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Contact: Anne Kosmoski

202.775.0200

Kosmoski@eincomm.com

John M. Byrne

215.988.2597

John.Byrne@dbr.com

Native Americans Renew Demand for U.S. Patent Office To Cancel Derogatory “Redskins” Trademark

WASHINGTON, D.C. – Six well-respected Native American young people today filed a joint petition with the Trademark Trial and Appeal Board (TTAB) of the U.S. Patent and Trademark Office for cancellation of the Washington Redskins football organization (Pro-Football, Inc.) trademarked term “Redskins.”

A similar petition was filed in 1992 by a group of prominent Native American leaders. Both petitions call for the cancellation of the federal government’s registration of all related trademarks because their use is disparaging to Native Americans. The petitions cite extensive evidence concerning the history of the use of the term “Redskin” and public perception of the objectionable term. Both sets of petitioners are represented pro bono by the law firm of Drinker Biddle & Reath LLP.

“This public act of allegiance by Native American youth with the efforts of their elders to combat intolerance is truly heroic and reflects a courageous willingness on the part of these young people to protect Native peoples from slurs and vulgarities,” said Suzan Shown Harjo (Cheyenne and Muscogee), lead petitioner in the original case and president of The Morning Star Institute, a non-profit American Indian advocacy group.

“The term ‘Redskins’ is an extraordinarily insensitive and derogatory term and one that should not be granted exclusive trademark licenses by the federal government,” Harjo said. “In concert with our original purpose, this new, younger group of Native Americans hopes this legal action will convince the Washington team owners and others that disparaging terms should be consigned to museums and history books.”

The original petition was brought in 1992 by a group of Native Americans from across the country. In 1999, the TTAB canceled the “Redskins” registrations on the grounds that the term was disparaging.

Pro-Football, Inc. appealed to the U.S. District Court for the District of Columbia, which in 2003 reversed the TTAB’s decision on disparagement. The court also determined that the petitioners were barred by “laches,” a legal doctrine applied when a court decides that a party has taken too

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long to assert a right or claim and that the passage of time is deemed prejudicial to an adverse party.

The U.S. Court of Appeals for the District of Columbia Circuit reviewed the lower court’s ruling in 2005, and did not rule on the disparagement issue, but determined that laches may not bar the petition of the youngest petitioner, Mateo Romero, because he reached the age of majority in 1984 and, therefore, may not be chargeable with prejudicial delay. The appeals court sent the case back to the District Court for a determination of whether Romero’s case is barred by laches. The case is pending.

“While we will continue the vigorous pursuit of Mateo Romero’s claim to what we hope will be a successful conclusion, these new petitioners make it much more likely that this matter will ultimately be resolved on the merits, rather than on the basis of laches,” said Philip Mause, partner at Drinker Biddle and pro bono counsel for both the original and new petitioners.

“The young Native Americans who came forward to file these petitions – ranging in age from 18 to 24 – will not likely be subject to a successful laches defense. Therefore their cases should be resolved solely on the merits – the issue of disparagement,” Mause said. “Our desire for a resolution of this issue on the merits is based upon the overwhelming – and unchanged – evidence that the trademarks are disparaging and should be cancelled.”

The Native American youth who filed the petition today are:

Jillian Pappan, 19, is a member of the Native American Journalists Association, a member of the Omaha Tribe of Macy, Neb., which is a federally recognized Native American tribe, and an Iowa resident.

Shquanebin Lone-Bentley, 19, a citizen of the Tonawanda Band of the Seneca Nation, People of the Longhouse, and member of the Hawk Clan, sees the petition as a way to combat negative public stereotypes about Native Americans. She also firmly believes that the petition is widely supported across the Native American population. "As was said by one of the original petitioners - the late Vine Deloria, "This is not a disenfranchised few calling for something only a handful agree with,"she said. "We support the petitioners in the original case and we are in turn supported by our people across the country, including all the major national American Indian organizations. We share a deep feeling of offense at the term." Ms. Lone-Bentley is also a member of the National Congress of American Indians and the American Indian Society."

Phillip Gover, 23, is the former head of the Native American Student Union at the University of Virginia, an enrolled member of the Paiute Indian Tribe of Utah, a federally recognized Native American tribe, and a Virginia resident. He sees the issue as stemming from a historical stereotype that has now permeated into the common vernacular. “Taken from a historical perspective, the only connotation that can be associated with the word ‘redskin’ is an offensive, demeaning one,” Gover said. “Linguistic experts and historians have confirmed, and it is evident

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in film, dictionaries and print media throughout the last few centuries that the term carries and conveys a derogatory connotation.”

Amanda Blackhorse, 24, reaffirms the contentions of her fellow petitioners. “If organizations and institutions are allowed to continue to use these terms, they become engrained in our heads as acceptable,” she said. “If any other group or ethnicity or religious group was offended, there would be a deafening outcry.” Blackhorse is a member of Not in Our Honor, a student advocacy group aimed at protesting disparaging mascots. She is also an advocate for indigenous women at Women’s Transitional Care Services, is an enrolled member of the Navajo Nation, a federally recognized tribe, and is a Kansas resident.

An Oklahoma City University student and board member of the General Commission on Religion and Race, **Courtney Tsoitigh**, 18, also has seen this term used recklessly and with abandon. “To recognize that this is a term that makes Native American persons feel contempt and ridicule, the TTAB must grant cancellation,” she said. “The term denotes a second-class citizen standing – as if discrimination is permitted in the public spectrum ... and the marketplace.” Tsoitigh is an enrolled member of the Kiowa Tribe of Oklahoma, a federally recognized Native American tribe, and an Oklahoma resident.

Marcus Briggs, 22, a counselor for the Indian Youth of America, president of the Society of Native American Gentlemen of Oklahoma University and a recipient of numerous Native American Leadership Awards, is Miccosukee and Muscogee, a member of the Creek Tribe of Florida, and a resident of Florida.

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