

ESTTA Tracking number: **ESTTA741286**

Filing date: **04/20/2016**

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

Notice of Opposition

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

Opposers Information

Name	Varsity Spirit Fashions & Supplies, LLC		
Entity	Limited Liability Company	Citizenship	MINNESOTA
Address	6745 Lenox Center Court Memphis, TN 38115 UNITED STATES		

Name	Varsity Spirit, LLC		
Entity	Limited Liability Company	Citizenship	Tennessee
Address	6745 Lenox Center Court Memphis, TN 38115 UNITED STATES		

Name	Varsity Brands, LLC		
Granted to Date of previous extension	04/20/2016		
Address	6745 Lenox Center Court Memphis, TN 38115 UNITED STATES		

Attorney information	Deborah K. Squiers Cowan, Liebowitz & Latman, P.C. 114 West 47th Street New York, NY 10036 UNITED STATES dks@cll.com, ryg@cll.com, las@cll.com, trademark@cll.com Phone:2127909200		
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Applicant Information

Application No	86524398	Publication date	12/22/2015
Opposition Filing Date	04/20/2016	Opposition Period Ends	04/20/2016
Applicant	VU Group LLC 2800 Knight Street Dallas, TX 75219 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2008/02/15 First Use In Commerce: 2008/02/15
All goods and services in the class are opposed, namely: Marketing services, namely, promoting or advertising the goods and services of others

Grounds for Opposition

Other	See attached pleading
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Attachments	Consolidated Notice of Opposition.pdf(25130 bytes)
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Certificate of Service

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

Signature	/DEBORAH K. SQUIERS/
Name	Deborah K. Squiers
Date	04/20/2016

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

In re Application Serial No. 86524398
Filed: Feb. 04, 2015
For Mark: VARSITY UNDERGROUND
Published in the Official Gazette: Dec. 22, 2015

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 VARSITY SPIRIT, LLC, VARSITY)
 SPIRIT FASHIONS & SUPPLIES, LLC,)
 and VARSITY BRANDS, LLC)
)
 Opposers,)
)
 v.) Opposition No. _____
)
 VU GROUP LLC)
)
 Applicant.)
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CONSOLIDATED NOTICE OF OPPOSITION

Opposers, Varsity Spirit, LLC, a Tennessee limited liability company, Varsity Spirit Fashions & Supplies, LLC, a Minnesota limited liability company, and Varsity Brands, LLC, a Delaware limited liability company, all having a business address at 6745 Lenox Center Court, Memphis, TN 38115 (“Opposers”), believe they will be damaged by and hereby oppose the registration of the mark VARSITY UNDERGROUND (“Applicant’s Mark”) as shown in Application Serial No. 86524398 (the “Application”). The grounds for opposition are as follows:

1. Applicant, VU Group LLC, (“Applicant”), by the Application herein opposed, seeks to register Applicant’s Mark as a service mark for use with respect to “Marketing services, namely, promoting or advertising the goods and services of others” in Class 35, with an alleged date of first use in commerce of February 15, 2008.

2. Upon information and belief, Applicant is a Wyoming limited liability company located at 2800 Knight Street, Dallas, Texas 75219.

3. Opposers and other related companies, all of whom are in direct privity with one another (hereinafter referred to individually and collectively as the “Varsity Companies”), are engaged in the business of manufacturing and selling a wide variety of apparel, footwear and headwear, conducting sports competitions and games, offering online services including multiple interactive websites and social media platforms featuring entertainment, photos, videos and sports information, and other related goods and services (“Opposers’ Goods and Services”), all of which bear the mark and/or trade name VARSITY, alone and /or with other words, designs or stylization (“Opposers’ VARSITY Marks”).

4. Prior to the filing date of the Application and February 15, 2008 (Applicant’s claimed first use date), the Varsity Companies have used, and continue to use in commerce Opposers’ VARSITY Marks on or in connection with Opposers’ Goods and Services.

5. The Varsity Companies own the following trademark and service mark registrations and applications in the United States without limitation: U.S. Reg. Nos. 1575830; 4546436; 2357303; 4110341; 2526564; 3696209; 4403734; 3436493; 3928856; 3782740; 4607865; 4258636; 4451703; 4743867; 4526644; 4593424; 4203121; 4203122; 4314148; 4625161; 1796645; 1680452; 2293083; 4615138; 3920302; 3858342; 3797635; 3689696; 3418764; 4464123; 2082554; 1812198; 879543; 4438199; 4823834 and 2155823; and U.S. Ser. Nos. 85883582; 86012461; 86018022; 86315936; 86316142; and 86824500.

5. By virtue of extensive use in commerce of Opposers’ VARSITY Marks in the United States, the relevant trade and public have come to associate goods and services bearing such marks with the Varsity Companies.

6. The services of Applicant and the goods and services of Opposers are identical and/or substantially similar and related.

7. Applicant's Mark, which includes "VARSITY", is identical and/or similar to Opposers' VARSITY Marks.

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

9. 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 the Varsity Companies would be likely to result. Any persons familiar with the goods and services of the Varsity Companies would be likely to assume that Applicant's services are sponsored by or produced under license from or otherwise affiliated with the Varsity Companies. 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 the Varsity Companies have established for goods sold and services rendered under Opposers' VARSITY Marks.

10. If Applicant were granted a registration for Applicant's Mark, 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 the Varsity Companies.

WHEREFORE, Opposers pray that registration of the mark of Application Serial No. 86524398 be refused and that this opposition be sustained.

Please recognize Deborah K. Squiers as the principal attorney for Opposers in this proceeding and as the named correspondent.

Dated: April 20, 2016
New York, New York

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By: Deborah K. Squiers/

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Attorneys for Opposers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 20, 2016 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 Applicant's Attorney of Record:

Luke Brean
BreanLaw LLC
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Portland, Oregon 97208

/Ryan A. Ghiselli/
Ryan A. Ghiselli