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

Proceeding	91222461
Party	Defendant Lions Gate Entertainment Inc.
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Submission	Motion to Amend/Amended Answer or Counterclaim
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Signature	/Jill M. Pietrini/
Date	10/27/2016
Attachments	Motion for Leave to Add a Counterclaim - Kheel v. Lionsgate.pdf(2594992 bytes)

Applicant's proposed amendments to its original Answer, as well as any such other papers and argument as may be presented to the Board.

Respectfully submitted,

Dated: October 27, 2016

/Jill M. Pietrini/

Jill M. Pietrini

Paul A. Bost

Attorneys for Applicant

Lions Gate Entertainment Inc.

BRIEF IN SUPPORT OF MOTION

I. RELEVANT FACTUAL BACKGROUND

A. The Parties

On July 24, 2014, Applicant filed U.S. Application Serial No. 86/346,513 to register the mark POPI (the “Application”), on an intent-to-use basis, for “Cosmetics; cosmetic preparations for body care; nail polish; nail decals; bath crystals; bath gel; bath oil; bath salts; body lotion; cream soaps; fragrances; moisturizing creams; shaving soap; soaps for personal use” in Class 3. On August 25, 2014, the Office issued an office action refusing registration of the Application based on, in part, a finding of likelihood of confusion with Opposer’s registration of POPPY’S in Class 3. On February 24, 2015, Applicant submitted a response to the office action presenting arguments and evidence while the refusal should be withdrawn. The Office withdrew its refusal to register the Application on the grounds of a likelihood of confusion with Opposer’s POPPY’S mark, and the Application was published for opposition on April 1, 2016.

On May 19, 2015, Opposer requested, and was granted, an extension of time to file an opposition to the registration of the Application. On June 20, 2015, Opposer instituted this opposition proceeding and asserted two grounds upon which registration of the Application should be refused: (1) Applicant allegedly made certain false or misleading statements in its February 24, 2015 office action response that constitute fraud on the Office; and (2) a likelihood of confusion with Opposer’s POPPY’S mark. (Dkt. 1.)

B. Applicant’s Motion to Dismiss is Denied and its Answer is Filed

On July 16, 2015, Applicant filed a motion to dismiss Opposer’s fraud claim. (Dkt. 6.) Opposer did not reply to or oppose Applicant’s motion but, instead, filed a First Amended Notice

of Opposition in an attempt to cure her deficient fraud claim (Dkt. 9), which rendered Applicant's motion to dismiss the original pleading moot.

On September 8, 2015, Applicant filed a motion to dismiss Opposer's fraud claim alleged in the First Amended Notice of Opposition. (Dkt. 11.) On January 11, 2016, the Board denied Applicant's motion to dismiss and resumed the proceedings and reset the trial dates and the time for Applicant to answer Opposer's First Amended Notice of Opposition. (Dkt. 16.) On February 3, 2016, Applicant filed its answer to the Amended Notice of Opposition. (Dkt. 17.) In the Board's January 11, 2016, Order, the Board set the discovery period to open on March 4, 2016, and close on August 31, 2016. (Dkt. 16.)

C. Applicant Serves Discovery Requests

On March 2, 2016, the parties participated in a discovery conference with the interlocutory attorney assigned to this case. (Bost Decl., ¶ 2.) On March 24, 2016, Applicant served Opposer with its initial disclosures and its First Set of Requests for Admissions, First Set of Requests for Production, and its First Set of Interrogatories ("First Set of Discovery Requests"). (Bost Decl., ¶ 2, Ex. A.) On April 1, 2016, Opposer served Applicant with her initial disclosures. (Bost Decl., ¶ 2.)

D. Applicant Requests Further Information as to Ownership of the Mark

On April 28, 2016, Opposer served Applicant with her responses to Applicant's First Set of Discovery Requests and produced documents in line with her responses which were received on May 2, 2016. (Bost Decl., ¶ 3, Ex. B.) Based upon its independent factual investigation and Opposer's responses to our First Set of Discovery Requests, on May 26, 2016, Applicant served Opposer with a Second Set of Interrogatories and Second Set of Requests for Admissions ("Second Set of Discovery Requests") specifically asking Applicant:

INTERROGATORY NO. 29:

Describe in detail the role of Poppy's Pantry, Inc., if any, relating to the use and ownership of the POPPY'S Mark from the date of the filing of the application underlying the Registration to the present.

