpus meum***

(“for this is my body,” from the Latin Mass, spoken upon elevation of the Sacred Host / Eucharistic Host)

*hoc est enim corpus meum*  
("for this is my body," from the Latin Mass, spoken upon elevation of the Sacred Host / Eucharistic Host)

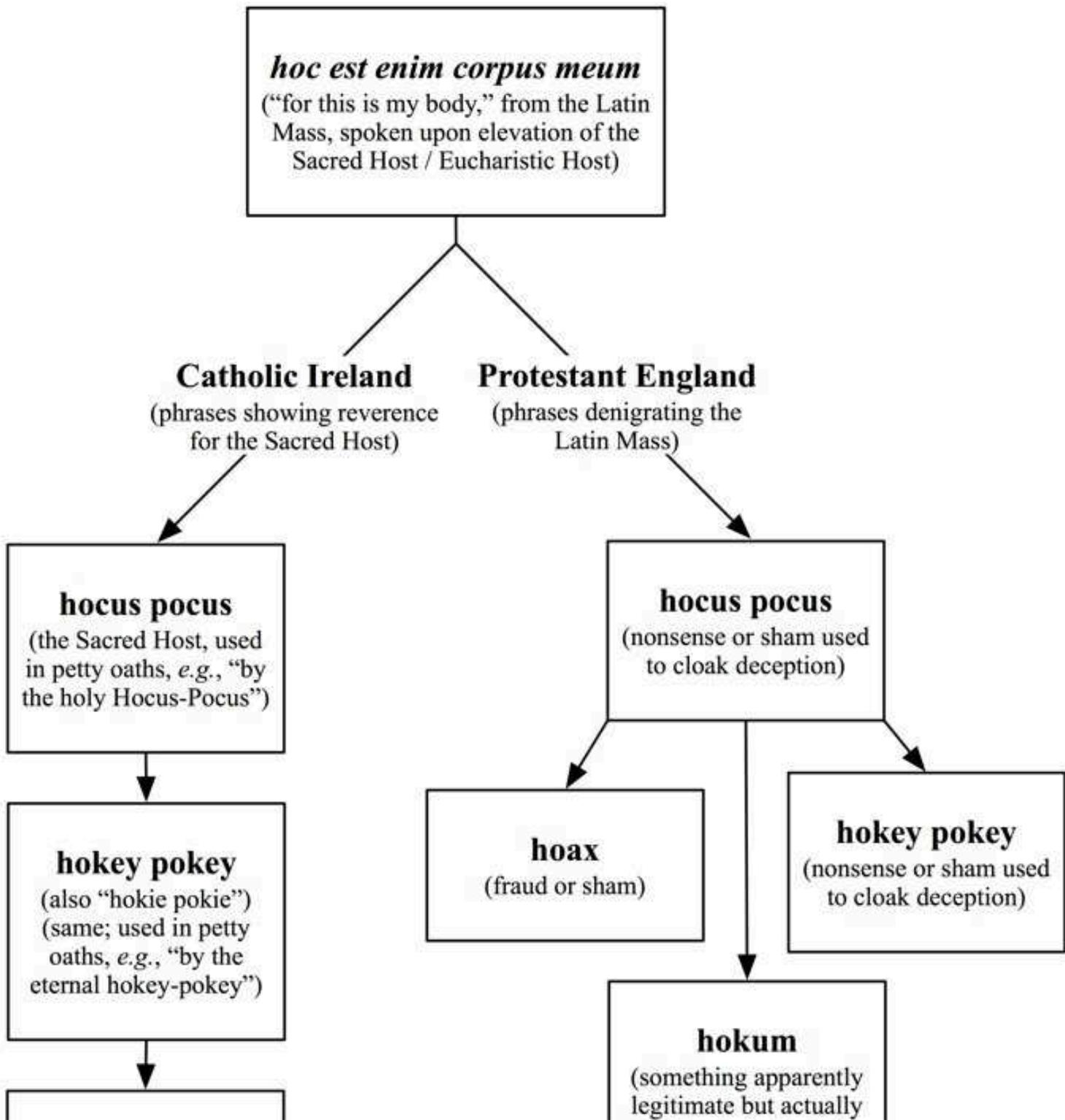
**Catholic Ireland**  
(phrases showing reverence for the Sacred Host)

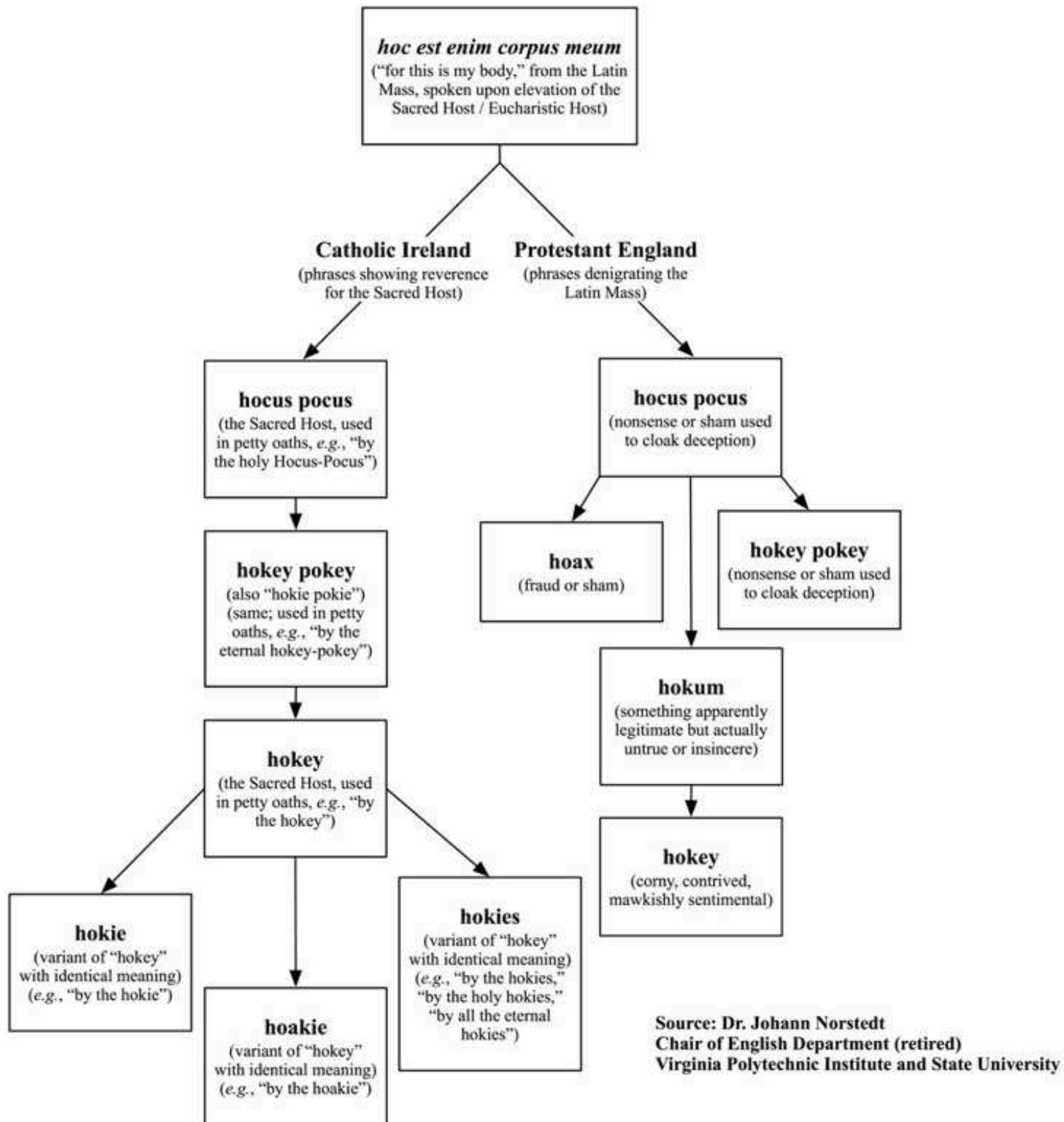
**Protestant England**  
(phrases denigrating the Latin Mass)

**hocus pocus**  
(the Sacred Host, used in petty oaths, e.g., "by the holy Hocus-Pocus")

**hocus pocus**  
(nonsense or sham used to cloak deception)





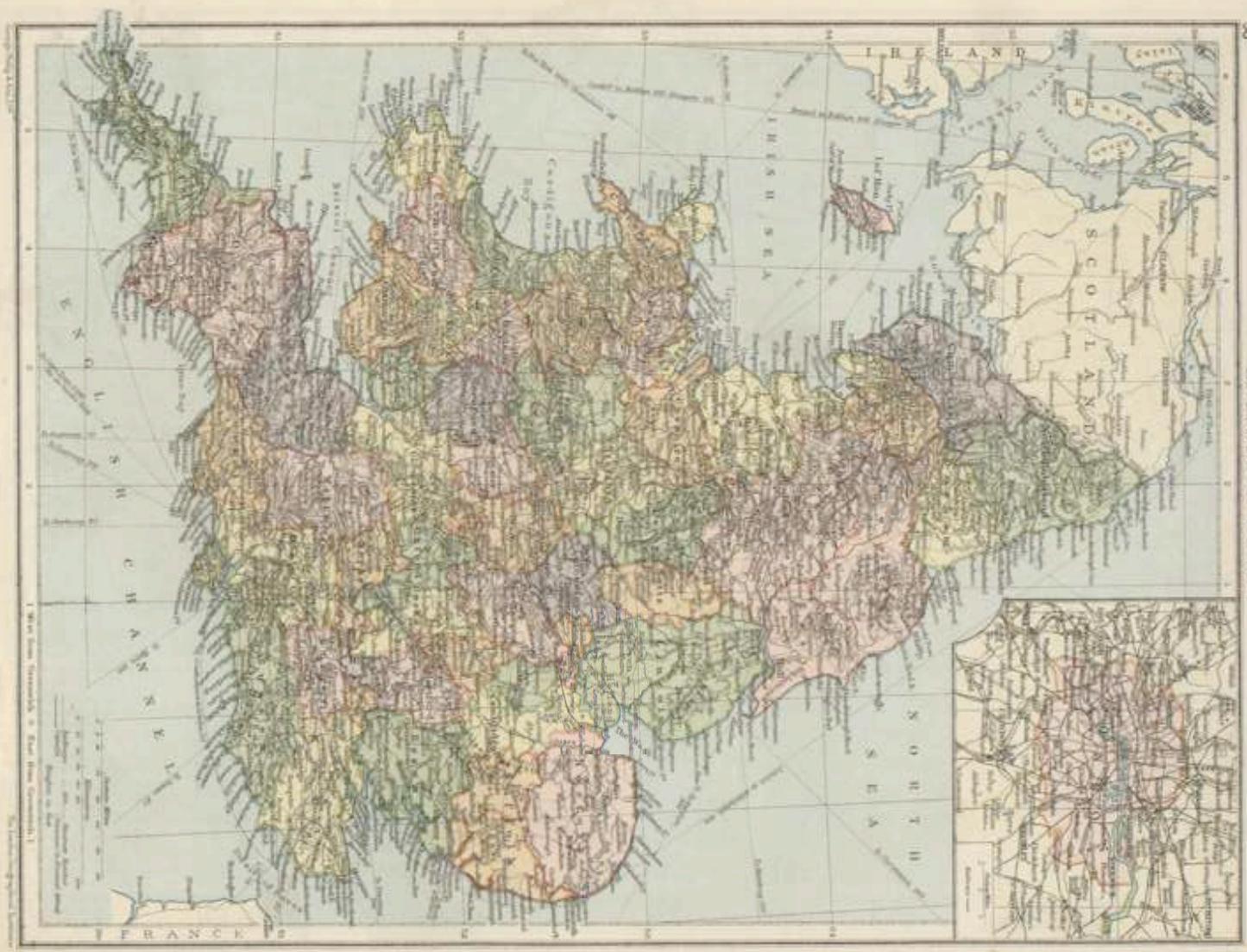


# Why “Hokie” is Not a Trademark

- Virginia Tech did not invent it
- It is a generic word meaning “supporter of Virginia Tech”

Common Law:  
Trademark Rights  
Arise From  
Use in Commerce

ENGLAND & WALES



**East Piddlehinton** ○

○ **Windy Wundhump**





**East Piddlehinton**



**Windy Wundhump**



**East Piddlehinton**



**Windy Wundhump**

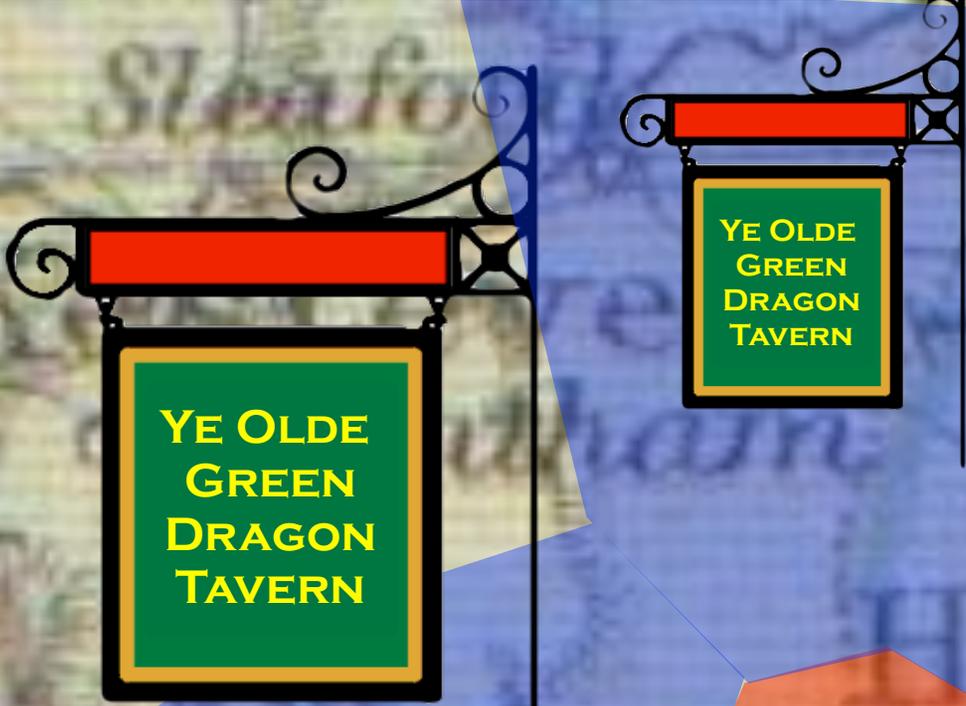


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Arise From  
Use in Commerce



