

ESTTA Tracking number: **ESTTA522254**

Filing date: **02/19/2013**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Varsity Spirit Corporation
Granted to Date of previous extension	02/20/2013
Address	6745 Lenox Center Court Memphis, TN 38115 UNITED STATES

Attorney information	Arlana S. Cohen Cowan, Liebowitz & Latman 1133 Ave. of the Americas New York, NY 10036 UNITED STATES asc@cll.com, mgg@cll.com, trademark@cll.com, sbi@cll.com, jaj@cll.com Phone:212-790-9200
----------------------	---

Applicant Information

Application No	85642290	Publication date	10/23/2012
Opposition Filing Date	02/19/2013	Opposition Period Ends	02/20/2013
Applicant	Sibghat Ullah Sheikh 460 E Varsity Ln Bloomington, IN 47408 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Arranging and conducting of concerts; Entertainment services, namely, providing information about a recording artist via an online network; Entertainment services, namely, providing online electronic games; Entertainment services, namely, providing online video games; Providing online augmented reality games
--

Grounds for Opposition

Other	See attached pleading.
-------	------------------------

Attachments	Varsitypalooza NOO.pdf (7 pages)(21832 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/Arlana S. Cohen/
Name	Arlana S. Cohen
Date	02/19/2013

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

-----X
VARSITY SPIRIT CORPORATION)
)
 Opposer,)
)
 v.) Opposition No. _____
)
SIBGHAT ULLAH SHEIKH)
)
 Applicant.)
-----X

NOTICE OF OPPOSITION

In the matter of trademark application Serial No. 85/642,290, for the trademark VARSITYPALOOZA, filed June 4, 2012 and published for opposition in the Official Gazette of October 23, 2012, Varsity Spirit Corporation, a Tennessee corporation, having a business address at 6745 Lenox Center Court, Memphis, TN 38115, believes it will be damaged and hereby opposes the registration of said trademark. The grounds for opposition are as follows:

1. Applicant, Sibghat Ullah Sheikh, (“Applicant”), by the application herein opposed, seeks to register “VARSITYPALOOZA” as a trademark for use with respect to “Arranging and conducting of concerts; Entertainment services, namely, providing information about a recording artist via an online network; Entertainment services, namely, providing online electronic games; Entertainment services, namely, providing online video games; Providing online augmented reality games” in Class 41 (hereinafter referred to as “Applicant’s Mark”). This application is based on applicant’s alleged intent-to-use Applicant’s Mark.

2. Opposer, together with Varsity Spirit Fashions & Supplies, Inc. and Varsity Brands, Inc., all of whom are in direct privity with one another (hereinafter referred to

individually and collectively as the “Varsity Companies”), is engaged in the business of, *inter alia*, selling and offering entertainment services using its trademark and trade name “Varsity” (“Opposers’ Trade Name”).

3. Opposer, itself or through its licensees, has used, and continues to use in commerce, Opposer’s Trade Name and the mark “VARSITY” for, *inter alia*, various entertainment services and clothing products and related accessories (“Opposer’s Common Law Rights”).

4. Opposer, through the Varsity Companies, is the owner of the following trademark and service mark registrations in the United States without limitation:

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
JUNIOR VARSITY SPIRIT FASHIONS	1,575,830	1/02/90	Mail order catalog services in the field of cheerleader uniforms for younger age groups
VARSAITY	3,696,209	10/13/09	Pre-recorded videotapes and compact discs containing music and/or movies; camps, namely, children's recreational camps, cheerleading camps, and soccer camps
VARSAITY	3,436,493	5/27/08	Online retail store services featuring, pre-recorded videotapes and compact discs, school supplies, jewelry, home furnishing; providing a website which features advertisements for the goods and services of others on topics of interest to teenage boys and girls on a global computer network; travel agency services, namely, making reservations; providing an online database in the field of topics of interest to teenage boys and girls, namely fashion.
VARSAITY.COM	3,689,696	9/29/09	Camps, namely, children's recreational camps, cheerleading camps, and soccer camps
VARSAITY.COM	3,418,764	4/29/08	Online retail store services featuring pre-recorded videotapes and compact discs, school supplies, jewelry and home furnishings; providing a website which features advertisements for the goods and