INTERROGATORY NO. 30:

Describe in detail the nature of Opposer's ownership interest in or management responsibilities for Poppy's Pantry, Inc., if any.

(Bost Decl., ¶ 3, Ex. C.)

On June 30, 2016, Opposer served objections to Applicant's Second Set of Interrogatories and refused to answer any of them on the grounds that Applicant had exceeded the number of allowable interrogatories. (Bost Decl., ¶ 4, Ex. D.)

E. Applicant Discovers Information Necessitating This Motion

Despite Opposer's refusal to respond to the Second Set of Interrogatories, Opposer did respond to Applicant's Second Set of Requests for Admissions ("RFAs"). (Bost Decl., ¶ 4, Ex. E.) In order to gather more facts to support its belief that Opposer is not the owner of Opposer's alleged mark, Applicant attempted to meet and confer with Opposer on August 15, 2016, concerning Applicant's Second Set of Interrogatories, and on August 31, 2016, served Applicant's Second Set of Requests for Production on Opposer. (Bost Decl., ¶ 5, Ex. F.) The parties were not able to meet and confer regarding the interrogatories until September 6, 2016, during which Opposer again asserted her objection and refused to respond to the Second Set of Interrogatories. (Bost Decl., ¶ 5.) On October 7, 2016, Opposer served her objections to Applicant's Second Set of Requests for Production and produced some of the key documents sought. (Bost Decl., ¶ 5, Ex. G.)

Upon further review of the responses served and documents produced by Opposer, Applicant discovered the following. In Opposer's production in response to Applicant's First Set

of Discovery Responses, Opposer produced a document showing that the POPPY'S mark is used by a business called "Poppy's Naturally Clean." (Bost Decl., ¶ 6, Ex. H; Bates No. 100302-100318.) In Opposer's production in response to Applicant's Second Set of Requests for Production ("RFPs") No. 53, Opposer responded with documents stating that Poppy's Pantry Inc. is owned and managed by Opposer Victoria Kheel, and that POPPY'S Pantry, Inc. was formed in September 2009. (Bost Decl., ¶ 6, Ex. I; Bates No. 100516-100517.) This was also admitted in response to Applicant's Second Set of RFAs Nos. 125-128. (Bost Decl., ¶ 4, Ex. E.) In addition, in Opposer's response to Applicant's Second Set of RFAs No. 116, Opposer admitted that Poppy's Pantry Inc. does business under the name "Poppy's Naturally Clean." (*Id.*) In other words, "Poppy's Naturally Clean" is the fictitious business name for Poppy's Pantry Inc. Further, Opposer admitted that Poppy's Pantry Inc. uses the POPPY'S mark in conjunction with the Poppy's Pantry Inc. business, as indicated by Opposer's following admissions:

RFA NO. 117:

Attached as Exhibit A is a true and correct copy of an IRS e-file signature Authorization Form 1120S reflecting Poppy's Pantry Inc.'s gross receipts for 2012.

RESPONSE TO RFA NO. 117

Admit.

RFA NO. 118:

Poppy's Pantry, Inc.'s gross receipts reflected in Exhibit A are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO RFA NO. 118

Admit.

RFA NO. 119:

Attached as Exhibit B is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry Inc.'s gross receipts from 2013.

RESPONSE TO RFA NO. 119

Admit.

RFA NO. 120:

Poppy's Pantry, Inc.'s gross receipts reflected in Exhibit B are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO RFA NO. 120

Admit.

RFA NO. 121:

Attached as Exhibit C is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry, Inc.'s gross receipts from 2014.

RESPONSE TO RFA NO. 121:

Admit.

RFA NO. 122:

Poppy's Pantry, Inc.'s gross receipts reflected Exhibit C are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO RFA NO. 122

Admit.

RFA NO. 123:

Attached as Exhibit D is a true and correct copy of an IRS e-file Signature Authorization Form 1120 S reflecting Poppy's Pantry, Inc.'s gross receipts from 2015.