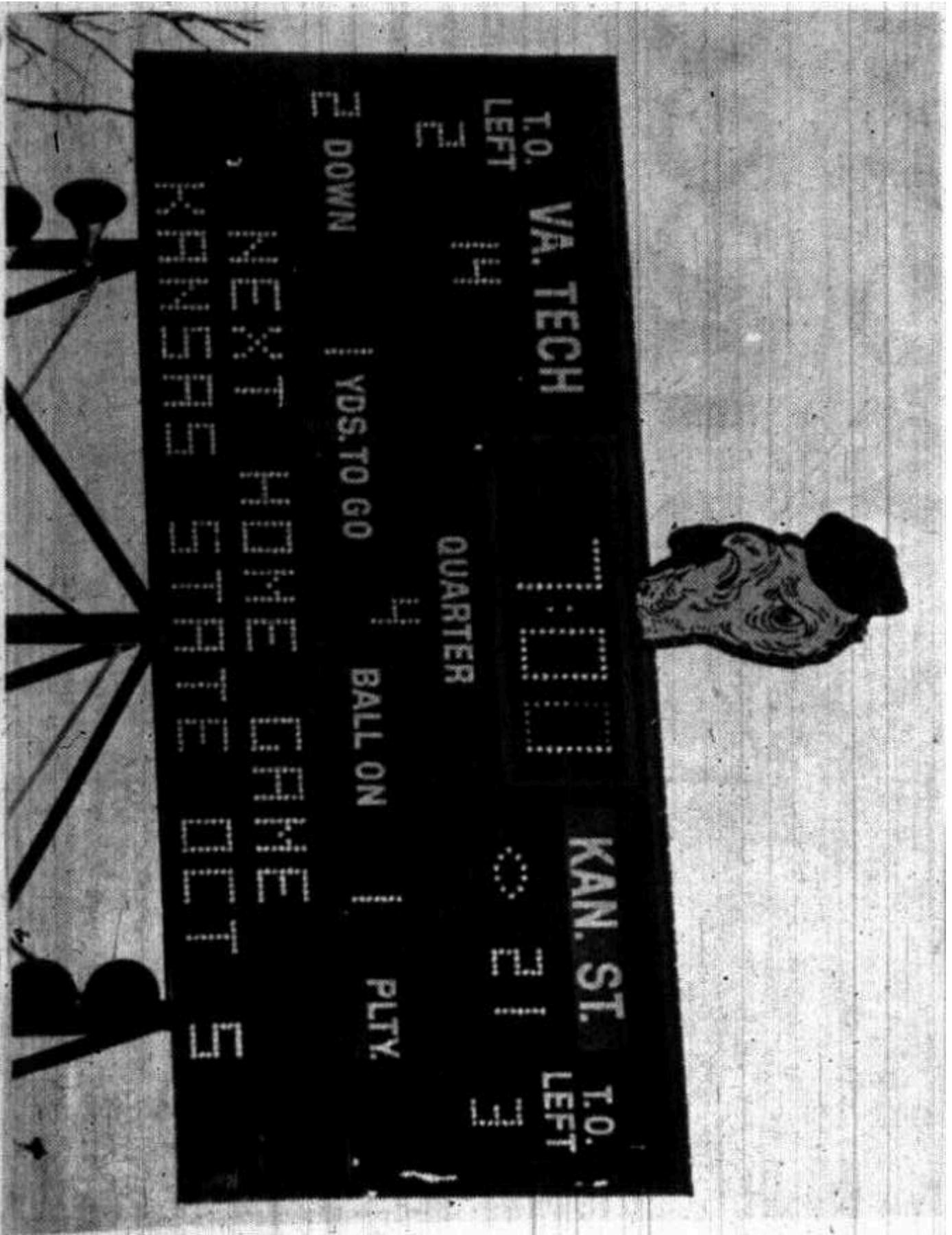
1935



1949



1959



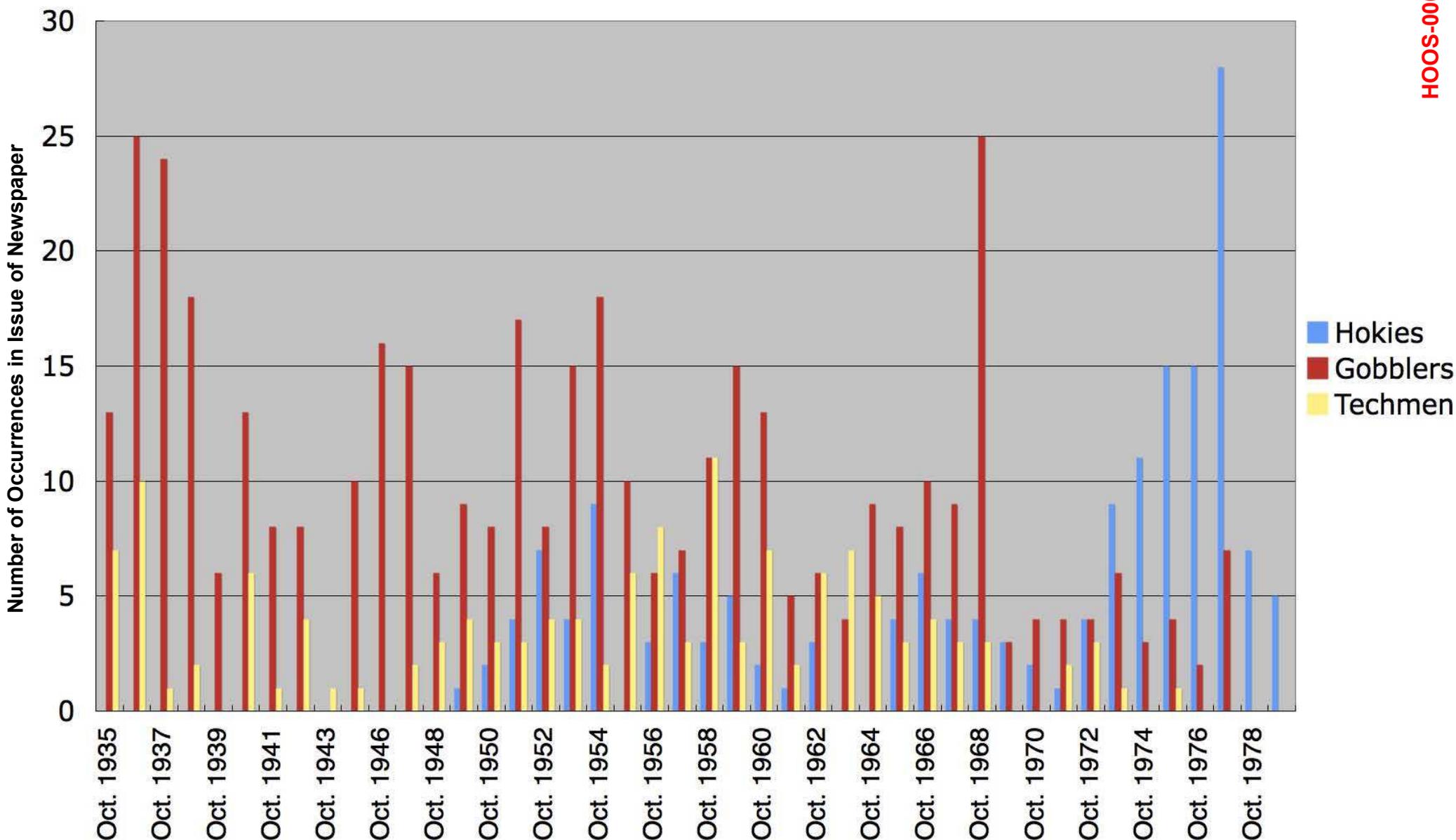
Hokie Grill & Company  
Hokie Kids' Club  
Hokie Huddler  
Hokie Spa  
Hokies Helping Hokies  
Hokies 4 Hire  
Hokies for the Hungry  
Hokie Hands  
Hokie Passport  
Hokie Harvest Sale  
Hokie Camp  
Hokie Shop

Hokie Tickets  
Hokie Handbook  
Hokie News  
Hokie Parent  
Healthy Hokie Workshop  
Hokie Nation Network  
Hokie F6  
Hokie Bird Wine  
Hokie Water  
Hokie Family Day  
Hokie Spirit Picnic  
Hokie Mart



1973

**Number of Occurrences of Nicknames "Hokies," "Gobblers" and "Techmen" in the VPI Student Newspaper from 1935 through 1979**  
 (based upon review of the entire text of the first October issue in each year)



HOOS-000380

- Notes:**
1. Variants are included in the counts. So, for example, the counts for "Hokies" include "Hokie," and the counts for "Gobblers" include "Goblets," a reference to the Freshman football team in certain years.
  2. The counts for all nicknames include only uses (a) referring to athletes, (b) referring to students, staff, alumni, fans, etc., and (c) as an adjective. Thus, all references to the original "Hoki, Hoki, Hoki, Hy!" spirit yell have been disregarded and are not included in these counts.
  3. Counts are from *The Virginia Tech* until 1969 and from *The Collegiate Times* from 1970 onward.
  4. There was no October issue of the student newspaper in 1944.





HOOS-000382

**STREET HONDA HOG COMPLETION**

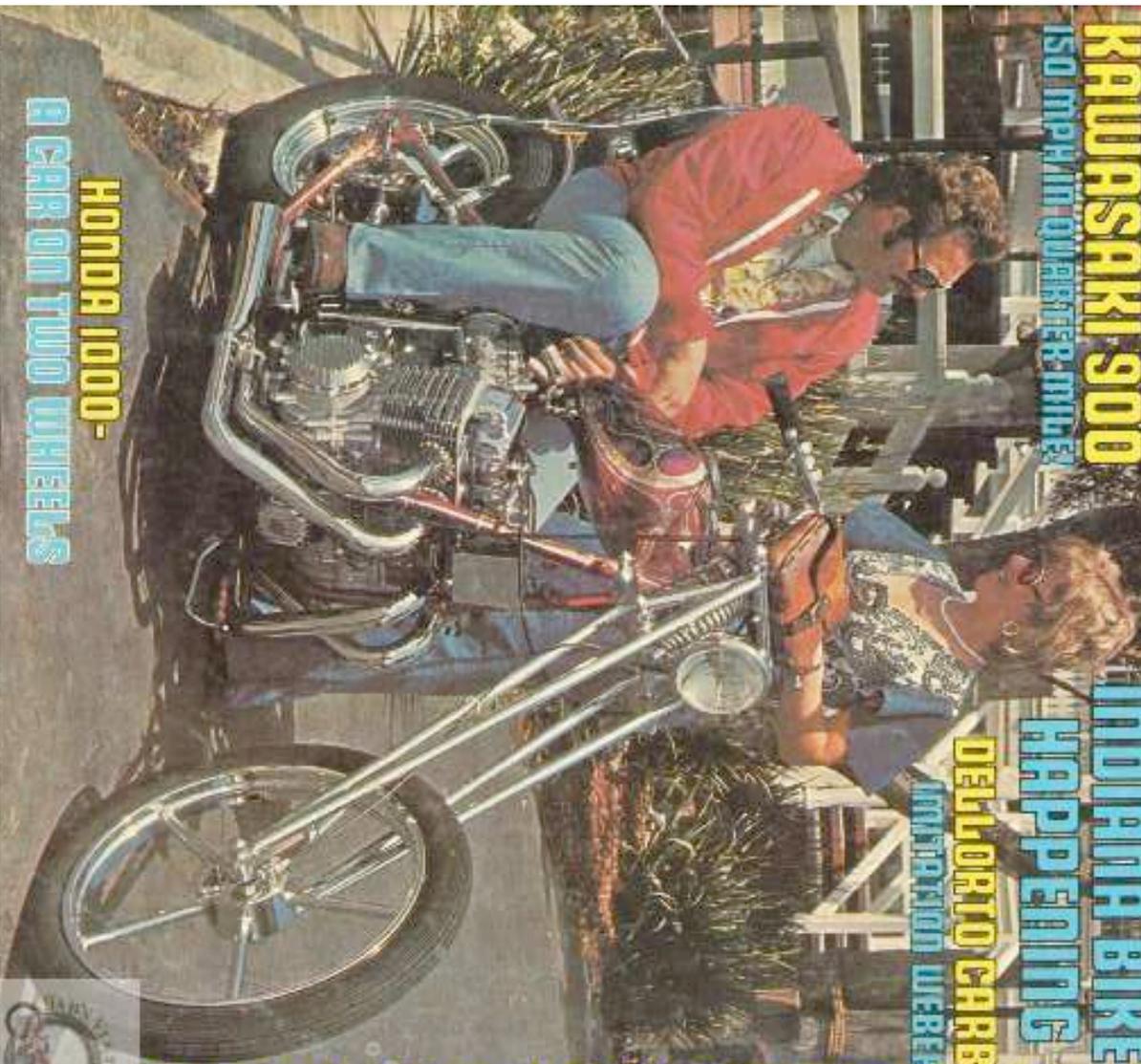
# Chopper

NOVEMBER 1975  
TRM  
PUBLICATION  
VOL. 1 NO. 11 \$1.00  
U.S. 45¢

**KAWASAKI 900**  
150 MPH IN QUARTER MILE!

**INDIANA BIKE**  
**HAPPENING**  
**DELLORIO CARRS**  
AMTRITION WEBER

**HONDA 1000 -**  
**A CAR ON TWO WHEELS**



[www.DadsVintageAds.com](http://www.DadsVintageAds.com)



# It Seems a Hog Is a Hog Is a Hog, Even if It Isn't a Harley-Davidson

By FRANKS A. McMEIKEN

*Staff Reporter of THE WALL STREET JOURNAL*

Harley-Davidson Inc. can't hog the word "hog."

The federal appeals court in Manhattan has ruled that the company can't stop a motorcycle repair shop in West Seneca, N.Y., from calling itself the Hog Farm and pushing "hog" products.

Harley-Davidson had sued the shop for trademark infringement. A federal judge in Buffalo, N.Y., had sided with the company. But a unanimous panel of three appellate judges said on Friday that the term hog was widely used in the 1960s and 1970s to refer to big motorcycles, long before Harley-Davidson tried to cash in on it.

In fact, the appeals panel said, the motorcycle maker had for years "attempted to disassociate itself from the word 'hog,' in an apparent attempt to avoid any connection with unsavory elements of the population, such as Hell's Angels," who use the term for Harley-Davidson motorcycles.

The ruling is "one for the little guys," said a revved-up Ronald Grottanelli, a 50-year-old motorcycle enthusiast, who opened the Hog Farm in 1969. In addition to repairing motorcycles, he sells used Harleys, sponsors races and other events he calls Hog Holidays, and carries such products as Hog Wash engine degreaser

and a Hog Trivia board game. He predicts the decision will help others fighting with Harley-Davidson over the term.

Officials at Harley-Davidson in Milwaukee didn't return calls seeking comment. Neither did their lawyers.

The court said the company didn't realize until 1981 that the term hog had "financial value." That's when it began using hog in connection with its products. Two years later, it formed the Harley Owners' Group, known as H.O.G., which it later registered as a trademark. The company eventually got a trademark on the word "hog" and started using it in 1990.

Writing for the panel, Judge Jon Newman traced the history of the term hog, beginning with a June 1935 issue of *Popular Mechanics* to references in *Outlaw Biker* and *Street Chopper* magazines in the 1970s and 1980s, noting that "several dictionaries include a definition of 'hog' as a motorcycle, especially a large one." Under trademark law, companies aren't entitled to protection for common descriptive words.

The ruling wasn't a total blowout for Harley-Davidson. The court barred Mr. Grottanelli from using a logo modeled after the company's bar-and-shield design. Mr. Grottanelli said he doesn't mind changing the logo. "As long as I'm alive," he said, "I'm keeping the name."

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**“No manufacturer can take out of the language a word, even a slang term, that has generic meaning as to a category of products and appropriate it for its own trademark use.”**

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# The First Amendment

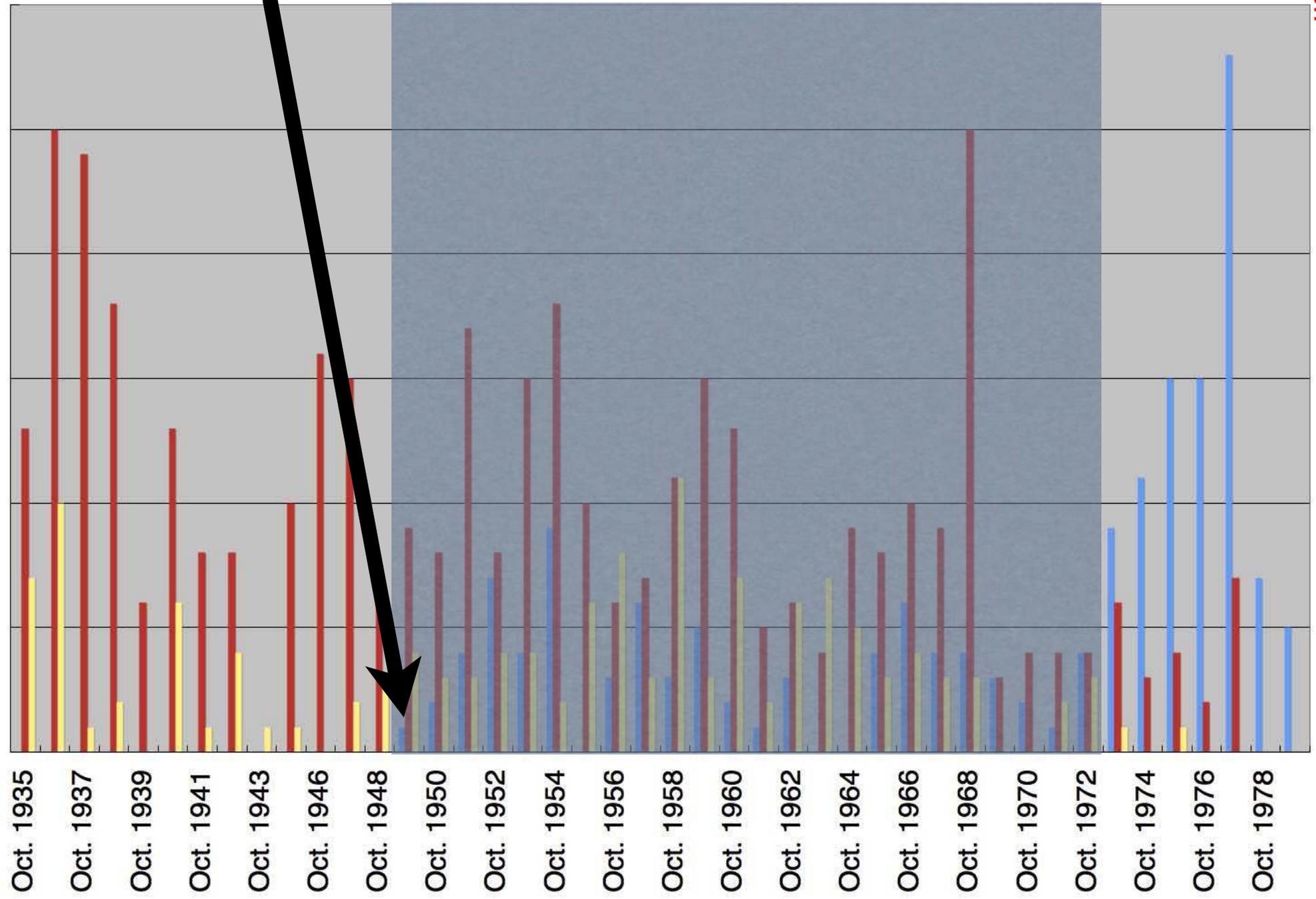
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

**The term “Hokie”  
arises spontaneously,  
created by the people**

**“Hokie” in the public domain  
for more than 20 years  
No use by Virginia Tech**

- Hokies
- Gobblers
- Techmen

HOOS-000387



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

OCT 18 2010

JULIA G. RUPLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

CLERK'S OFFICE  
AT ROANOKE, VA  
FILED

Virginia Polytechnic Institute and  
State University,  
Plaintiff

7-10-cv-00466 (Judge Conrad)

Civil Action No. \_\_\_\_\_

v.  
Hokie Real Estate, Inc.,  
Defendant

COMPLAINT

Plaintiff Virginia Polytechnic Institute and State University presents now its  
complaint as follows:

Jurisdiction and Venue

1. This is an action for false designation of origin and trademark dilution arising under the Lanham Act, Title 15 of the U.S. Code, and for the pendant Virginia state law claim for common law unfair competition. Accordingly, the Court has jurisdiction over this matter of this action pursuant to 28 U.S.C. §§ 1331 and

UNITED STATES DISTRICT COURT  
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JULIA G. RUPLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

AT ROANOKE, VA  
FILED

Virginia Polytechnic Institute and  
State University,  
Plaintiff

7-10-cv-00466 (Judge Conrad)

Civil Action No. \_\_\_\_\_

v.