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
			services of others on topics of interest to teenage boys and girls on a global computer network; travel agency services, namely, making reservations; and providing an online database in the field of topics of interest to teenage boys and girls, namely, fashion.
VARSITY TV	3,920,302	11/24/08	An interactive website featuring entertainment information and cheerleading videos for students and teens; online social networking services for students and teen
VARSITY WIRED	3,371,683	1/22/08	Entertainment services, namely, providing a website featuring audio and video presentations featuring cheerleading and dance, cheerleading and dance competitions, audio clips, video clips, photographs and fashion
VARSITY CHOREOGRAPHY	3,320,692	10/23/07	Providing educational and instructional courses in the fields of spirit, cheer and dance delivered both online and through the classroom
VARSITY	2,526,564	1/08/02	Athletic shirts, athletic shorts, athletic tops, body suits, dresses, hats, jackets, jerseys, jumpers, leotards, pants, skirts, sweaters, sweat pants, sweat shirts, T-shirts, unitards, and warm-up suits sold to colleges, high schools and school-affiliated teams, clubs, groups and individuals by direct sales through sales representatives or employees of applicant, through mail order catalog services or through campus book stores or other retail outlets located at colleges and high schools; uniforms for cheerleaders, drill teams, pompon squads, pep squads, mascots, bands and booster clubs
VARSITY SPIRIT CORPORATION	1,796,645	10/05/93	Conducting cheerleading, dance teams and gymnastics training camps, clinics, seminars, workshops, competitions, championships and tournaments; performing cheerleading at bowl games; private gymnastics, cheerleader and dance team coaching; clothing; namely, cheerleader and dance team uniforms with

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
			pom-poms, gloves, vests, tops, shirts, skirts, jumpers, warm-up suits, pants, sweaters, shoes, socks, sweatshirts, T-shirts, shorts, sweat pants, tights, leotards, unitards, dresses and jackets
VARSITY SPIRIT FASHIONS	1,680,452	3/24/92	Men's and women's cheerleader and dance team clothing; namely, skirts, sweats, sweaters, tops, pants, shoes
VARSITY SPORT	2,293,083	11/16/99	Athletic wear, namely, sports shirts, sports shorts, gloves, vests, tops, skirts, jumpers, warm-up suits, pants, sweaters, athletic shoes, sweatshirts, T-shirts, athletic shorts, sweat-pants, tights, leotards, unitards, dresses, and jackets
V VARSITY	2,357,303	6/13/00	Cheerleader uniforms, drill team uniforms and pompon squad uniforms
VARSITY	1,812,198	12/21/93	Men's and women's sleepwear, underwear, night shirts, loungewear and boxer shorts
VARSITY (Block letters)	3,928,856	3/08/11	Footwear, namely, cheerleader shoes, dance shoes, slippers, flip-flops and sandals; athletic shoes
VARSITY (Stylized)	879,543	10/28/69	Pajama and robe sets
VARSITY	2,082,554	7/22/97	Mens underwear; T-shirts, briefs; athletic shirts; undergarments; pajamas; robes; nightshirts; loungewear and boxer shorts sold through retail outlets.

5. Opposer, through the Varsity Companies, is also the owner of several allowed trademark applications in the United States for its mark "VARSITY".

6. Opposer's Common Law Rights, trademark/service mark applications and trademark/service mark registrations are referred to hereinafter as the "VARSITY Family of Marks."

7. By virtue of extensive use in commerce of the mark VARSITY in the United States, the relevant trade and public have come to associate goods and services bearing their VARSITY Family of Marks with Opposer.

8. The services of Applicant and the goods and services of Opposer are identical and/or substantially similar and related.

9. Applicant's Mark, which includes "VARSITY" is identical to Opposer's VARSITY Family of Marks.

10. Applicant's Mark, as applied to the services set forth in the application herein opposed, so resembles Opposer's VARSITY Family of Marks as applied to its goods and services that it is likely to cause confusion, mistake and/or deception.

11. If Applicant is permitted to register Applicant's Mark for the services set forth in the application herein opposed, confusion of the relevant trade and public resulting in damage and injury to Opposer would be likely to result. Any persons familiar with the goods and services of Opposer would be likely to assume that Applicant's services are sponsored by or produced under license from or otherwise affiliated with Opposer. Furthermore, any objection to or fault found with Applicant's services provided under its mark would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods sold and services offered under the VARSITY Family of Marks.

12. If Applicant were granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that registration of the mark of application No. 85/642,290 be refused and that this opposition be sustained.

The filing fee of \$300.00 is enclosed herewith and any additional fees or deficiencies deemed to be due and owing in connection with this opposition may be charged to Deposit Account No. 03-3415 and any overpayment may be credited thereto.

Dated: February 19, 2013
New York, New York

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By /Arlana S. Cohen /
Arlana S. Cohen
Michael G. Gabriel
1133 Avenue of the Americas
New York, New York 10036-6799
Tel: (212) 790-9237
Fax: (212) 575-0671
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 19, 2013 a true and correct copy of the Notice of Opposition was served by United States Mail, First Class, by depositing it, postage prepaid, in a depository under the exclusive custody and control of the United States Postal Service, addressed to:

Sibghat Ullah Sheikh
460 E Varsity Lane
Bloomington, IN 47408
(doesn't have counsel as of yet)

/Michael G. Gabriel/
Michael G. Gabriel