RESPONSE TO RFA NO. 123:

Admit.

RFA NO. 124:

Poppy's Pantry, Inc.'s gross receipts reflected in Exhibit D are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO RFA NO. 124

Admit.

(*Id.*) However, as per Opposer's own admission in response to the following RFP:

REQUEST FOR PRODUCTION NO. 52

All documents relating to, describing or evidencing the role of Poppy's Pantry Inc., relating to the use and ownership of the POPPY'S Mark from the date of the filing of the application underlying the Registration to the present.

(Bost Decl., ¶ 5, Ex. F) - documents relating to Poppy's Pantry Inc.'s *use* of the POPPY's mark were already produced in Bates No. 100302-100318¹, and documents relating to Poppy's Pantry Inc.'s *ownership* of the POPPY'S mark "never existed." (Bost Decl., ¶ 5, Ex. G.) Opposer Victoria Kheel, an individual, filed the Application to register POPPY on October 12, 2013, with a claimed first use of the mark as of July 12, 2010. The filing date for the Application and the first use date of Opposer's alleged mark is after the corporation Poppy's Pantry Inc. was formed on September 18, 2009. (Bost Decl., ¶ 7, Ex. J; ¶ 6, Ex. I.)

As of the date of filing this motion, Opposer's testimony period has not yet opened. (Dkt. 16.) Based upon its independent factual investigation and Opposer's responses to Applicant's First and Second Set of Discovery Requests, Applicant now moves for leave to amend to add a counterclaim for cancellation of Opposer's pleaded registration.

¹ These documents are screenshots of the Poppy's Naturally Clean Website, which Opposer claims shows her use of the mark POPPY'S. (Bost Decl., ¶ 6, Ex. H.)

II. THE MOTION FOR LEAVE TO AMEND SHOULD BE GRANTED

A. The Liberal Standard for Ruling on Motions for Leave to Amend

Amendments to pleadings in *inter partes* proceedings before the Board are governed by the Federal Rules of Civil Procedure. TBMP § 507.01 ("[P]leadings in an inter partes proceeding before the Board may be amended in the same manner and to the same extent as in a civil action in a United States district court.") FRCP 15(a) provides that "[t]he [Board] should freely give leave when justice so requires." *See also* TBMP § 507.01. The Board liberally grants leave to amend pleadings "at any stage of the proceeding where necessary to bring about a furtherance of justice unless it is shown that entry of the amendment would violate settled law or be prejudicial to the rights of the opposing party." *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503, 1505 (TTAB 1993) (quoting *American Optical Corp. v. American Olean Tile Co., Inc.*, 168 USPQ 471, 473 (TTAB 1971)).

When the motion for leave to amend is to assert a counterclaim of cancellation against the plaintiff's pleaded registrations, the Board will grant the motion if the grounds for the counterclaim were unknown to the moving party at the time of filing its answer and is made within a reasonable amount time following learning of such grounds. *Id.*; 37 CFR § 2.106(b)(2)(i).

1. The Board Should Grant Applicant's Motion Because Applicant Has Moved to Amend in a Reasonable Amount of Time

Here, Applicant was not aware of the grounds for cancellation at the time of filing its answer and Applicant now moves to amend within a reasonable time of discovering facts to support the cancellation of Opposer's pleaded registration.

Applicant filed its answer to Opposer's First Amended Notice of Opposition on February 3, 2016. (Dkt. 16.) Applicant promptly served discovery on Opposer on March 24, 2016,

receiving responses on May 2, 2016. On May 2, 2016, Applicant reviewed Opposer's responses to the First Set of Discovery Requests. (Bost Decl., ¶ 3, Ex. B.) Upon further review and some preliminary independent factual investigation conducted by Applicant, Applicant sought further information from Opposer as to the ownership and use of the mark because doubt was cast as to whether Opposer, an individual, actually owned and used the mark or whether Poppy's Pantry Inc., a legal entity, owned and used the mark. (*Id.*) Applicant eventually received the remaining pieces of the puzzle on July 5, 2016, and then on October 7, 2016. (Bost Decl., ¶ 4, Ex. D; ¶ 5, Ex. G.) Applicant served the Second Set of Discovery Requests upon Opposer directed to the ownership of the pled mark. Opposer refused to answer Applicant's Second Set of Interrogatories, but did respond to the Second Set of RFAs and Second Set of RFPs. Upon further review and conducting more independent factual investigation, Applicant learned that Opposer does not appear to have owned and used the mark at the time her Application was filed on October 12, 2013. Rather, the corporate entity owned and used the mark at the time the Application was filed and apparently still owns and uses it.