**“The ‘Hokie’ term can be defined  
as a supporter of Virginia Tech.”**

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Jurisdiction and Venue

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# WHAT IT MEANS TO BE A HOKIE

What does it mean to be a Hokie? It's about being part of a group that's very proud, very hard working, very committed, and very dedicated. Hokies are a really close group, and I'm talking about our players, our coaches, our administration, and our fans. The whole thing is a group that's committed together, and I like being a part of that.

—Frank Beamer

## FRANK BEAMER

### AND VIRGINIA TECH'S GREATEST PLAYERS

JIMMY WILLIAMS • BOB GRIFFITH • KEVIN ACCADIA • TERRY STRONG  
CYRUS LAWRENCE • BOB GRIFFITH • KEVIN ACCADIA • TERRY STRONG  
KINGAID • AUGUST HERRON • DON CARLIS • ROSCOE COFFEE • JIM  
ANDRE DAVIS • RON DAVIS • MARK SCHLABACH • ANDY • B  
HARDEE • WILL FURRER • TOM STAFFORD • BILLY HOLSCRAW • MILLY



follow

Shop

Calendar

**live**  
**TONIGHT**

**The Dennis Wolff Show • 7-8 PM • LISTEN • Submit A Question**

**HOKIES**  
**ALL★ACCESS**

**live**  
**TODAY**

**Men's Basketball at #3 Duke • 7 p.m. • LISTEN**

**HOKIES**  
**ALL★ACCESS**

## WHAT'S A HOKIE?

The answer leads all the way back to 1896 when Virginia Agricultural and Mechanical College changed its name to Virginia Polytechnic Institute. With the change came the necessity for writing a new cheer and a contest for such a purpose was held by the student body.

Senior O.M. Stull won first prize for his "Hokie" yell (*Old Hokie Cheer below*) which is still used today. Later, when asked if "Hokie" had any special meaning, Stull explained the word was solely the product of his imagination and was used only as an attention-getter for his yell. It soon became a nickname for all Tech teams and for those people loyal to Tech athletics.

The official university school colors - Chicago Maroon and Burnt Orange - also were introduced in 1896. The colors were chosen by a committee because they made a 'unique combination' not worn elsewhere at the time. The official definition of "hokie" is "a loyal Virginia Tech Fan".

### The HokieBird

The bird is a "HokieBird" which has evolved from a turkey. Virginia Tech teams were once called the "gobblers"!

*Read more on the origins of the HokieBird...*





follow

Shop

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**TONIGHT**

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# Why “Hokie” is Not a Trademark

- Virginia Tech did not invent it
- It is a generic word meaning “supporter of Virginia Tech”
- Virginia Tech has pretended that it has a Federal registration for “Hokie”



**TM**

**vs.**



Int. Cls.: 14, 16, 18, 21 and 25

Prior U.S. Cls.: 1, 2, 3, 5, 13, 22, 23, 27, 28, 29, 30, 33, 37, 38, 39, 40, 41 and 50

Reg. No. 2,351,364

**United States Patent and Trademark Office**

Registered May 23, 2000

**TRADEMARK  
PRINCIPAL REGISTER**

**HOKIES**

VIRGINIA POLYTECHNIC INSTITUTE AND  
STATE UNIVERSITY (VIRGINIA STATE AGENCY)  
324 BURRUSS HALL  
BLACKSBURG, VA 24061

FOR: PRECIOUS METALS, JEWELRY, NAMELY,  
GOLD PINS, GOLD EARRINGS, TIE TACKS;  
CHARMS AND RINGS, WATCHES AND CLOCKS,  
IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 7-0-1982; IN COMMERCE 7-0-1982.  
FOR: PAPER ARTICLES, NAMELY, WRITING  
PAPER, FOLDERS, NOTE PADS, STATIONERY,  
LOOSELEAF BINDERS, DECALS, BUMPER STICK-  
ERS, NOTE BOOKS, CALENDARS, POST CARDS,  
POSTERS AND PENS, IN CLASS 16 (U.S. CLS. 2,  
5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 11-11-1896; IN COMMERCE  
11-11-1896.  
FOR: LEATHER AND IMITATION LEATHER  
GOODS, NAMELY, BRIEF CASE TYPE PORTFOLIO

COVERS AND BRIEF CASES, TRAVEL BAGS,  
BACKPACKS, WALLETTS AND UMBRELLAS, IN  
CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 7-0-1982; IN COMMERCE 7-0-1982.  
FOR: DRINKING GLASSES, MUGS, PLASTIC  
CUPS, INSULATING SLEEVE HOLDERS FOR BEV-  
ERAGE CANS AND WASTE PAPER BASKETS, IN  
CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND  
50).

FIRST USE 6-17-1971; IN COMMERCE 6-17-1971.  
FOR: CLOTHING, NAMELY, T-SHIRTS, SPORT  
SHIRTS, SWEAT PANTS, SHORTS, SWEAT SHIRTS,  
SWEATERS, JERSEYS, PANTS, TIES, BABY BIBS,  
CAPS, HATS, SHOES, JACKETS AND BATH ROBES,  
IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 8-7-1973; IN COMMERCE 8-7-1973.  
SER. NO. 75-564,291, FILED 10-2-1998.  
GENE MACIOL, EXAMINING ATTORNEY

Hokie™

Hokie®

Hokie™



STEE

®



**Intentional Misuse of the ® = bad**

**Int. Cls.: 14, 16, 18, 21 and 25**

**Prior U.S. Cls.: 1, 2, 3, 5, 13, 22, 23, 27, 28, 29, 30, 33, 37, 38, 39, 40, 41 and 50**

**Reg. No. 2,351,365**

**United States Patent and Trademark Office**

**Registered May 23, 2000**

**TRADEMARK  
PRINCIPAL REGISTER**



VIRGINIA POLYTECHNIC INSTITUTE AND STATE  
UNIVERSITY (VIRGINIA STATE AGENCY)  
324 BURRUSS HALL  
BLACKSBURG, VA 24061

FOR: PRECIOUS METALS, JEWELRY, NAMELY,  
GOLD PINS, GOLD EARRINGS, THE TACKS;  
CHARMS AND RINGS, WATCHES AND CLOCKS,  
IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 2-10-1986; IN COMMERCE 2-10-1986.  
FOR: PAPER ARTICLES, NAMELY, WRITING  
PAPER, FOLDERS, NOTE PADS, STATIONERY,  
LOOSELEAF BINDERS, DECALS, BUMPER STICK-  
ERS, NOTE BOOKS, CALENDARS, POST CARDS,  
POSTERS AND PENS, IN CLASS 16 (U.S. CLS. 2,  
5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 6-6-1984; IN COMMERCE 6-6-1984.  
FOR: LEATHER AND IMITATION LEATHER  
GOODS, NAMELY, BRIEF CASE TYPE PORTFOLIO  
COVERS AND BRIEF CASES, TRAVEL BAGS,

BACKPACKS, WALLETTS AND UMBRELLAS, IN  
CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 6-6-1984; IN COMMERCE 6-6-1984.  
FOR: DRINKING GLASSES, MUGS, PLASTIC  
CUPS, INSULATING SLEEVE HOLDERS FOR BEV-  
ERAGE CANS, PLATES AND WASTE PAPER BAS-  
KETS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30,  
33, 40 AND 50).

FIRST USE 6-6-1984; IN COMMERCE 6-6-1984.  
FOR: CLOTHING, NAMELY, T-SHIRTS, SPORT  
SHIRTS, SWEAT PANTS, SHORTS, SWEAT SHIRTS,  
SWEATERS, JERSEYS, PANTS, TIES, BABY BIBS,  
CAPS, HATS, SHOES, JACKETS AND BATH ROBES,  
IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 6-6-1984; IN COMMERCE 6-6-1984.

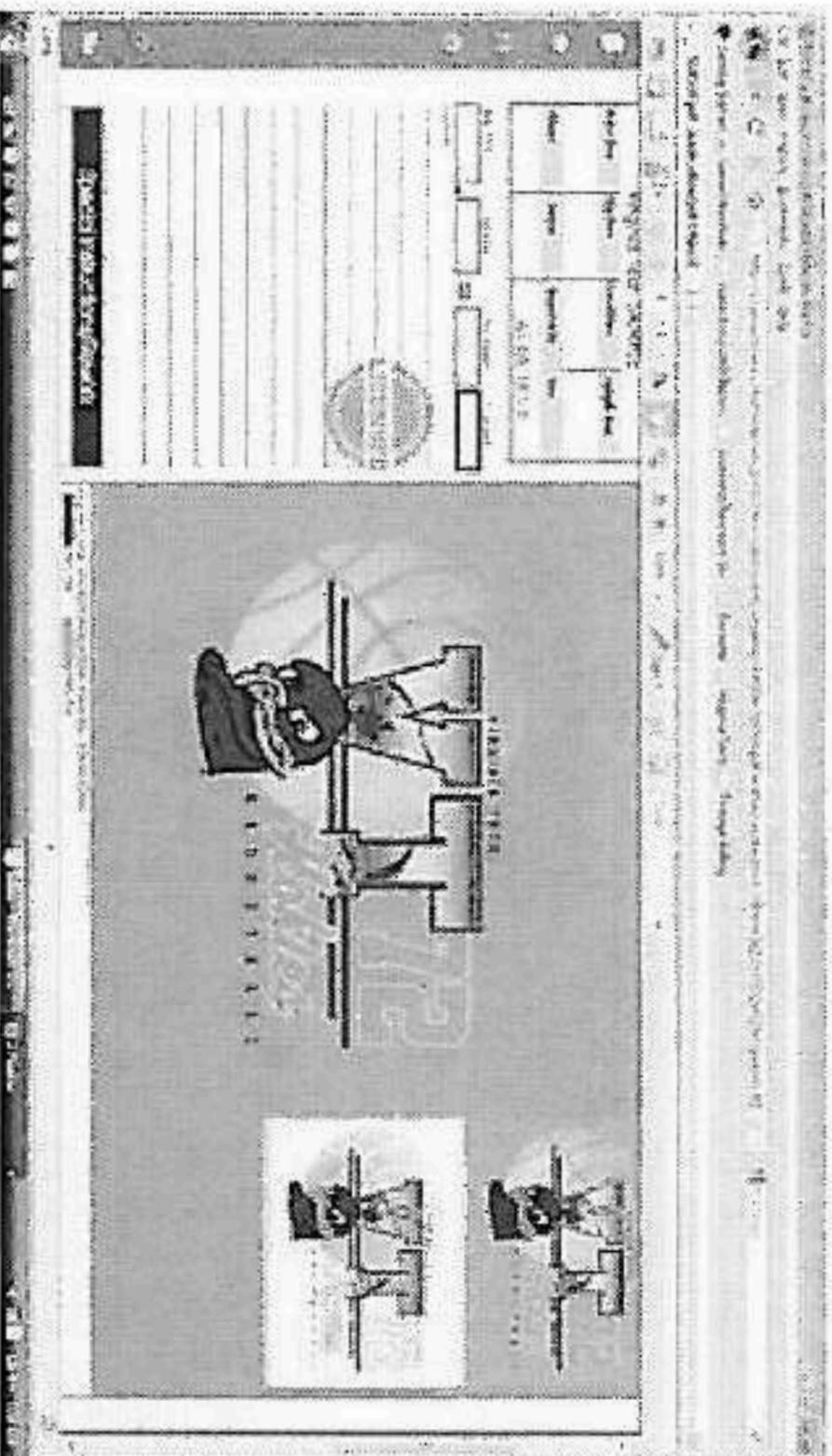
SER. NO. 75-564,292, FILED 10-2-1998.

GENE MACIOL, EXAMINING ATTORNEY



**From:** Dudding, Sharon  
**Sent:** Friday, August 20, 2010 7:27 AM  
**To:** White, Locke  
**Subject:** artwork

I know this is not the athletic VT but would it get a register mark being used here with Hokies basketball?



S,

Technically this VT should not have a registered mark but go ahead and tell them to put it on.

Walking slow but still no pain.....Knock on wood!

