

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	Open Cheer & Dance Championship Series, LLC
Granted to date of previous extension	10/28/2023
Address	2607 WOLFLIN AVE #150 AMARILLO, TX 79109 UNITED STATES
Attorney information	BRYAN D. HULL BUSH ROSS, P.A. 1801 N. HIGHLAND AVE. TAMPA, FL 33602 UNITED STATES Primary email: bhull@bushross.com Secondary email(s): aflowers@bushross.com 813-224-9255
Docket no.	

Applicant information

Application no.	90830965	Publication date	08/29/2023
Opposition filing date	10/26/2023	Opposition period ends	10/28/2023
Applicant	U.S. ALL STAR FEDERATION, INC 8275 TOURNAMENT DRIVE, SUITE 325 MEMPHIS, TN 38125 UNITED STATES		

Goods/services affected by opposition

Class 041. First Use: Apr 24, 2004 First Use In Commerce: Apr 24, 2004 All goods and services in the class are opposed, namely: conducting cheerleading competitions

Grounds for opposition

The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45
The mark is not inherently distinctive and has not acquired distinctiveness	Trademark Act Sections 1, 2 and 45; and Section 2(f)

Related proceedings	U.S. All Star Federation, Inc. v. Open Cheer & Dance Championship Series, LLC, et al., 6:21-cv-02135 (M.D. Fla.)
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Attachments	Notice of Opposition - Open Series - Word Mark.pdf(127080 bytes)
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Signature	/Bryan D. Hull/
Name	BRYAN D. HULL
Date	10/26/2023

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

In the Matter of Trademark Application
Application Serial No. 90830965
Mark: THE CHEERLEADING WORLDS

OPEN CHEER & DANCE CHAMPIONSHIP
SERIES, LLC,

Opposer,

vs.

Opposition No. _____

U.S. ALL STAR FEDERATION, INC.,

Applicant.

_____/

NOTICE OF OPPOSITION

Open Cheer & Dance Championship Series, LLC (“Open Series”), a Texas limited liability company with a principal place of business located at 2607 Wolflin Avenue #150 Amarillo, Texas 79109, hereby opposes the application of U.S. All Star Federation, Inc., a Tennessee nonprofit mutual benefit corporation with a principal place of business located at 8275 Tournament Drive Suite 325, Memphis, Tennessee 38125 (“Applicant”), for registration of the service mark THE CHEERLEADING WORLDS on the Principal Register, Serial No. 90830965.

As grounds for the opposition, Open Series alleges:

1. “All Star Cheer” is a specialized form of competitive cheerleading, where All Star teams participate in “All Star Competitions,” which include qualifier events and championship events. The entire sport is premised and structured around winning competitions and competing in championship competitions.

2. Open Series is the owner of the Open Championship Series. The Open Championship Series comprises hundreds of qualifier events in many regions around the country

and across the world. At these qualifier events, All Star Cheer teams compete to earn bids for championship events. Open Series also hosts championship events for All Star Cheer teams.

3. An affiliate of Open Series, The Open Cheer and Dance, LLC (“Open Cheer”),¹ hosts the annual Allstar World Championship event in Orlando, Florida, where the world’s top All Star Cheer teams compete for a championship in the sport. The Allstar World Championship event is held at the Orange County Convention Center.

4. Since 2021, Open Series and Open Cheer have used service marks in commerce in connection with the Allstar World Championship including:

- The word mark ALLSTAR WORLD CHAMPIONSHIP, and
- The following design mark with the literal elements ALLSTAR WORLD CHAMPIONSHIP OPEN CHAMPIONSHIP SERIES:²



(the “Allstar Marks”). Open Series and Open Cheer advertise and sell All Star Cheer competition services using the Allstar Marks in a variety of forums and media, including the website www.theallstarworldchampionship.com.

¹ Open Cheer has initiated a separate proceeding opposing registration of Applicant’s THE CHEERLEADING WORLDS mark. Open Series and Open Cheer will be requesting to consolidate the proceedings.

² On August 20, 2020, Open Series applied to register a different design mark on the Principal Register, Serial No. 90127057, comprised of the literal elements YOUTH WORLD CHAMPIONSHIP ALLSTAR 18U WORLD CHAMPIONSHIP. After the mark was published, Applicant initiated an opposition proceeding, No. 91274116, which is stayed pending the Litigation referenced in paragraph 7 below.