Opposer, Victoria Kheel, an individual, formed the corporation Poppy's Pantry Inc. in September 2009. (Bost Decl., ¶ 6, Ex. I.) Opposer admitted that Poppy's Pantry Inc. does business as Poppy's Naturally Clean. (Bost Decl., ¶ 6, Ex. H.) Poppy's Naturally Clean uses the POPPY'S mark on its website to sell products and on sales receipts for those products. (Bost Decl., ¶ 4, Ex. E.) In Opposer's Application filed on October 12, 2013, she states that the date of first use was July 12, 2010, nearly a year after forming Poppy's Pantry Inc. (Bost Decl., ¶ 7, Ex. J.) However, in response to RFPs indicating Poppy's Pantry Inc.'s ownership interest in, or right to use, the mark, Opposer states that such a document never existed. (Bost Decl., ¶ 5, Ex. G.) Thus, Opposer admits that no license exists between Opposer and Poppy's Pantry Inc.

regarding the use of the pleaded mark. These facts are sufficient upon themselves to sustain a claim for cancellation of the pleaded registration.

This information was discovered at the earliest on October 7, 2016. Applicant files this motion on October 27, 2016, only 20 days after the first opportunity to discover these facts. Thus, Applicant has moved to amend in a reasonable amount of time sufficient to grant Applicant's motion to amend its pleading.

Furthermore, despite the evidence pointing towards cancellation of the pleaded registration, Applicant need not prove its case on this motion to amend nor prove a likelihood of success on the merits. Rather, Applicant must merely satisfy the liberal pleading standards of the FRCP and those of the Board, which Applicant has done.

2. The Board Should Grant Applicant Leave to Amend Because Opposer Will Not be Prejudiced

Where, as here, the non-moving party is solely in possession of the relevant information relevant to the added claim, any issues raised by the moving party's timing and resulting prejudice to the non-moving party decrease in significance. *See* TBMP § 507.02(a) ("Exercise of such discretion to reopen discovery, however, may not be necessary when the proposed additional claim or allegation concerns a subject on which the non-moving party can be expected to have relevant information in hand. This is especially true when the factual basis for the motion to amend was obtained by the moving party through discovery taken from the non-moving party.")

Here, there is no conceivable prejudice to Opposer should the Board allow Applicant leave to file its amended pleading. Opposer's testimony period is not scheduled to open until November 1, 2016. (Dkt. 16.) Even though discovery has closed, Opposer's added claim does not require Opposer to take any discovery of Applicant or any third party. All documents and

information relevant to the added claim are within Opposer's possession, custody, and control. Thus, Applicant's amendment will not inject any inefficiencies into this matter. Furthermore, Opposer waited until the last possible day to serve her First Set of Discovery Requests. On this record, Opposer cannot reasonably complain that any slight delay occasioned by granting Applicant leave to amend will materially prejudice her because it delays resolution of the parties' dispute. Furthermore, the grant of such motion promotes judicial economy because the cancellation matter may be tried in the same proceeding instead of through a separately filed cancellation proceeding.

Also, Applicant's proposed amended pleading is legally sufficient. Indeed, it is well-settled that an application filed by anyone other than the owner of the mark is void *ab initio*. See 15 U.S.C. § 1051(a) ("The **owner** of a trademark used in commerce may request registration of its trademark on the principal register . . .") (emphasis added); *Great Seats Ltd. v. Great Seats Inc.*, 84 USPQ2d 1235, 1242 (TTAB 2007) ("there were two legal entities in existence and the application was filed by the wrong one, a defect which cannot be cured and which renders the application void *ab initio*"); *In re Tong Yang Cement Corp.*, 19 USPQ2d 1689, 1690 (TTAB 1991) (Section 44(d) application, with priority based on South Korean registration, filed by a corporation was ruled void where the owner of mark was actually the joint venture of which applicant corporation was member); *Huang v. Tzu Wei Chen Food Co. Ltd.*, 849 F.2d 1458, 1459-60 (Fed. Cir. 1988) (affirming TTAB decision ruling application void *ab initio* because it was filed by an individual, not the corporation that owned the trademark); *American Forests v. Sanders*, 54 USPQ2d 1860, 1862 (TTAB 1999) ("if it is a corporation or partnership which has the bona fide intention to use a particular mark, and yet the intent-to-use application is filed in the name of an individual, then said application will be deemed to be void *ab initio*.")