L

**From:** Dudding, Sharon

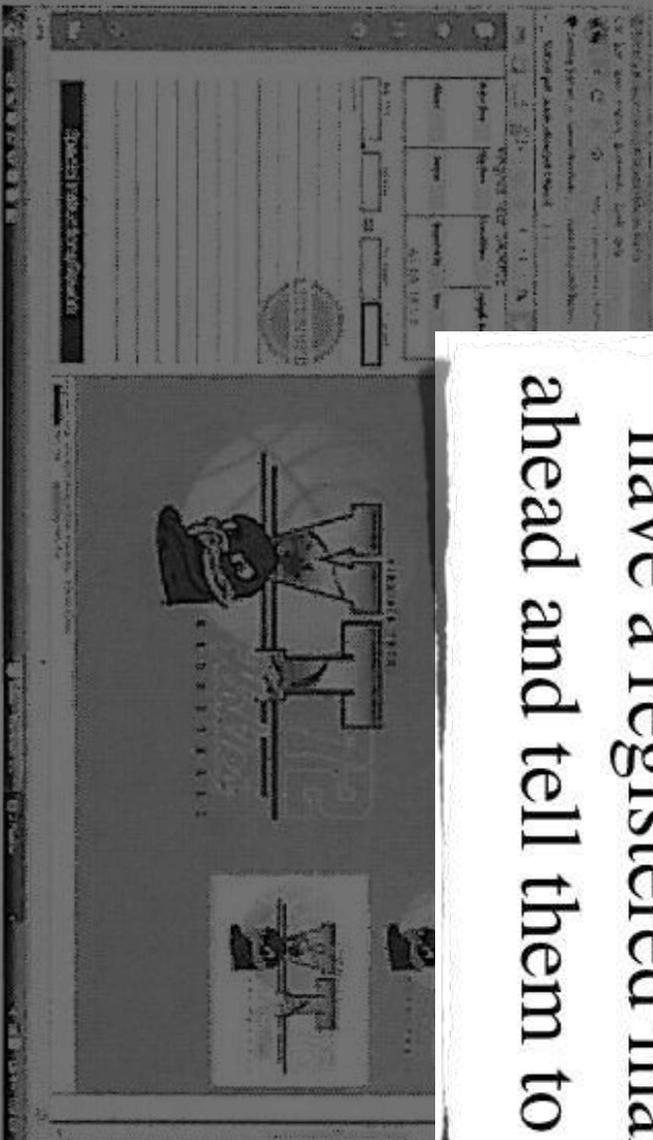
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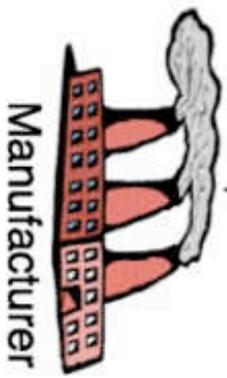
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- Granting of “naked licenses”

# Naked License



Licenses Mark



Makes Products Using Mark



# Correct License



Licenses Mark



Makes Products Using Mark



Retains Right to Inspect for Quality

HOKIE HAIR 953 - 2200

HOKIE HAIR

OPEN

3 HOKIE SPOKES

FUN · N · GAMES

Mire's Grill

APPETIZERS & PASTAS



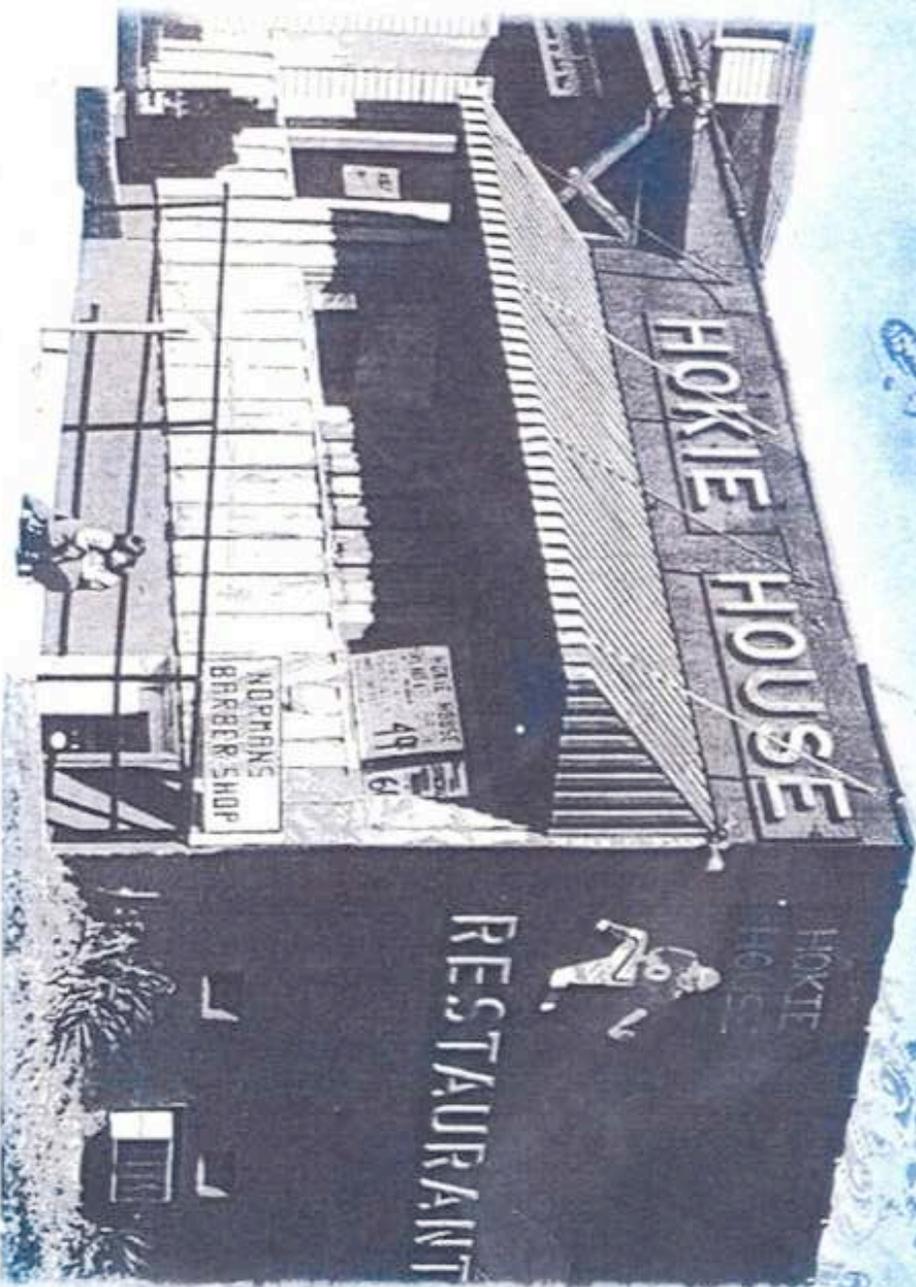
322



# Hokie House

Home of the World Famous Hokie Burger!

Serving Blacksburg since 1966.



LICENSING AGREEMENT FOR USE OF MARKS IN BUSINESS NAME

Virginia Polytechnic Institute and State University (Virginia Tech) hereby grants Ms. Margaret B. Hoover (Licensee), incorporated on May 15, 1975, in the state of Virginia, the right to use the Hokie™ trademark as part of the name The Hokie Hokie. This use must adhere to the following guidelines and any violation of these requirements will result in the immediate cancellation of this agreement.

1. Licensee acknowledges that Hokie™ is the property of Virginia Tech.

2. Under this agreement, Hokie™ may not be used in any form other than its inclusion in the name The Hokie Hokie. Any other use of Hokie™ will be subject to the terms and conditions set forth in the Licensing Agreement.

3. Virginia Tech reserves the right to require the use of the name The Hokie Hokie in advertisements, promotions and other printed materials or audio/visuals to bear the following disclaimer:

The Hokie Hokie is a private enterprise which is not affiliated in any way with Virginia Polytechnic Institute and State University.

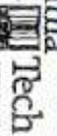
This includes, but is not limited to use in radio, newspaper and television advertising.

4. All other use of Virginia Tech trademarks by Margaret Hoover is governed by the terms and conditions set forth in the Licensing Agreement and will require approvals as outlined in the agreement.

5. Licensee shall defend, indemnify, and hold harmless Virginia Tech, its officer, employees, and agents from and against any losses and expenses (including attorney's fees), claims, suits, or other liability, including product liability, libel and slander resulting from injury to or death of any person or damage to property arising out of or in any way connected with the exercise of the license granted by this Agreement, provided such injuries to persons or damage to property are due to the acts or commissions or omissions of Licensee, its officers, employees or agents, or the products manufactured or sold by them.

6. Licensee is an independent business. Nothing contained herein shall be deemed to create an agency, joint venture, franchise or partnership relationship between the Parties, and neither Party shall hold itself out. Licensee shall have no right to obligate or bind Virginia Tech in any manner whatsoever, and nothing contained in this Agreement shall give or is intended to give any right of any kind to third persons.

7. This Agreement shall be construed in accordance with the laws of the Commonwealth of Virginia.



VIRGINIA POLYTECHNIC INSTITUTE  
AND STATE UNIVERSITY

Licensing and Trademark Administration

600 Country Club Drive (0161)  
Blacksburg, Virginia 24061  
(540) 231-5748 Fax: (540) 231-5878

September 20, 2000

Ms. Melinda Mannon  
C/O Hokle Hair  
217 North Main Street  
Blacksburg, Virginia 24060

RE: Virginia Tech Trademarks

Dear Ms. Mannon:

As you know, Virginia Polytechnic Institute and State University ("Virginia Tech") is the owner of all designs, trademarks, trade names, etc., that are associated with Virginia Tech. We are aware that you have been using the term "Hokle," a Virginia Tech licensed mark (the "Mark"), in your business for some time. While we do not wish to upset the normal course of your business, nor do we intend to charge you for your use of the Mark, we do wish to establish some ground rules for its use.

We will permit your continued use of the term "Hokle" in your business name, including its usage in a URL (web site "address") for a web page related to your business, provided that its use is in a manner that preserves the integrity, character and dignity of Virginia Tech. Although we do not wish to impose unnecessary restrictions on your usage of the Mark, we do retain the right to utilize the Mark in any way we deem appropriate and therefore, may withdraw approval for its usage upon 12 months' written notice.

The standard licensing agreement runs for a period of 12 months, from July 1 to June 30, but the agreement will automatically renew for additional 1-year periods. However, if the university determines that the Mark is being used in an inappropriate manner, we reserve the right to immediately terminate its usage. This license to use the Mark may not be assigned or sublicensed without written approval from Virginia Tech, including upon the sale of your business, except for a sale to a member of your immediate family.

Although Virginia Tech desires to allow your use of the Mark with as few restrictions as possible, there are several items that the university asks from you in return:

1. Please do not state or imply that Virginia Tech supports, endorses or sponsors your business. Additionally, we ask that you indicate Virginia Tech's ownership and control of the Mark in any advertisements (radio, print or otherwise) for your business. We will be happy to provide appropriate language upon request.
2. In exchange for Virginia Tech's permission to use the Mark in your business, you agree not to challenge or question, during the period of use or thereafter, the university's rights to the Mark. You also agree not to use any mark that is confusingly similar to the Mark. In the event that the university feels the need to take action against a third party to protect the Mark, we request that you assist us in our efforts. However, you agree that you will not take any action against a third party for use of the Mark without prior written approval of Virginia Tech.

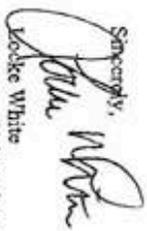
3. You agree to indemnify and hold harmless the university from any and all claims or causes of action arising from your use of the Mark, whether such claim or cause of action is from third parties, and also to be responsible for any damages or costs connected to your business or your use of the term "Hokie."

4. You agree to maintain general liability insurance with coverage limits typical for your business. If the university requests, you agree to furnish us with a copy of the certificate of insurance.

We appreciate your willingness to work with Virginia Tech in this matter. Please feel free to call me at 540/231-3748, if you have any questions or concerns about this agreement or your usage of the term "Hokie" in your business.

We have included two (2) copies of this letter. Please sign below to indicate your confirmation of these terms, and return a signed copy to my attention. You may keep the extra copy for your files.

Thank you for your cooperation.

Sincerely,  
  
Locke White  
Director of Licensing and Trademark

AGREED:

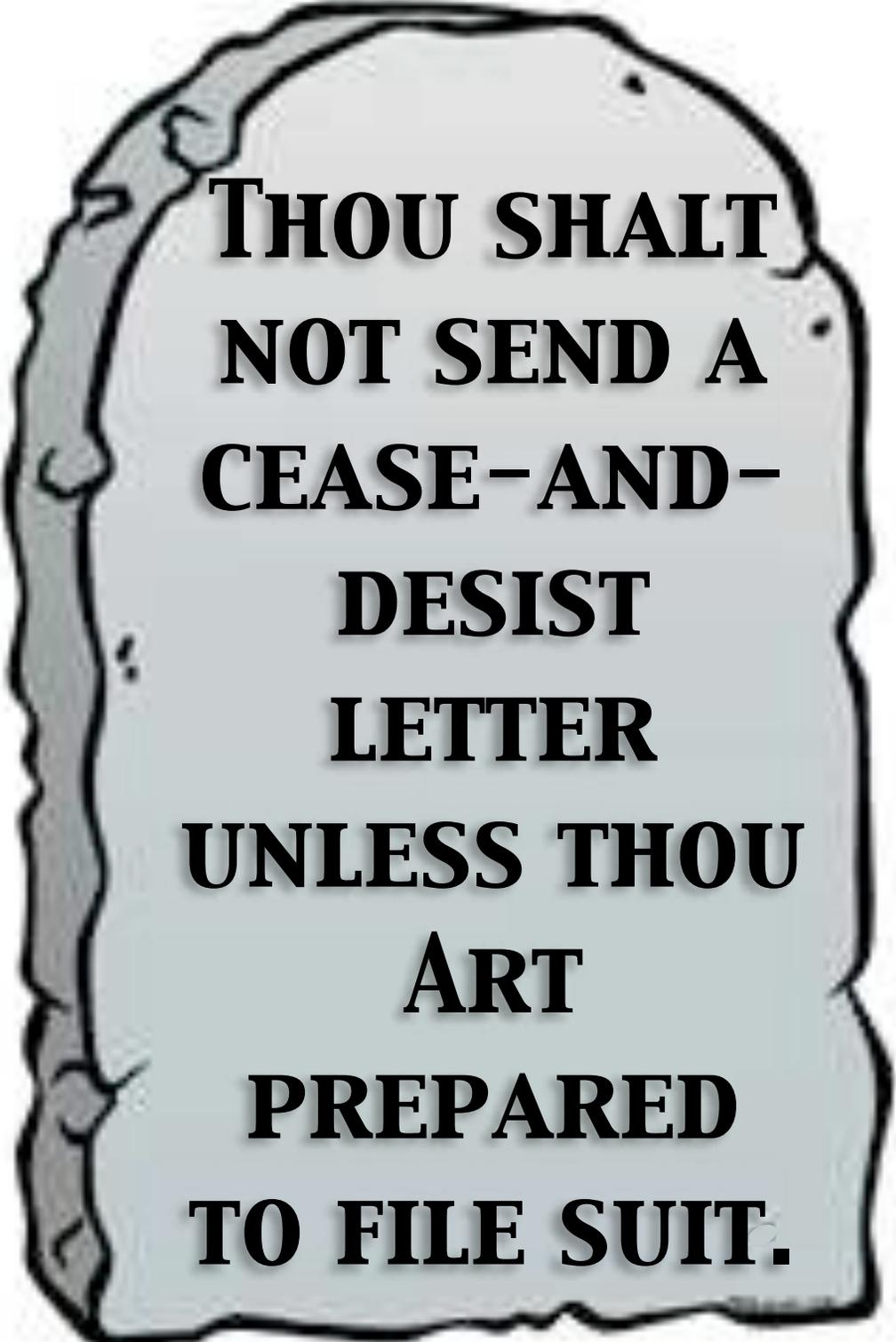
Melinda Cranna

Title: President

Date: October 31, 2000

# Why “Hokie” is Not a Trademark

- Virginia Tech did not invent it
- It is a generic word meaning “supporter of Virginia Tech”
- Virginia Tech has pretended that it has a Federal registration for “Hokie”
- Granting of “naked licenses”
- Failure to sue after sending cease-and-desist letters

A scroll with a dark, irregular border, resembling a piece of parchment or a scroll. The text is written in a bold, black, serif font, centered on the scroll. The scroll is set against a white background.

**THOU SHALT  
NOT SEND A  
CEASE-AND-  
DESIST  
LETTER  
UNLESS THOU  
ART  
PREPARED  
TO FILE SUIT.**

**Hokiecash**  
**Coupons**  
TM  
hokiecash.com

hokiecash.com

hokiecash.com

**FREE**  
**TIMES**

**COLLEGIATE TIMES**

Make my station  
Speak out in loud

Care bonning over  
Hokie storage

HOOS-000417

September 18, 2000

River Corp.  
HOKIECASH.COM  
32 W. Mitchell Ave.  
Cincinnati, OH 45217

Dear Sir/Madam:

As you probably know, Virginia Polytechnic Institute and State University, commonly known as Virginia Tech, owns federal trademarks for several names, including "Virginia Tech" and "Hokies". We have been concerned for some time about the unauthorized use of our trademarks in internet domain names. A recent count revealed more than 150 web sites using a URL with a Virginia Tech trademark. You have been identified as owning one or more of these URLs.

You may also know that the Federal Government requires businesses and organizations to police, protect, and authorize the use of trademark names in any capacity, commercial or otherwise. Continued unauthorized use of a trademark can result in loss to public domain. We realize that some, but not all, internet domain name users have purely noncommercial intent. We also realize that many owners of these domain names have the best interests and intentions concerning Virginia Tech. **However, in order to protect and properly administer our trademarks, we must ask you to stop using HOKIECASH.COM by November 15, 2000.** Under the recently enacted Anti-Cybersquatting Consumer Protection Act, Congress clarified the use of trademarks as Internet domain names or addresses. Trademark owners expressly have the right to exercise dominion over Internet URLs.

We regret that this necessary action may inconvenience you. We sincerely hope that you understand our obligation to protect our trademarks and to ensure consistent and appropriate representation of Virginia Polytechnic Institute and State University. We thank you in advance for your consideration.