5. Applicant holds itself out as “the national authority for All Star.” Applicant’s stated purpose and mission are to establish rules for sanctioning and providing governance for cheerleading, dance, and spirit-related competitions and events; to provide counseling in the administration of cheerleading, dance, and spirit-related competitions and events; and to provide educational and counseling services in the fields of cheerleading, dance, and spirit-related competition and events.

6. Applicant is the assignee of a service mark, THE CHEERLEADING WORLDS, which is registered on the Supplemental Register, U.S. Trademark Reg. No. 2999331, for “conducting cheerleading competitions” in International Class 041.

7. Applicant has sued Open Series, Open Cheer, and others in the United States District Court for the Middle District of Florida, Case No. 6:21-cv-02135, alleging their use of the Allstar Marks in commerce infringes Applicant’s rights in THE CHEERLEADING WORLDS mark (the “Litigation”). Applicant has claimed, among other things, that the Allstar Marks are confusingly similar to THE CHEERLEADING WORLDS in the minds of the relevant consuming public. The Litigation is ongoing, with trial currently set for the June 2024 trial term.

8. On July 15, 2021, Applicant applied to register THE CHEERLEADING WORLDS on the Principal Register, Serial No. 90830965 for “conducting cheerleading competitions” in International Class 041. Concurrent with the application, Applicant also applied to register a design mark, Serial No. 90831007, which is the subject of separate opposition proceedings filed by Open Series and Open Cheer.

9. On August 29, 2023, Applicant’s THE CHEERLEADING WORLDS mark was published in the Trademark Official Gazette. Thereafter, the Board granted Open Series a 30-day extension to file this opposition proceeding.

GENERIC AND/OR MERELY DESCRIPTIVE

10. Under the Trademark Act, THE CHEERLEADING WORLDS is barred from registration on the Principal Register because it constitutes a generic term that is merely the apt or common descriptive name of a class or genus of services. *See In re Gould Paper Corp.*, 834 F.2d 1017, 1018 (Fed. Cir. 1987).

11. Additionally, Section 2(e)(1) of the Trademark Act bars registration of THE CHEERLEADING WORLDS on the Principal Register because the mark is merely descriptive of the services Applicant provides.

12. The entirety of the mark describes a quality or characteristic of the services, in that CHEERLEADING refers to the sport of the same name and WORLDS means relating to the entire world, especially in terms of a world championship.

13. The mark consists of a combination of two highly descriptive words that does not evoke a new and unique commercial impression. The words CHEERLEADING and WORLDS each retain their descriptive significance in relation to the services, so the combination is itself descriptive.

14. Applicant cannot meet the heightened evidentiary burden required to show that its highly descriptive mark has acquired distinctiveness, that is, secondary meaning among the relevant consumer group. For example, a professional survey conducted in August 2023 demonstrated that THE CHEERLEADING WORLDS has not, in fact, acquired secondary meaning in the minds of relevant consumers.

15. Therefore, Applicant's THE CHEERLEADING WORLDS mark is not registerable on the Principal Register under Section 2(f) of the Trademark Act.

16. If allowed, the requested registration would provide Applicant with presumptions of validity, ownership, and the exclusive rights, and after the applicable period, the mark will become incontestable.

17. Registration of THE CHEERLEADING WORLDS mark should be refused to maintain the freedom of Open Series and the public to use the generic and descriptive language to advertise and properly describe their own services.

18. Moreover, to the extent Applicant's use of THE CHEERLEADING WORLDS concurrent with Open Series' use of the Allstar Marks is likely to cause consumer confusion as to the source of the parties' respective services, or as to the origin, affiliation, connection, or association of the parties, or as to the parties' sponsorship or approval of each other's services—as Applicant has alleged in the Litigation—Open Series would suffer if Applicant obtained the benefits of registration on the Principal Register.

WHEREFORE, for the reasons set forth above, Open Series respectfully requests that Applicant's application be rejected, and that the registration of the Applicant's THE CHEERLEADING WORLDS mark be denied and refused.

Respectfully submitted,

By: /Bryan D. Hull/
Bryan D. Hull
Florida Bar No. 20969
bhull@bushross.com
P. O. Box 3913
Tampa, FL 33602
(813) 224-9255
(813) 223-9620 (fax)
*Attorneys for Open Cheer & Dance
Championship Series, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of October 2023, a true and complete copy of the foregoing has been e-filed with the USPTO via ESTTA and served on counsel for Applicant via email:

Grady M. Garrison, Esq.
Nicole D. Berkowitz, Esq.
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
165 Madison Avenue
Memphis, TN 38103
ggarrison@bakerdonelson.com
nberkowitz@bakerdonelson.com

Signature: /Bryan D. Hull/
Attorney