Here, Applicant merely seeks to add claims consistent with the soundly established precedent that non-owners of trademarks, such as Opposer, do not have standing to file trademark applications, and, thus, any such applications are void *ab initio*. The evidence that Applicant has been able to deduce itself and through the discovery that Opposer has provided, plainly shows that Opposer is not the owner of the mark and was not the owner of the mark at the time the Application was filed. Thus, Opposer was not the proper party to apply for registration of the POPPY'S mark, and the resulting registration is void *initio*.

III. CONCLUSION

Based on the foregoing, Applicant respectfully requests that the Board enter an order granting it leave to file its proposed amended pleading (Bost Decl., Ex. K) and that the Board deem that pleading filed and served.

Dated: October 27, 2016

Respectfully submitted,

/Jill M. Pietrini/

Jill M. Pietrini

Paul A. Bost

Attorneys for Applicant

Lions Gate Entertainment Inc.

DECLARATION OF PAUL A. BOST

I, Paul A. Bost, declare as follows:

1. I am an attorney duly licensed to practice before the Board and I am an associate in the law firm of Sheppard Mullin Richter Hampton, LLP (“SMRH”), counsel of record for Applicant in this matter. I am the lawyer primarily responsible for this case, along with my supervising partner, Jill Pietrini. I have personal knowledge of the facts set forth in this declaration and if called to testify, I could and would testify competently thereto.

2. On March 2, 2016, the parties participated in a discovery conference with the interlocutory attorney assigned to this case. On March 24, 2016, Applicant served Opposer with its initial disclosures and its First Set of Requests for Admissions, First Set of Requests for Production, and its First Set of Interrogatories. True and correct copies of the relevant Discovery Requests are attached hereto as **Exhibit A**. On April 1, 2016, Opposer served Applicant with her initial disclosures.

3. On April 28, 2016, Opposer served Applicant with her responses to Applicant’s First Set of Discovery Requests and produced documents in line with her responses, which were received on May 2, 2016. True and correct copies of Opposer’s relevant responses to Applicant’s First Set of Discovery Requests are attached hereto as **Exhibit B**. Based upon our independent factual investigation and Opposer’s responses to our First Set of Discovery Requests, on May 2, 2016, Applicant served Opposer with a Second Set of Interrogatories and Second Set of Requests for Admissions. True and correct copies of Applicant’s Second Set of Interrogatories and Applicant’s Second Set of Requests for Admission are attached hereto as **Exhibit C**.

4. On June 30, 2016, Opposer served objections to Applicant's Second Set of Interrogatories and refused to answer any of them on the grounds that Applicant had exceeded the number of allowable interrogatories. A true and correct copy of Opposer's objections to Applicant's Second Set of Interrogatories is attached hereto as **Exhibit D**. Applicant did respond to the Second Set of Requests for Admissions. A true and correct copy of the Opposer's responses to Applicant's Second Set of Requests for Admission is attached hereto as **Exhibit E**.

5. In order to gather more facts to support its belief that Opposer is not the owner of Opposer's alleged mark, I attempted to meet and confer with Opposer's counsel on August 15, 2016, in regards to the Second Set of Interrogatories, and on August 31, 2016, I served on Opposer Applicant's Second Set of Requests for Production. A true and correct copy of Applicant's Second Set of Requests for Production are attached hereto as **Exhibit F**. The parties were not able to meet and confer regarding the interrogatories until September 6, 2016, during which Opposer's counsel again asserted her objection and refused to respond to the Second Set of Interrogatories. On October 7, 2016, Opposer served her objections and responses to Applicant's Second Set of Requests for Production and produced some of the documents sought. A true and correct copy of Opposer's relevant responses to Applicant's Second Set of Requests for Production is attached hereto as **Exhibit G**.