Sincerely yours,  
  
Larry Hincker  
Associate Vice President

LGH/dls

cc: J. D. Cain, University Counsel  
James Slattery, Birch, Stewart, Kolasch, and Birch, LLP

95/14798

# Offices of Wilfred Ward Yeargan, III

10560 Main Street, Suite 311 Fairfax, VA 22030

Phone: (703) 352-9044 Fax: (703) 352-9045

E Mail: WWYeargan@aol.com

Admitted to Practice in VA

wardyeargan@earthlink.net

October 18, 2000

Larry Hincker  
Associate Vice President  
Virginia Polytechnic Institute and  
State University  
315 Burruss Hall - 0229  
Blacksburg, VA 24061-0000

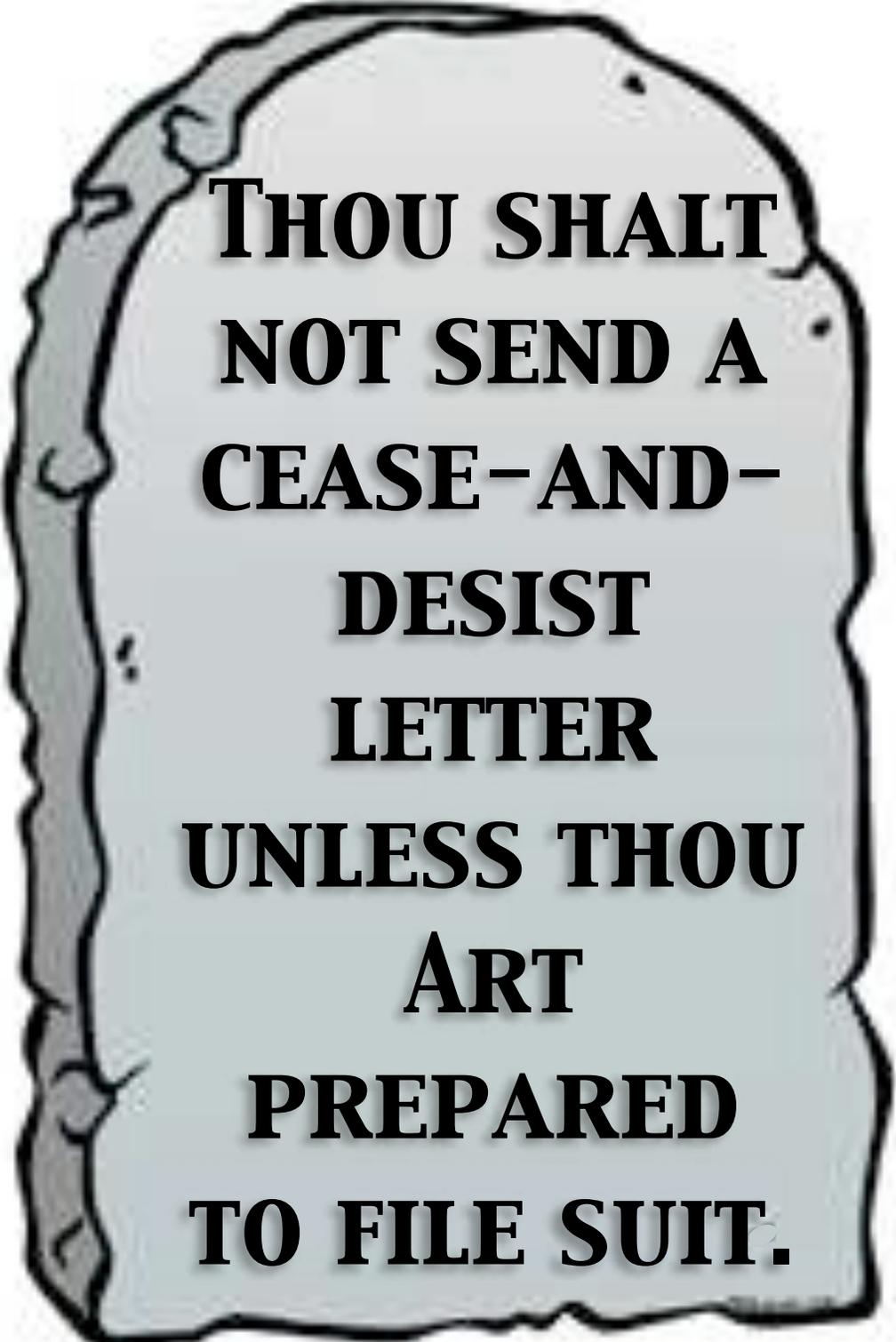
Re: River Corporation's Hokiecash Domain Name

Dear Mr. Hincker:

This letter is in response to your September 18, 2000 correspondence with River Corporation. In that letter, you stated that Virginia Polytechnic was policing its trademark rights in the terms "Virginia Tech" and "Hokies." Your letter demanded that my client discontinue using the Commonwealth registered mark "Hokiecash." It further stated that the Anti-Cybersquatting Consumer Protection Act protected your University's exclusive rights to use the word "Hokie" as part of a domain name.

The Anti-Cybersquatting Consumer Protection Act provides that civil liability and injunctive relief is available when an individual uses the trademark rights of another in a domain name and the action is motivated by a bad faith intent to profit from the mark. The word or phrase used must be identical or confusingly similar to the complainant's distinctive mark or dilutive of his famous mark.

Under the Act, a court may use a list of factors to determine if there was a bad faith intent to profit from the mark. Among these factors are the intellectual property rights of the registrant in the domain name, the registrant's failure to use the domain name to offer products and services and any attempt by the registrant to divert consumers of the complainant to the domain name. A court may also consider offers to sell the domain name to the complainant without having used the site to offer goods or services and the registrant's acquisition of multiple domain names that are identical, confusingly similar or dilutive of the trademarks of others.

A scroll with a dark, irregular border, resembling a piece of parchment or a scroll. The text is written in a bold, black, serif font, centered on the scroll. The scroll is set against a white background.

**THOU SHALT  
NOT SEND A  
CEASE-AND-  
DESIST  
LETTER  
UNLESS THOU  
ART  
PREPARED  
TO FILE SUIT.**





HOOS-000422



# Why “Hokie” is Not a Trademark

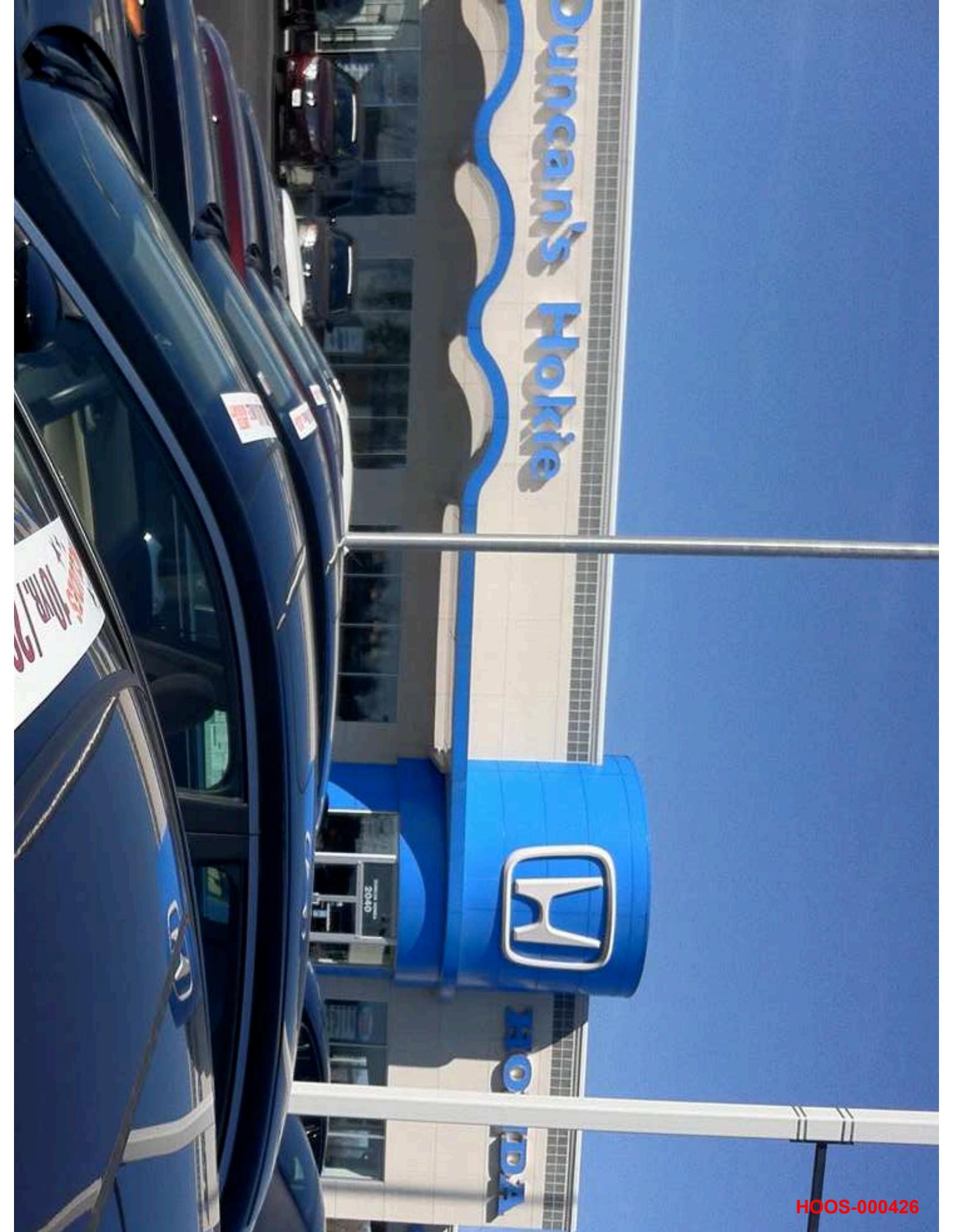
- Virginia Tech did not invent it
- It is a generic word meaning “supporter of Virginia Tech”
- Virginia Tech has pretended that it has a Federal registration for “Hokie”
- Granting of “naked licenses”
- Failure to sue after sending cease-and-desist letters
- Failure to sue everyone else

<b>Business Name</b>	<b>First Year Business Appeared in Phone Book</b>	<b>Last Year Business Appeared in Phone Book</b>
HOKIE HOUSE RESTAURANT	1967	(still in business)*
HOKIE HONDA	1977	1999
HOKIE HONDA PARTS & SERVICE	1977	1985**
DUNCAN HOKIE HONDA	2003	(still in business)
(white pages)		
DUNCAN HOKIE HONDA	2004	(still in business)
(yellow pages)		
HOKIE PLUMBING & HEATING	1981	1982
HOKIE PIZZA	1986	1990
HOKIE JACKS	1988	1989
HOKIE HAIR	1989	(still in business)
HOKIE SPOKES (later called "HOKIE SPOKES— NEW WHEEL")	1989	(still in business)
HOKIE MITSUBISHI	1991	2000
HOKIE BEACH	1999	2002
HOKIE CENTRAL	1999	2000

HOOS-000425

\* No 12/1973 entry

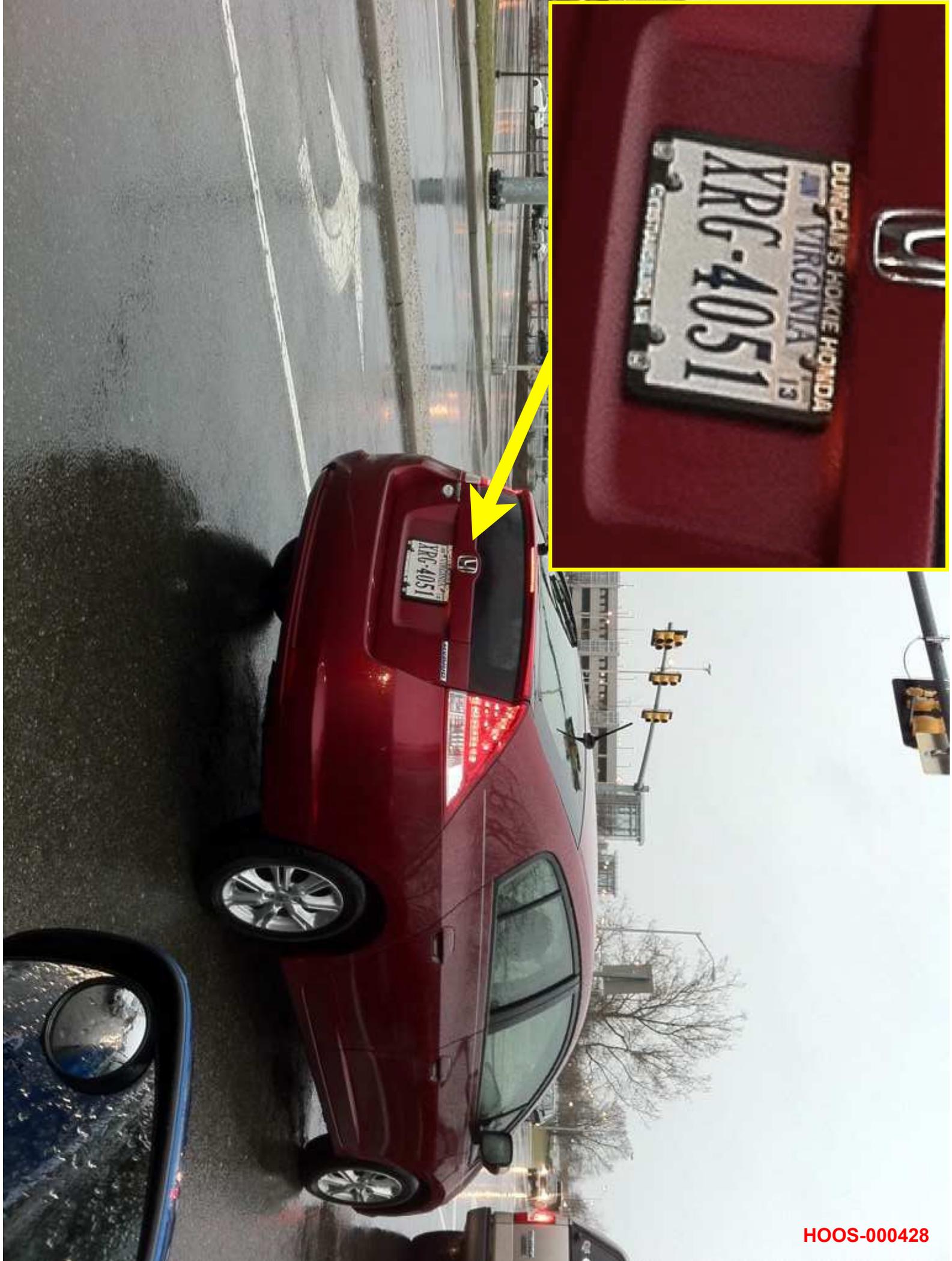
\*\* combined with HOKIE HONDA SALES in 1985 Book



HOOS-000426



HOOS-000427



HOOS-000428

1 A No, no payment required.

2 Q What about Hokie Hair, does their agreement with the  
3 university require Hokie Hair to pay any royalties to the  
4 university?

5 A No.

6 Q I would like to ask you about Duncan Hokie Honda. Have  
7 you ever heard of Duncan Hokie Honda?

8 A I have.

9 Q You stated in your deposition that in 2000, Mr. Gerald  
10 Duncan told you that Duncan Hokie Honda or Hokie Honda would  
11 not be using the word "Hokie" in their business name; is that  
12 correct?

13 A That is correct. Well, it was either Gerald or David,  
14 I'm not sure. One of the Duncan brothers.

15 Q I understand.

16 Please explain how you confirmed that they've stopped  
17 using the word "Hokie" in their business name.

18 A When I had the conversation with Mr. Duncan in 2000, he  
19 informed me that -- well, I told him that we were going to be  
20 sending him an agreement. And he said, "Don't bother, because  
21 we have been instructed by corporate Honda to drop the Hokie  
22 name." And from that point on, you know, when I did -- when I  
23 was doing my monthly Yahoo Yellow Page searches, they were not  
24 showing up. So they were no longer Hokie Honda.

25 Q Now, how did you do the searches on Yahoo.com?

1 A I was not aware of that.

2 Q So when you search on Yahoo, do you always just type in  
3 the Yellow Pages?

4 A I have been using the Yahoo Yellow Page search.

5 Q When you're searching for something personal, do you use  
6 the Yellow Pages? Like, say you want to find out something  
7 about an illness or something like an answer to a trivia  
8 question, do you search then in the Yahoo Yellow Pages?

9 A I don't believe I do, no.

10 Q Would you search in the regular Yahoo search engine then?

11 A Yes.

12 Q Now, did you ever think of using Yahoo's regular unpaid  
13 search tool to search for Hokie Honda?

14 A Well, as I understand it, as you pointed out, Yahoo just  
15 changed -- changed it, and so their Yellow Page search is now  
16 a paid service. I was not aware of it. It just happened  
17 fairly recently. Now I know.

18 Q So when did you learn that the Duncans started using the  
19 word "Hokie" again?

20 A Well, I had -- when the lawsuit was brought up, Duncan  
21 Hokie Honda was brought up. And I had forgotten about them.  
22 I had forgotten until the lawsuit.

