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# Interior Dept. Sued Over Wis. Oneidas' Name Change

By [Andrew Westney](#)

Law360, New York (August 21, 2017, 7:21 PM EDT) -- The New York-based [Oneida Indian Nation](#) has hit the [U.S. Department of the Interior](#) with a complaint in federal court, alleging that the department's approval of a name change for a historically related Wisconsin tribe has created confusion over the tribes' identities and invites trouble for other tribes with similar names.

A DOI official's approval of a name change from the [Oneida Tribe](#) of Indians of Wisconsin to the Oneida Nation and official federal recognition of the new name in 2016 furthered the tribe's bid to misappropriate the name of New York's Oneida Indian Nation, from which the Wisconsin tribe began to split more than 200 years ago, according to the complaint filed on Thursday.

That has led the Wisconsin tribe to try to flip the script by claiming that the New York tribe has lost the right to refer to itself as the Oneida Nation and to claim trademark rights in the name, as the Wisconsin tribe has [sought to cancel](#) the Empire State tribe's trademarks of the Oneida name at the Trademark Trial and Appeal Board.

"The department decided, without regard to any other facts, to automatically accept — for purposes of federal law and federal recognition — the decision of the Wisconsin tribe to change its name," according to the complaint. "By abdicating its duty to make an independent federal decision before federally approving and recognizing the name change, the department entirely yielded federal decision-making responsibility to the Wisconsin tribe."

The Oneida Indian Nation also claimed that former Assistant Secretary of Indian Affairs Larry Roberts, who is not named as a defendant in the suit, had a conflict of interest as a citizen of the Wisconsin tribe, which should have disqualified him from overseeing the publication of that tribe's new name in the Federal Register.

The Oneida Nation was an original member of the Six Nations Confederacy in New York, before the federal government entered into treaties in the late 1700s that recognized the tribe and established the tribe's New York reservation, according to the complaint.

Some members of the Oneida tribe left New York and moved to Wisconsin, where they were eventually recognized by the federal government as a separate tribe and obtained a new reservation, according to the complaint.

Although the Wisconsin tribe long used the name Oneida Tribe of Indians of Wisconsin, a [Bureau of Indian Affairs](#) official violated the Administrative Procedure Act by automatically approving the tribe's election to change its name to the Oneida Nation and the amendment to the tribe's constitution effecting the name change, according to the complaint.

The change, by "misappropriating the historic Oneida Nation name and eliminating any reference to Wisconsin is intended to convey the false message that the Oneida Nation actually left New York and now resides in Wisconsin and that the nation on its reservation in New York is an offshoot of a true Oneida Nation that is located in Wisconsin," the New York tribe said.

The name change "also confuses the public and siphons away the goodwill that the nation has created in its business and governmental relations," the New York tribe said.

The DOI's publication of a revised list of federally recognized tribes in May 2016 on Roberts' watch also violated the APA because he "could not be a neutral decision-maker" as a citizen of the Wisconsin tribe who had worked for the tribe as an attorney and "had reason to believe he would continue to do so after leaving government service and returning to private practice."

Roberts, [now a counsel](#) in [Kilpatrick Townsend & Stockton LLP's Washington](#), D.C., office after leaving the BIA in January, was not immediately available for comment on Monday.

If the DOI's decision stands, other tribes that have similar names could also risk misappropriation, including the [Mississippi Band of Choctaw Indians](#) and the [Choctaw Nation](#) of Oklahoma, the [Iowa Tribe of Kansas and Nebraska](#), the [Iowa Tribe of Oklahoma](#), the [Seminole Tribe of Florida](#) and the [Seminole Nation](#) of Oklahoma, according to the complaint.

Representatives for the parties, the Wisconsin tribe and Larry Roberts were not immediately available for comment on Monday.

In late June, the Wisconsin tribe filed a consolidated petition for cancellation of three trademarks that it said the New York tribe has for "Oneida Indian Nation" and "Oneida," saying the Badger State tribe is and will continue to be damaged by the marks. The Wisconsin Oneida said that both tribes have functioned as sovereign tribes and have used the terms "Oneida," "Oneida Tribe," "Oneida Indian Tribe," "Oneida Nation" and "Oneida Indian Nation" to identify themselves for more than 100 years.

The Oneida Indian Nation is represented by Michael R. Smith and David A. Reiser of [Zuckerman Spaeder LLP](#), Thomas L. Sansonetti of [Holland & Hart LLP](#), and Meghan Murphy Beakman of the Oneida Nation Legal Department.

Counsel information for the DOI was not immediately available on Monday.

The case is Oneida Indian Nation v. U.S. Department of the Interior, case number [5:17-cv-00913](#), in the U.S. District Court for the Northern District of New York.

--Additional reporting by Adam Lidgett. Editing by Stephen Berg.

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