

ESTTA Tracking number: **ESTTA26981**

Filing date: **02/28/2005**

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	Jazz Basketball Investors, Inc.
Granted to Date of previous extension	02/27/2005
Address	301 West South TempleDelta Center Salt Lake City, UT 84101 UNITED STATES

Attorney information	Anil V. George NBA Properties, Inc. 645 5th Avenue IP GroupOlympic Tower New York, NY 10022 UNITED STATES avgeorge@nba.com Phone:(212) 407-8330
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Applicant Information

Application No	78252853	Publication date	08/31/2004
Opposition Filing Date	02/28/2005	Opposition Period Ends	02/27/2005
Applicant	Cherokee Inc. 6835 Valjean Avenue Van Nuys, CA 91406		

UNITED STATES

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: MEN'S AND WOMEN'S CLOTHING, NAMELY, SHIRTS, SHORTS, PANTS, JEANS, JACKETS, SKIRTS, SLACKS, BLOUSES, DRESSES, VESTS, COATS, SWEATERS, SCARVES, SWIMSUITS, UNDERWEAR, UNDERPANTS, SLIPS, CAMISOLES, BRAS, NIGHTGOWNS, ROBES, SOCKS, HOSIERY; INFANTS' AND CHILDREN'S CLOTHING, NAMELY T-SHIRTS, SWEATERS, LONG SLEEVED SHIRTS, SHORTS, PANTS, JUMPERS, JUMPSUITS, OVERALL, ONE-PIECE PLAYSUITS, PAJAMAS, SOCKS, DRESSES, SKIRTS; FOOTWEAR; AND HEADWEAR, NAMELY, HATS, CAPS, AND VISORS

Attachments	JazzSport.pdf (3 pages)
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Signature	/Anil V. George/
Name	Anil V. George
Date	02/28/2005

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

In re Application of

Cherokee Inc.

Serial No. : 78/252,853
MARK : JAZZ SPORT
FILING DATE : May 21, 2003
Published: : Official Gazette
August 31, 2004
Page TM 408

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: JAZZ BASKETBALL INVESTORS, INC. :
: Petitioner :
: v. : Opposition No. _____
: :
: CHEROKEE INC. :
: Applicant :
-----X

NOTICE OF OPPOSITION

Jazz Basketball Investors, Inc., (“Opposer”) believes that it will be damaged by the registration of the proposed JAZZ SPORT mark (the “Mark”) identified in application serial number 78/252,853 (the “Application”) and, hereby, opposes registration of the same.

1. Opposer is a Utah partnership having its principal office and place of business at 301 West South Temple, Delta Center, Salt Lake City, Utah 84101.
2. Opposer is the proprietor of the Utah Jazz professional basketball team (the “Jazz”), a member team of the National Basketball Association (the “NBA”).

3. Since long prior to May 21, 2003, the filing date of the Application, the Jazz have been and now are engaged in the business of providing a wide range of goods and services, including but not limited to entertainment services in the nature of rendering live basketball games and basketball exhibitions and collateral goods, including but not limited to assorted clothing, all under various JAZZ and JAZZ and Design marks (collectively, the "Jazz Marks").

4. The Jazz have used the Jazz Marks extensively and continuously and, in connection thereto, engaged in wide ranging promotional efforts and generated substantial sales. As a result, the Jazz Marks have become known to the public; are closely associated with the Jazz and the NBA; are closely associated with the goods and services of the Jazz; are recognized by the public as pointing to the source of origin for the goods and services of the Jazz; and represent substantial goodwill of the Jazz.

5. In addition to being distinctive of the goods and services of the Jazz, the Jazz Marks are famous. The Jazz Marks are famous, among other reasons, because of its extensive and continuous nationwide use by the Jazz, the substantial sales volumes for goods and services associated with the Jazz Marks, the wide ranging promotional efforts relating to the Jazz Marks by the Jazz and the NBA, and extensive media attention concerning the Jazz, the goods and services of the Jazz, and the Jazz Marks.

6. Opposer owns numerous Jazz Marks registrations, issued by the United States Patent and Trademark Office ("PTO"), which are validly subsisting and uncancelled, in assorted classes, including International Class 25.

7. Notwithstanding the rights of the Jazz, Applicant seeks registration of the Mark for assorted clothing goods.

8. The Jazz Marks contains the wording JAZZ.

9. The Mark contains the identical JAZZ wording along with the disclaimed descriptive wording SPORT.

10. Opposer uses the Jazz Marks in connection with the same or similar goods identified in the Application along with related goods and services.

11. Upon information and belief, Applicant has made no use of the Mark in commerce in connection with the relevant goods. Therefore, the Jazz have prior and superior rights based on the earlier use of the Jazz Marks.

12. Use of the Mark likely will cause people to believe that the relevant goods are authorized, endorsed, or sponsored by, and, therefore, connected or associated with the Jazz and the NBA when that is not the case.

13. Applicant's use of the proposed mark dilutes the Jazz Marks by blurring their distinctiveness.

14. Applicant's adoption of the Mark is without license or permission from Opposer.

15. Registration of the Mark would be contrary to and violate Trademark Act Sections 2(a), 15 U.S.C. § 1052(a); 2(d), 15 U.S.C. § 1052(d); and 43(c), 15 U.S.C. § 1125(c), and, therefore, violate and diminish the prior and superior rights of the Jazz in the Jazz Marks.

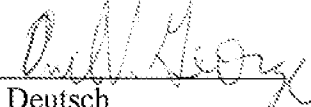
16. Opposer will be damaged if the PTO grants registration of the Mark because Applicant will obtain statutory rights in violation and derogation of the established prior and superior rights of the Jazz.

17. WHEREFORE, Opposer prays this opposition be sustained and that Application Serial No. 78/252,853 be refused and denied registration.

January 28, 2005

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JAZZ BASKETBALL INVESTORS, INC.

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