23 Q When was it again -- I'm sorry, I can't remember. When  
24 was it you had the conversation that they said they would stop  
25 using it because Honda corporate required that?

1 A That was either '99 or 2000, so -- and I was doing the  
2 Yahoo Yellow Page search. They were not showing up as Hokie  
3 Honda, so --

4 Q So after --

5 A -- they were not showing up there.

6 Q So after '99 -- or from '99 until this lawsuit, you  
7 didn't know about Duncan --

8 A I had forgotten about them.

9 (Defendant's Exhibit Number 25 was marked for  
10 identification.)

11 BY MR. FINCH:

12 Q I'm going to ask you please to take a look at what's been  
13 marked as Defendant's Exhibit 24 [sic], and I'm going to ask  
14 you whether you recognize this.

15 A You have to give me a few minutes, please.

16 Q Yes.

17 A Okay. Okay.

18 Q Do you recognize this?

19 A I do.

20 Q What is this?

21 A This is an e-mail correspondence between myself and  
22 Mr. Hincker.

23 Q And when did this e-mail correspondence occur?

24 A Apparently, October 11th, 2002.

25 Q I'm going to ask you to direct your attention, please, to

**White, Locke**

---

**From:** Larry Hincker [hincker@vt.edu]  
**Sent:** Friday, October 11, 2002 10:43 AM  
**To:** Locke White  
**Subject:** RE: hokie grandfather

<x-flowed>  
okay as long as you didn't initial Hokie Spokes changes. We will NOT allow transference of the name.

>Larry,  
>  
>Here is where we stand.

>  
>Hokie Hair signed contract  
>Hokie Beach signed contract  
>Hokie Spokes signed contract but crossed out several  
>statements (restriction on transferring name upon sale)  
>Hokie House letter received from attorney stating that  
>they were looking into trademark rights of "Hokie"  
>Hokie Honda informed by the Duncans that they were not  
>going to use however I think they have started again

>  
>I still think that we should not push the issue. The most important  
>thing is not these existing businesses but rather keeping out the new  
>ones.

>  
>Locke

>  
>At 07:52 AM 10/11/2002 -0500, you wrote:

>>>Larry,  
>>>  
>>>Off the top of my head I believe we got in contracts from everyone  
>>>but Hokie House but I need to check on it. My thinking at the time  
>>>was that it would be bad PR for us to really go after HH because they  
>>>have been there for 1000 years /"I at showing how big " \ T think

**Any other businesses using HOKIE as a trademark  
without Virginia Tech's permission?**



# Hokie Pokie

CHARTER BUS LINES

UPCOMING TRIPS  
FOR 2010 SEASON

~~9/8 VS. BOISE STATE~~  
~~10/18 WAKE FOREST (HC)~~  
11/4 GEORGIA TECH  
11/27 UNIVERSITY OF VA

BUY FARE

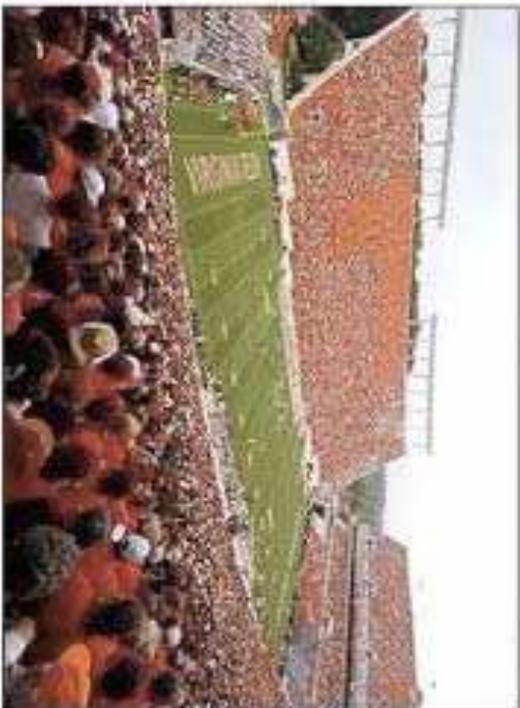
SEE TRIPS

ABOUT BUS

FAQ

The Hokie Pokie bus travels from Northern Virginia to Blacksburg for select football games.

- A low price and safe way to and from the game
- Direct to Lane Stadium
- Bathroom onboard
- Pre-game on the way down while a designated driver does all the work
- 21+ only
- Bus access before and during the game



MAR 15 2011

JULIA C. DUDLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

VIRGINIA POLYTECHNIC INSTITUTE )  
AND STATE UNIVERSITY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HOKIE REAL ESTATE, INC., )  
 )  
Defendant. )

Civil Action No. 7:10CV00466

**MEMORANDUM OPINION**

By: Hon. Glen E. Conrad  
Chief United States District Judge

Virginia Polytechnic Institute and State University ("Virginia Tech") filed this action against Hokie Real Estate, Inc. ("Hokie Real Estate"), alleging unauthorized use of the HOKIE trademark. Virginia Tech asserts claims of false designation of origin and trademark dilution under the Lanham Act, 15 U.S.C. § 1125, and a supplemental claim of unfair competition under Virginia law. The case is presently before the court on Hokie Real Estate's motion to dismiss and Virginia Tech's motion for preliminary injunction. For the reasons that follow, both motions will be denied.

**Summary of the Facts and Procedural History**

The following summary of the facts, which is taken from the plaintiff's complaint, is accepted as true for purposes of the defendant's motions to dismiss.<sup>1</sup> See Erickson v. Pardus, 551 U.S. 89, 94 (2007).

---

<sup>1</sup> As will be discussed below, the parties adduced additional evidence in support of and in opposition to the plaintiff's motion for preliminary injunction. In ruling on the defendant's motion to dismiss, however, the court will limit its consideration to the facts alleged in the complaint. See, e.g., CACI Int'l, Inc. v. St. Paul Fire & Marine Ins. Co., 566 F.3d 150, 154 (4th Cir. 2009) (explaining that the United States Court of Appeals for the Fourth Circuit generally adheres to the "Four Corners Rule," whereby, in ruling on a Rule 12(b)(6) motion, a court may "consider the complaint itself and any documents that are attached to it").

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

MAR 15 2011

JULIA C. DUDLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

VIRGINIA POLYTECHNIC INSTITUTE )  
AND STATE UNIVERSITY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HOKIE REAL ESTATE, INC., )  
 )  
Defendant. )

Civil Action No. 7:10CV00466

**MEMORANDUM OPINION**

By: Hon. Glen E. Conrad  
Chief United States District Judge

Virginia Polytechnic Institute and State University ("Virginia Tech") filed this action

“a multitude of restaurants and other businesses are currently using the HOKIE mark without permission from the university”

accepted as true for purposes of the defendant's motions to dismiss.<sup>1</sup> See Erickson v. Pardus,

551 U.S. 89, 94 (2007).

<sup>1</sup> As will be discussed below, the parties adduced additional evidence in support of and in opposition to the plaintiff's motion for preliminary injunction. In ruling on the defendant's motion to dismiss, however, the court will limit its consideration to the facts alleged in the complaint. See, e.g., CACI Int'l, Inc. v. St. Paul Fire & Marine Ins. Co., 566 F.3d 150, 154 (4th Cir. 2009) (explaining that the United States Court of Appeals for the Fourth Circuit generally adheres to the "Four Corners Rule," whereby, in ruling on a Rule 12(b)(6) motion, a court may "consider the complaint itself and any documents that are attached to it").

# WHY “HOKIE” IS NOT A TRADEMARK

Keith Finch  
The Creekmore Law Firm PC

Brought to you by HOKIE FAN  
A Project of The Hokie Objective Onomastics Society LLC  
<http://facebook.com/AnyoneCanBeAHokie>

# Attachment F

"Can I use the word HOKIE in a sandwich name?"

"I ordered t-shirts with the word HOKIE on them, but the t-shirt company refused to make them. Can they do that?"

"I tried to use GO HOKIES in a newspaper ad, but the newspaper wouldn't let me!"

"Where does the word HOKIE come from, anyway?"

"The University says it owns the word HOKIE."

# YOU'RE INVITED

to the inaugural meeting of

## HOKIE FAN

a new not-for profit society dedicated to dispelling myths about the use of the word HOKIE and other words associated with Virginia Tech.

**LEARN** about your right, as a Blacksburg resident or business, to use the word HOKIE

**DISCUSS** tactics used by the University to discourage free use of the word HOKIE

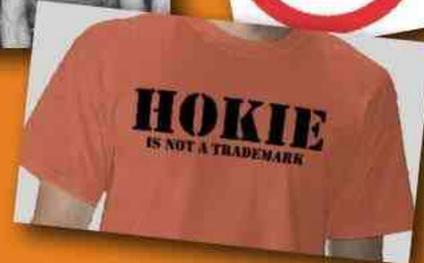
**DISCOVER** the origins and history of the word HOKIE

**ENJOY** refreshments and the company of other concerned Blacksburg merchants and residents

**WIN** attractive HOKIE gifts!

Dear Sir/Madam:

As you probably know, Virginia Polytechnic Institute, commonly known as Virginia Tech, owns federal trademarks including "Virginia Tech" and "Hokies". We have taken action against the unauthorized use of our trademarks.



### TUESDAY, MARCH 5, 7:00 PM

at The Artful Place, 106 Faculty Street (behind PK's)

**FREE OF CHARGE**

Please RSVP to [AnyoneCanBeAHokie@gmail.com](mailto:AnyoneCanBeAHokie@gmail.com) or to 971-231-5396

Attendance is by invitation only. Hokie Fan is a project of Hokie Objective Onomastics Society LLC.

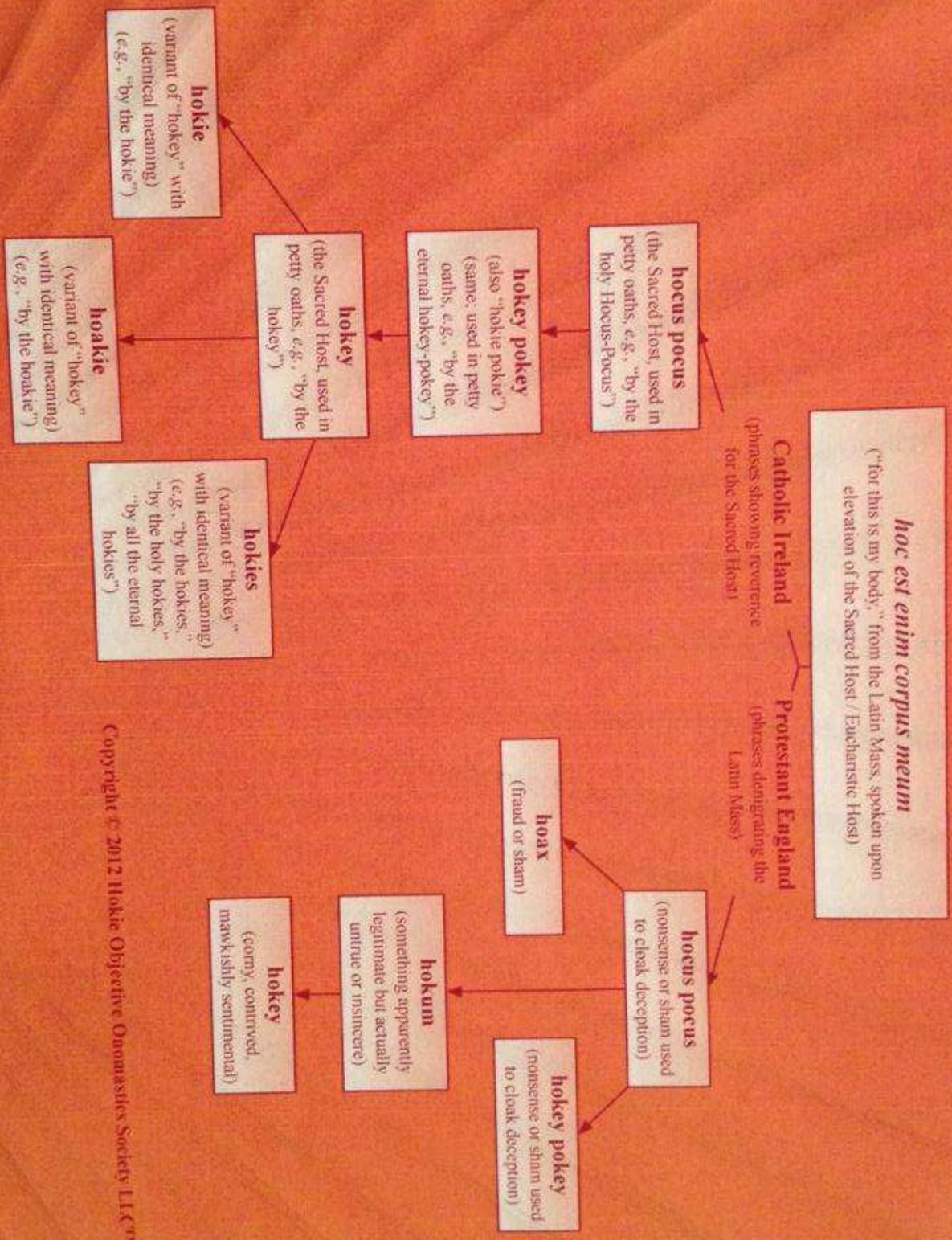
<http://www.facebook.com/AnyoneCanBeAHokie>

HOOS-000053



**HOKIE  
FAN**

# Historical origin of the word "Hokie"



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The word 'Horion'

1. The word 'Horion' is derived from the Greek word 'horion', which means 'boundary' or 'limit'.

2. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a country or territory.

3. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's life.

4. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's faith.

5. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's love.

6. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's hope.

7. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's joy.

8. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's peace.

9. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's wisdom.

10. The word 'Horion' is also used in the Bible to refer to the 'boundary' of a person's power.

Historical origin of the word "Hobie"



HOBIE  
FLAN





**HOKIE**  
**IS NOT A TRADEMARK**

**THE HOKIE FAN PROJECT**  
**HOKIE OBJECTIVE ONOMASTICS SOCIETY LLC**  
**[HTTPS://WWW.FACEBOOK.COM/ANYONECANBEAHOKIE](https://www.facebook.com/ANYONECANBEAHOKIE)**

facebook

Email or Phone

Password

Log In

Keep me logged in

Forgot your password?

“BY THE HOKIES, the one time by the name of Prince was out of the forest. “By hokies, he’ll have if he aims to catch Prince!”

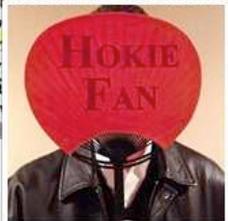
“What, by the holy hokey, and a’n’t you ger, his rage giving way to the most lively tian men!” he exclaimed in admiration, “gur, and two of ’em wimming! oh hokey

Hokie Fan is on Facebook. To connect with Hokie Fan, sign up for Facebook today.

Sign Up Log In

made a Rump-Parliament of old Brindle by biting off her tail, and the neighbors had then Resolved that they had the right to be free men and by the holy Hoecus-Poecus they were free and independent sovereigns—right there and then one of Lincoln’s ...

“By hokies, Callie,” Tipton grumbled, “this air got



Hokie Fan 73 likes

Like

Product/Service Hokie Fan is an educational project of Hokie Objective Onomastics Society LLC (C) 2012 All Rights Reserved



73 Likes



About

Photos

Likes

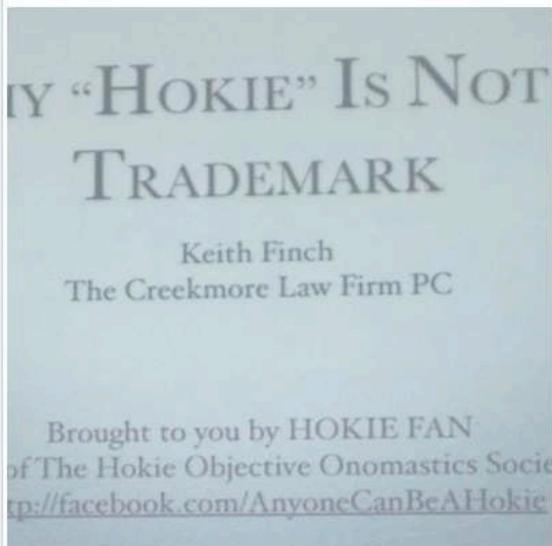
Events

Highlights

Hokie Fan shared Hokie Fan's album. March 27

We enjoyed the opportunity to share our message of Why 'HOKIE' is Not a Trademark with the Blacksburg Wednesday Morning Lions Club, with special thanks to our legal counsel, Keith Finch of The Creekmore Law Firm PC, for providing legal insights to supplement the program.

Speaking Engagements (4 photos)



Like · Comment · Share

1 Like

Recent Posts by Others on Hokie Fan See All

Jim Schweitzer Go HOOS! (llc) 2 · November 12, 2012 at 8:43am

More Posts

Likes See All

- Step Into Blacksburg Community Organization Like
- The Burgs News/Media Website Like
- The Roanoke Times Newspaper Like
- I BET I CAN FIND 1,000,000 PEOPLE WHO LOVE THE VIRGINIA TECH HOKIES!!! Community Like
- Virginia Tech Hokies Community Like



Hokie Fan  
March 7

If you're just stopping by to see what all the furor is about, take a stroll through our albums and posts below and you'll be caught up soon enough. Be sure to hit that LIKE button up top too, to receive our regular updates, notices of upcoming workshops and more observations and findings of things that seem just a bit hokey to us!

Like · Comment



Hokie Fan shared Hokie Fan's album.  
March 7

Thanks to everyone who came out Tuesday to The Hokie Objective Onomastics Society's first Hokie Fan workshop. Our fine evening opened with a discussion by The Society of its mission and objectives, a merchandise show and included a dynamic presentation by guest speaker Keith Finch from The Creekmore Law Firm, legal counsel for The Society.

Inaugural Meeting (16 photos)



Like · Comment · Share

4



Hokie Fan shared Hokie Fan's album.  
March 5

Whoa! What's this?? Just 7+ months after "being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both," and declaring that Virginia Tech's first use in commerce of its HOKIES mark was something closer to the end of the 20th Century, rather than the end of the 19th Century as previously declared, under the same penalties, our friend and Associate Vice President Larry Hincker has declared yet again that Virginia Tech's first use in commerce of the HOKIE mark occurred in 1901. Really?! Which is it? C'mon Larry!!

HOKIE Trademark Application (6 photos)

### Trademark/Service Mark Application, Principal Register

Serial Number: 85531923

Filing Date: 02/02/2012

#### To the Commissioner for Trademarks:

**MARK:** HOKIE (Standard Characters, see [mark](#))

The literal element of the mark consists of HOKIE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Virginia Polytechnic Institute and State University, a state agency organized under the laws of Virginia, having an address of  
210 Burruss Hall  
Blacksburg, Virginia 24061  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:



HOKIE



Like · Comment · Share

1



Hokie Fan shared Hokie Fan's album.  
March 5

Reinvent the Past! That's Virginia Tech's motto, right? Well, when Virginia Tech first secured its registration of the mark HOKIES in May of 2000, Virginia Tech seemed to believe it had adopted the word HOKIE as a trademark all the way back in 1896. Before getting sacked in its litigation with Hokie Real Estate, however, Virginia Tech "learned" that it did not, in fact, either create the term HOKIE or use it as a trademark back in 1896. To the contrary, as reflected in the June 2011 Declaration of Larry Hincker, Virginia Tech's Associate Vice President, Virginia Tech actually missed the mark by about, oh, 100 years – an "unintentional and inadvertent" error, per Larry. Really?! C'mon Larry!

HOKIES Trademark (6 photos)

TRADEMARK : HOKIES  
 REG. NO. : 2,351,364  
 Reg. Date: : May 23, 2000  
 REGISTRANT : Virginia Polytechnic Institute and State University  
 Classes : 14, 16, 18, 21, and 25

**DECLARATION OF LAWRENCE G. HINCKER**

1. My name is Lawrence G. Hincker. I am the Associate Vice President for Virginia Polytechnic Institute and State University ("Virginia Tech") and am authorized to execute this declaration.

2. Virginia Tech seeks to amend the date of first use for the Class 16 description in the above-referenced registration from November 11, 1896 to "at least as early as October 1, 1998."



Like · Comment · Share

1



Hokie Fan added 16 photos to the album Inaugural Meeting.  
March 5



Like · Comment · Share



Hokie Fan  
February 26

Dispel and debunk the myths about the use of the word HOKIE at the inaugural meeting of the Hokie Objective Onomastics Society! Join us at The Artful Place, at the corner of Progress & Faculty Streets, Tuesday, March 5 at 7:00 pm, for snack... See More



**Hokie Objective Onomastics Society Inaugural Meeting**  
 March 5 at 7:00pm in EST  
 The Artful Place, A Fine Studio

15 people went

Like · Comment · Share

2



Hokie Fan shared a link via The Collegiate Times.  
February 14

Every Hokie Fan's favorite Bird is getting more famous all the time!



Hoke Bird has big online presence  
ow.ly

Hokie fans have taken re-registration on



Like · Comment · Share



Hokie Fan shared Virginia Tech Perspective Gallery's photo.  
February 11

Be sure to check it out! A HOKIE Perspective – this show is not to be missed!

Share this flyer online with those you think would be interested!



### A HOKIE PERSPECTIVE

An aesthetic celebration of the talent and diversity of the Virginia Tech community

Like · Comment · Share



Hokie Fan shared The Creekmore Law Firm PC's photo.  
February 6

We support The [local team]! GO [LOCAL TEAM]!! Really?!? Why all this? How does your business show its support for The [local team], and do you have reason for concern? Find out Friday. [www.creekmorelaw.com/events](http://www.creekmorelaw.com/events)



Like · Comment · Share



Hokie Fan created an event.  
December 18, 2012

Society Meeting



Hoke Bird has big online presence  
[ow.ly](http://ow.ly)

Hokie fans have taken procrastinating on social media to a whole new level, with the Hokie Bird.

Like · Comment · Share



Hokie Fan shared The Creekmore Law Firm PC's status.  
February 11

Blacksburg attorney and Defender-of-the-Hokie-Faith Keith Finch (hey, Keith, can you trademark that nickname?!) is spreading the word tonight to an enterprising group of law students in Lynchburg that ANYONE can be a Hokie! By hokie, you tell 'em, Keith!

Keith Finch will be joining James Creekmore tonight as a guest lecturer for his Intellectual Property Law class at Liberty University School of Law, introducing the topic of Trademark Law. Do you know everything you need to know about branding your business, products or service, and how to create a protectable, lasting impression? If not, we've got the team for you!

Like · Comment · Share

3



Hokie Fan shared Virginia Tech Pamplin College of Business's photo.  
February 7

What a great walk down memory lane, tracing the origins of our friend the Hokie Bird, from a comical student inspired and initiated stunt to his current place on the Virginia Tech sidelines. Virginia Tech has done well in the last few deca... See More

Throwback Thursday: The original 'Hokie Bird' <http://bit.ly/V6qQqK>



Like · Comment · Share



Hokie Fan shared a link via Super Hokie.  
December 18, 2012

When what to my wondering ears did appear . . . Santa Hokie! Who knew?! Merry Christmas to all, and to all a good night!

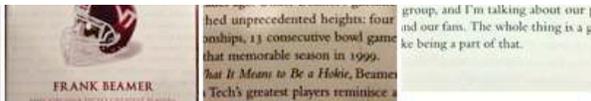


Santa Hokie by VT Technotes  
[www.youtube.com](http://www.youtube.com)

Technotes, a Virginia Tech co-ed a capella choir, performs Santa Hokie. Originally performed by Eartha Kitt, adapted by Lauren Anderson Arrangement heard with

Like · Comment · Share

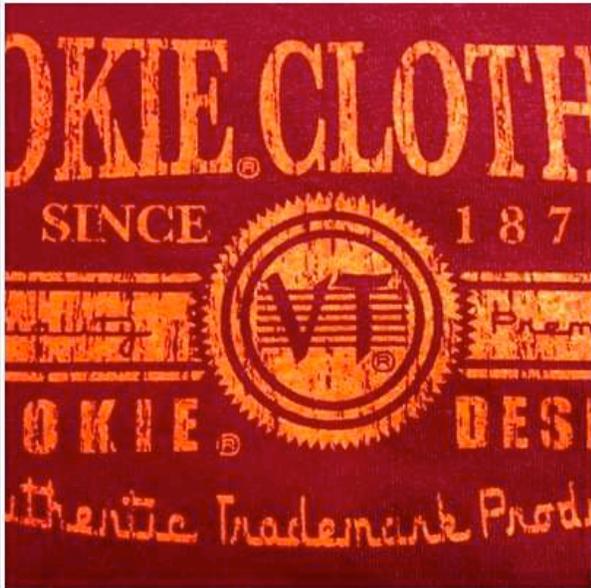




Like - Comment - Share 1

**Hokie Fan**  
November 14, 2012

No, No, No – not one but THREE examples of mismarking with the federal registration symbol here. And, umm, no . . . definitely not an "Authentic Trademark Product."



Like - Comment - Share

**Hokie Fan**  
November 9, 2012

**Opposition to Virginia Tech's Trademark Application for HOKIE (4 photos)**

Because we believe that HOKIE has existed for ages in English literature and vernacular and, as it relates to Virginia Tech, it arose by and from the community of supporters of Virginia Tech athletics, and was not created or coined by Virgi... See More



shout out to UVA for keeping it real for the fans!!



**Annual Post-Thanksgiving Tailgate**  
November 24, 2012 at 9:00am in EST  
Virginia Tech Career Services Lawn, Smith Career Center  
24 people went

Like - Comment - Share

**Hokie Fan** shared a link.  
November 13, 2012

"Virginia Tech has a long, long history of name confusion," said Larry Hincker, the associate vice president of University Relations. No kidding. Virginia Tech apparently is so confused about its name, it wrongly thinks it created, and therefore can monopolize, use of the name Hokie.



**Tech to retire two logos**  
www.collegiatetimes.com  
Fans of the vintage Virginia Tech logos should go ahead and purchase any merchandise they have been wanting now, because the university will be discontinuing the line at the end of 2012.

Like - Comment - Share

**Hokie Fan**  
November 12, 2012

Anyone Can Be a HOKIE! Help spread the word, especially to all those Hokie fans, alumni, students and other supporters of Virginia Tech who have chosen to show their allegiance and support by proudly using the word HOKIE in the name of their business, product or service.

Like - Comment 2

**Hokie Fan**  
November 9, 2012



Like - Comment - Share 1

**Hokie Fan** shared Hokie Fan's album.  
November 8, 2012

Section 906 of the Trademark Manual of Examining Procedure provides:



Like - Comment - Share



Hokie Fan  
November 8, 2012

HOKIE Not Registered Before? Then Why the Registered Symbol? (89 photos)

Hokie™



Like - Comment - Share



Hokie Fan shared a link.  
November 6, 2012

Hokie Real Estate secured its rights to use HOKIE in its name. Why shouldn't we all have that right anyway, and why should we have to litigate or bargain for it? The short answer is we do have that right, and we shouldn't have to fight for it at all.

Blacksburg company can keep Hokie name - Roanoke.com  
www.roanoke.com

Virginia Tech sued Hokie Real Estate for infringing on the

Like - Comment - Share



Hokie Fan  
November 6, 2012

Virginia Tech Athletics Through the Years (6 photos)

urrences of Nicknames "Hokies," "Gobblers" and "Techmen" in the VPI Student Newspaper from 193 (based upon review of the entire text of the first October issue in each year)



Hokie Fan shared Hokie Fan's album.  
November 8, 2012

Section 906 of the Trademark Manual of Examining Procedure provides:

The owner of a mark registered in the United States Patent and Trademark Office may give notice that the mark is registered by displaying with the mark . . . the letter ... See More

HOKIE Not Registered Before? Then Why the Registered Symbol? (89 photos)

Hokie™



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Hokie Fan  
November 7, 2012

Virginia Tech has enjoyed a federal trademark registration for the plural form HOKIES since 2000. This registration says nothing regarding the singular form HOKIE, although Virginia Tech has asserted previously that this registration covers, or should cover, the singular form as well.

Int. Cls.: 14, 16, 18, 21 and 25

Prior U.S. Cls.: 1, 2, 3, 5, 13, 22, 23, 27, 28, 29, 30, 33, 37, 38, 39, 40, 41 and 50

Reg. No. 2,351,364

United States Patent and Trademark Office Registered May 23, 2000

TRADEMARK  
PRINCIPAL REGISTER

HOKIES

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (VIRGINIA STATE ABBREV.) 224 BURBANK HALL BLACKSBURG, VA 24061

FOR: PRECIOUS METALS, JEWELRY, NAMELY, GOLD PINS, GOLD CADDISGS, 18" TACKLE, CHAIRS AND BENCH, WATCHES AND CLOCKS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 52); FIRST USE 7-6-1902, IN COMMERCE 5-0-1902; FOR: PAPER ARTICLES, NAMELY, WRITING PAPER, FOLDERS, NOTE PADS, STATIONERY, LOOKALIKE BONDERS, LUGGERS, BUNGLE STRUCTURE, NOTE BOOKS, CALENDARS, POST CARDS, INSTRUCTIVE AND TRING, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 27, 38 AND 52); FIRST USE 11-11-1896, IN COMMERCE 11-11-1896; FOR: LEATHER AND IMITATION LEATHER GOODS, NAMELY, BRIEF CASE TYPE PORTFOLIO

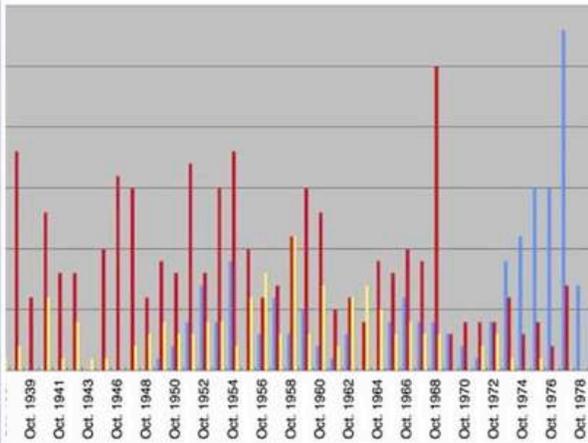
COVERS AND BRIEF CASES, TRAVEL BAGS, BACKPACKS, WALLETTS AND UMBRELLAS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41); FIRST USE 2-6-1902, IN COMMERCE 5-6-1902; FOR: DRINKING GLASSES, MUGS, PLASTIC CUPS, INSULATING THERMO BOTTLES FOR BEV- ERAGE CANS AND WASHLE PAPER BASKETS, IN CLASS 21 (U.S. CLS. 2, 13, 21, 25, 30, 33, 40 AND 50); FIRST USE 6-11-1971, IN COMMERCE 6-11-1971; FOR: CLOTHING, NAMELY, T-SHIRTS, SPORT SHIRTS, SWEAT PANTS, SWEAT SUITS, SWEAT SUITS, SWEATERS, JEANS, PANTS, TROUSERS, BIKINI, CAMP HATS, SWEATS, JACKETS AND BATH TOWELS, IN CLASS 25 (U.S. CLS. 22 AND 52); FIRST USE 8-7-1973, IN COMMERCE 8-7-1973; SER. NO. 75-564,291, FILED 10-3-1998; GEN. MANAGER, EXAMINING ATTORNEY

Like - Comment - Share

Hokie Fan  
November 6, 2012

Virginia Tech Athletics Through the Years (6 photos)

urrences of Nicknames "Hokies," "Gobblers" and "Techmen" in the VPI Student Newspaper from 193 (based upon review of the entire text of the first October issue in each year)



ants are included in the counts. So, for example, the counts for "Hokies" include "Hokie," and the counts for "Gobblers" include "Gobbler," a reference to the Freshman football team in certain years. i counts for all nicknames include only uses (a) referring to athletes, (b) referring to students, staff, alumni, fans, etc., a active. Thus, all references to the original "Hoki, Hoki, Hoki, Hy" spirit yell have been disregarded and are not included. The counts are from The Virginia Tech until 1969 and from The Collegiate Times from 1970 onward. The first issue was no October issue of the student newspaper in 1944.



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Hokie Fan  
November 6, 2012

HOKIE Businesses NOT Affiliated With Or Licensed By Virginia Tech (53 photos)



Like · Comment · Share

HOKIES

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (VIRGINIA STATE AGENCY) 224 BUBBLES HALL BLACKSBURG, VA 24061

FOR: PRECIOUS METALS, JEWELRY, NAMELY, GOLD FINE, GOLD DERRINGS, ZIP TACKS, CHAIRS AND BENCH, WATCHES AND GLOVES, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 59). FIRST USE 7-6-1912, IN COMMERCE 7-0-1912 FOR: PAPER ARTICLES, NAMELY, WRITING PAPER, FOLDERS, NOTE PADS, STATIONERY, LEADERSHIP BINDER, DICALS, SUNDAY STICKERS, NOTE BOOKS, CALENDARS, POST CARDS, POSTERS AND PINS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 27, 38 AND 59). FIRST USE 11-11-1896, IN COMMERCE 11-11-1896. FOR: LEATHER AND IMITATION LEATHER GOODS, NAMELY, BRIEF CASE TYPE PORTFOLIO

COVERS AND BRIEF CASES, TRAVEL BAGS, BACKPACKS, WALLETTS AND UMBRELLAS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 21 AND 41). FIRST USE 7-6-1912, IN COMMERCE 7-6-1912. FOR: DRINKING GLASSES, MUGS, PLASTIC CUPS, INSULATING STOVE HOLDERS FOR BEVERAGE CANS AND WASTE PAPER BASKETS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 34, 35, 40 AND 59). FIRST USE 6-17-1921, IN COMMERCE 6-17-1921. FOR: CLOTHING, NAMELY, T-SHIRTS, SWEAT SHIRTS, SWEAT PANTS, SHORTS, SWEAT SHIRT SWAPS, JERSEYS, PANTS, TIES, BABY BODYS, CAPS, HATS, SHIRTS, JACKETS AND BATH ROBES, IN CLASS 25 (U.S. CLS. 22 AND 59). FIRST USE 8-3-1973, IN COMMERCE 8-3-1973. STR. NO. 75-844281, FILED 10-2-1998. GEN'L MACTOL. EXAMINING ATTORNEY.

Like · Comment · Share

Hokie Fan shared a link.  
November 6, 2012

Other commentators agree, we should all be able to wear the HOKIE name proudly, however and wherever we like!

VT Targets 'Hokies for Romney-Ryan' Bumper Stickers  
jhpoltics.com

A column in the Roanoke Times is taking aim at bumper stickers saying "Hokies for Romney-Ryan", but Virginia Tech might want to look at their own legal history before whining about another use of the Hokie "trademark". For those unfamiliar with VT, a Hokie is their mascot, an imaginary bird that in ...

Like · Comment · Share

Hokie Fan  
November 6, 2012

Eat 'Til Your HOKIE's Content (20 photos)



Like · Comment · Share

# Before



About Virginia Tech

## What is a Hokie?

### A Look at Virginia Tech Traditions

Here is the answer to that oft-posed question, "What's a Hokie?" and an explanation of other Tech traditions.

What is a Hokie? The origin of the word "Hokie" has nothing to do with a turkey. It was coined by O. M. Stull (class of 1896), who used it in a spirit yell he wrote for a competition.

Here's how that competition came to be held. Virginia Tech was founded in 1872 as a land-grant institution and was named Virginia Agricultural and Mechanical College. In 1896, the Virginia General Assembly officially changed the college's name to Virginia Agricultural and Mechanical College and Polytechnic Institute, a name so long that citizens shortened it in popular usage to VPI. The original college cheer, which made reference to the original name of the institution, was no longer suitable. Thus, a contest was held to select a new spirit yell, and Stull won the \$5 top prize for his cheer, now known as Old Hokie.

Hoki, Hoki, Hoki, Hy  
Techs, Techs, V.P.I.  
Sola-Rex, Sola-Rah  
Polytechs - Vir-ginia  
Rax, Ri, V.P.I.

Later, the phrase "Taam! Taam! Taam!" was added at the end, and an "h" was added to "Hoki."

Stull later said that he made up the word as an attention-grabber. Though he may not have known it, "Hokie" (in its various forms) has been around at least since 1842. According to Johann Norstedt, now a retired Virginia Tech English professor, "Hokie was] a word that people used to express feeling, approval, excitement, surprise. Hokie, then, is a word like hooray; or yeah; or yah." Whatever its original meaning, the word in the popular cheer did, as Stull wanted, grab attention and has been a part of Virginia Tech tradition ever since.

Since the university had a new name and a new yell, new college colors seemed to be a desirable next step. During 1896, a committee was formed



# Now



About Virginia Tech

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Hoki, Hoki, Hoki, Hy  
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Later, the phrase "Taam! Taam! Taam!" was added at the end, and an "h" was added to "Hoki."

Since the university had a new name and a new yell, new college colors seemed to be a desirable next step. During 1896, a committee was formed to find a suitable combination of colors to replace the original colors of black and gray, which appeared in stripes on athletic uniforms and presented an image resembling prison uniforms.

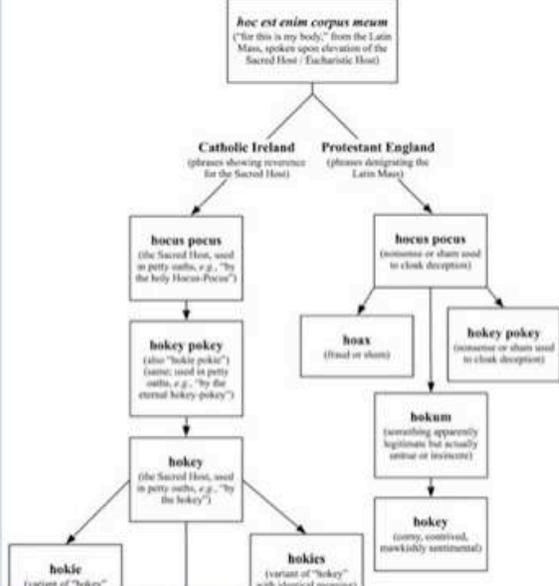
The committee selected burnt orange



Like · Comment · Share

## Historical Use Of HOKIE (6 photos)

# Origin of the word "Hokie"



**Stockton, Edinburgh May 1822**

**Love and Fre or, Yankee No by A.S. Love 1809**

*[Small text from historical documents and book titles is visible in the background of the diagram area.]*

Like · Comment · Share

## Our HOKIE SWAG Available to You (6 photos)



Like · Comment · Share

# Attachment G



All proceeds benefit United Way of  
Montgomery, Radford & Floyd



[www.unitedwaynr.org](http://www.unitedwaynr.org)

## How the Casino Games Work

With admission, each guest will receive  
- 5 prize tickets  
- 1 complimentary \$10,000 moneybill

Gaming tables will be open from 8pm - 10:45pm

You may take your moneybill to a dealer and cash it in for poker chips to play games.

At any time you may buy additional prize tickets and receive complimentary moneybill/s to play casino games.

**At 10:45pm you must:**

(There will be a reminder announcement)

1. Take your prize tickets and put them in the glass jar/s for a chance to win prizes in the foyer and place the number on your wristband on the back of each ticket.
2. If you have moneybills/chips left, you will need to take them to a casino dealer who will write you a cashier's receipt. These will be used to recognize the top ten winners of the night with a gaming certificate.
3. Tickets will be drawn for prizes starting at 11:15pm. We will use the number on the back of each ticket that will match the winners wristband.

## Horse Races

**Race 1** Advantage Title Insurance & Settlement Inc.  
Body Balance Spa  
Hometown Appraisal Services, Inc.  
Intrepid USA Healthcare Services  
National Financial Services, Inc., Kenny Myers  
NRV Business and Technology Solutions

**Race 2** AesirTech Consulting LLC.  
Floored  
Hethwood Market  
Inside Out Salon  
NRV Gateway Realty  
Wyatt Insurance

**Race 3** AGLA, Agent Rhonda Roop  
Ewing Building & Remodeling  
Little Leapers  
New York Life Insurance, Agent Ashley N. Montjoy  
NextThreeDays.com  
Shenandoah Podiatry

**Race 4** Aflac, Agent Chuck Berrier  
Crockett Home Improvement, Inc.  
Darlington-Smith Graphics  
Long & Foster, Agent Donna Travis  
Mix 100.7 FM  
Pointe West Management

**Race 5** H&R Block  
Lewis Gale Physicians  
Quest Floor Care, LLC.  
Sew Attitude  
South Main Chiropractic Clinic  
The Hokie Objective Onomastics Society



SHENANDOAH  
PODIATRY

EST  
OR CARE, LLC

**HOKIE**  
IS NOT A TRADEMARK

 South  
Main  

---

Chiropractic Clinic

ch  
NG  
SOLUTIONS





Easel Pad  
Tableau à feuilles mobiles  
Block de Hojas Reapositionables



11 1/2" x 17" (292 mm x 432 mm)  
100 sheets (250 pages)  
100% Recycled Paper



# Race 5

1)



4:1

2)



5:1

3)



2:1

4)



6:1

5)



8:1

6)



10:1

# Attachment H

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3 - - - - - x

4 HOKIE OBJECTIVE ONOMASTICS SOCIETY, :

5 Plaintiff, :

6 v. : OPPOSITION NO. 91207895

7 VIRGINIA POLYTECHNIC INSTITUTE and : SERIAL NO. 85-531,923

8 STATE UNIVERSITY, :

9 Defendants. :

10 - - - - - x

11

12 30(B)(6) & Individual

13 Deposition of JAMES CREEKMORE

14 Blacksburg, Virginia

15 Tuesday, September 30, 2014

16 9:00 a.m.

17

18 Job No.: 61980

19 Pages 1 through 211

20 Reported by: Cassandra E. Ellis, RPR

21

22

23

24

25

Page 70

1 2012 return we'll identify as applicant's Exhibit 10,  
2 and so the record is clear, it bears Bates stamp  
3 number HOOS 000438 through 000442.  
4 (Exhibit No. 10 was marked for  
5 identification.)  
6 BY MR. WEISBEIN:  
7 Q And Mr. Creekmore, I ask you to look at  
8 applicant's Exhibit 10, which is the 2012 tax return  
9 for Hokie Objective Onomastics Society, LLC; correct?  
10 A Correct.  
11 Q And is that your signature on page 441 of  
12 this document?  
13 A It is.  
14 Q And it's dated July 10th, 2014; correct?  
15 A Correct.  
16 Q And it's your understanding that this  
17 document was submitted to the IRS; correct?  
18 A Correct.  
19 Q Okay. And now you submitted it as a -- as  
20 a -- this is the short form for filing for a tax  
21 exempt company; correct?  
22 A Correct.  
23 Q And you'll note that line J is a line that  
24 you're supposed to check for tax exempt status; do you  
25 see that?

Page 71

1 A I do see that.  
2 Q And there is nothing checked there,  
3 501(c)(4) is not checked; correct?  
4 A I do see that.  
5 Q And that's because you have yet to file the  
6 appropriate documentation to receive 501(c)(4) status;  
7 is that correct?  
8 A Correct.  
9 Q Is it your testimony, sir, that all of the  
10 information that's set forth in Exhibit 10 is -- is  
11 accurate to the best of your knowledge?  
12 A Yes.  
13 Q Okay. And did you review any documents to  
14 -- to check the numbers that are set forth throughout  
15 this document?  
16 A Yes.  
17 Q The dollar figures?  
18 A Yes, I provided those numbers.  
19 Q Okay. So it's true, is it not, that in  
20 fiscal year 2012, that the contributions to the  
21 company to HOOS were totalled \$477.34; correct?  
22 A Correct.  
23 Q And those contributions would have been  
24 made by you or Mr. Finch; correct?  
25 A Yes.

Page 72

1 Q Okay. And -- and the money, that \$477.34,  
2 was used, in part, to pay for the official filing fees  
3 to form the LLC back in 2012; correct?  
4 A Correct.  
5 Q Do you know what the filing fees would have  
6 been to do that?  
7 A There's a \$100 filing fee and a \$2, at the  
8 time, a \$2.40 online credit card processing fee, so  
9 that's \$102.40, and I don't know what we may -- may  
10 have filed for the other \$300, I don't remember off  
11 the top of my head.  
12 Q What those expenditures went to, is what  
13 you're saying?  
14 A Right. Correct.  
15 Q All right. Now, it's true, is it not, that  
16 in 2012 HOOS didn't actually render any -- any  
17 services; correct?  
18 A I'm not sure that's the case. I -- I would  
19 consider the development of the Facebook page and the  
20 distribution of information through that is rendering  
21 a service. In fact, the inception of the educational  
22 mission was there. To follow-up on my prior answer,  
23 the \$300 would have been for the TTAB filing.  
24 Q Well, let me ask you this: In 2012, did  
25 HOOS offer educational lectures, symposium, symposia,

Page 73

1 presentation to classes, organizations, businesses,  
2 and individuals?  
3 A Yes.  
4 Q In 2012, did they?  
5 A Yes.  
6 Q And when in 2012?  
7 A From the inception.  
8 Q When was the first educational lecture,  
9 symposia, or presentation to classes, organizations,  
10 businesses, and individuals given in 2012?  
11 A I don't know that we had anyone request  
12 that in 2012, but we offered it.  
13 Q No, I'm not asking you if you offered it?  
14 A You did ask me.  
15 Q Okay. Did you provide any such services?  
16 A No one asked us to come speak in 2012.  
17 Q Okay. So you didn't -- you may have  
18 offered it, but you didn't actually provide the  
19 service; correct?  
20 A Correct. We did not provide a lecture or  
21 -- or classroom presentation in 2012.  
22 Q In fact, the first one wasn't until March  
23 of 2013; correct?  
24 A Correct.  
25 Q Did you distribute educational materials

**Page 162**

1 A I don't know because, like I said, I don't  
2 believe that I have either received or paid the bill,  
3 yet. So I don't know what the answer to that question  
4 is.

5 Q What is your understanding of the services  
6 for which Virginia Tech has applied to register the  
7 mark Hokie?

8 A I believe from recollection without having  
9 it in front of me, that the trademark application for  
10 -- did you ask for Hokie?

11 Q Hokie.

12 A Hokie, covers educational programming, I  
13 believe it covers entertainment, I believe it covers  
14 sports, I believe it covers merchandise.

15 MR. CAPALDO: Exhibit No. 3?

16 THE WITNESS: All the way down to the  
17 bottom of that stack.

18 MR. CAPALDO: Is it three?

19 BY MR. WEISBEIN:

20 Q You can look at Exhibit No. 3.

21 A The goods and services are covered on page  
22 two.

23 Q Can you just read them out loud?

24 A Education and entertainment services,  
25 namely providing courses of instruction at the

**Page 163**

1 university level, educational research, arranging and  
2 conducting athletic competitions, exhibitions in the  
3 nature of scientific shows and school fairs,  
4 conducting conferences in the field of math, politics,  
5 sociology, physics, chemistry, and science and  
6 distributing course materials in connection there  
7 with, live performances by a musical band, and  
8 festivals featuring a variety of activities, namely  
9 arts, music, dance, drama, sports, and athletics.

10 Q Does HOOS provide courses of instruction at  
11 the university level?

12 A We have not provided courses of instruction  
13 for university credit, if that is the definition of at  
14 the university level. We certainly provide programs  
15 to university level spectators and participants as  
16 several have been university professors and university  
17 employees and university students.

18 Q But you don't give -- you don't provide  
19 courses of instruction for academic credit at the  
20 university level; correct?

21 A For academic credit, correct.

22 Q Or even at the university level, you may  
23 have had attendees who have college education or  
24 beyond, but you're not providing a course of  
25 instruction in law at the university level, are you?

**Page 164**

1 A Well, that's -- you qualified it with --  
2 for academic credit, which is a perfectly acceptable  
3 qualification for me, because I don't know whether  
4 university level contemplates the fact that active and  
5 past faculty members, students, or other university  
6 employees have been present at our programs.

7 Q Putting aside who the attendees are, are  
8 you giving courses of instruction at the university  
9 level, do you understand what that means?

10 A No, please define it for me.

11 Q Courses of instruction at the university  
12 level would mean giving instructions, giving course  
13 presentations for college credit?

14 A We do not give course presentations for  
15 college credit, no.

16 Q Do you undertake educational research?

17 A Definitely.

18 Q In what subject matter?

19 A The etymology of the word Hokie, historical  
20 underpinnings of how that word became incorporated  
21 into the English language and the historical use of  
22 that word by Virginia Tech and by the community around  
23 Virginia Tech, all of which would be included in a  
24 broad definition of educational research.

25 Q But beyond what you just said, that's the

**Page 165**

1 limit of your educational research; correct?

2 A I think that would be fair, yes.

3 Q Do you arrange and conduct athletic  
4 competitions?

5 A We do not.

6 Q Do you provide -- do your research  
7 standards adhere to any research standards from  
8 recognized collegiate entities?

9 A Inasmuch as a former Virginia Tech English  
10 professor assisted us initially in providing that  
11 research, I would think that it probably would, but I  
12 do not know.

13 Q Do you provide exhibitions in the nature of  
14 scientific shows or school fairs?

15 A No.

16 Q Do you conduct conferences in the field of  
17 math?

18 A No.

19 Q Do you conduct conferences in the field of  
20 politics?

21 A No.

22 Q Do you conduct conferences in the field of  
23 sociology?

24 A No.

25 Q Do you conduct conferences in the field of