6. True and correct copies of Opposer's document production marked Bates No. 100302-100318 are attached hereto as **Exhibit H**. True and correct copies of Opposer's document production marked Bates No. 100516-100517 are attached hereto as **Exhibit I**.

7. A true and correct copy of a print out from the USPTO TSDR website reflecting Opposer's application to register the POPPY'S mark is attached hereto as **Exhibit J**.

8. A true and correct copy of Applicant's proposed Applicant Lions Gate Entertainment Inc.'s First Amended Answer To Opposer Victoria Kheel's First Amended Notice Of Opposition And Counterclaims is attached hereto as **Exhibit K**, and a redline reflecting how it is different from the original Answer is attached hereto as **Exhibit L**.

I declare all of the foregoing under the penalty of perjury under the laws of the United States of America. Executed this 27th day of October, 2016, in Los Angeles, California.

/Paul A. Bost/
Paul A. Bost

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that **APPLICANT LIONS GATE ENTERTAINMENT INC.’S MOTION FOR LEAVE TO ADD A COUNTERCLAIM; DECLARATION OF PAUL A. BOST** is being transmitted electronically through ESTTA pursuant to 37 C.F.R. §2.195(a), on this 27th day of October, 2016.

/LaTrina A. Martin/
LaTrina A. Martin

CERTIFICATE OF SERVICE

I hereby certify that **APPLICANT LIONS GATE ENTERTAINMENT INC.’S MOTION FOR LEAVE TO ADD A COUNTERCLAIM; DECLARATION OF PAUL A. BOST** is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to Registrant:

Ilana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 27th day of October, 2016.

/LaTrina A. Martin/
LaTrina A. Martin

SMRH:479617724.2

Exhibit A

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

<i>In re Matter of Serial No. 86/346,513 for the mark: POPI</i> Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.	Opposition No. 91-222461 APPLICANT LIONS GATE ENTERTAINMENT INC.'S FIRST SET OF INTERROGATORIES
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Pursuant to Fed.R.Civ.P. 33 and 37 C.F.R. § 2.120(a)(1), Applicant Lions Gate Entertainment Inc. ("Applicant") hereby requests that Opposer Victoria Kheel ("Opposer") answer, separately and fully in writing, under oath and within 30 days from service hereof, the Interrogatories set forth below. Pursuant to Fed.R.Civ.P. 26(e), the responses to these Interrogatories are to be supplemented promptly upon acquisition of further additional information.

I. INSTRUCTIONS

If any one or more of these Interrogatories is or are objected to on the grounds of privilege, overbreadth, vagueness, or similar ground, Opposer is instructed for each such Interrogatory to answer the Interrogatory within the 30-day period as narrowed to conform with the objection. Where Opposer lacks knowledge of exact information responsive to an Interrogatory, Opposer is instructed to say so and to answer the Interrogatory to the best of her present knowledge, to supply the best available estimate of the requested information, and to explain the basis of the estimate.

Unless otherwise stated, the relevant time period for the requests below is January 1, 2010 to the present.

These Interrogatories are continuing and Opposer is hereby requested to supplement her responses immediately whenever she acquires additional information pertinent thereto.

II. DEFINITIONS

The following definitions are applicable to terms employed in these Interrogatories, in the Instructions accompanying these Interrogatories, and in these Definitions.

1. "Applicant" shall mean and refer to Applicant Lions Gate Entertainment Inc. and includes any and all of its predecessors and successors in interest, employees, licensees, agents and representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.
2. "Opposer" shall mean and refer to Opposer Victoria Kheel, and includes any and all of her predecessors and successors in interest, any and all of her affiliates and affiliated entities and her partners, employees, agents, licensees, and representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.
3. The term "POPPY'S Registration" shall mean and refer to Opposer's Reg. No. 4,537,279 of POPPY'S.
4. The term "POPPY'S Mark" shall mean and refer to the trademark that is the subject of the POPPY'S Registration.
5. The term "POPPY'S Goods" shall mean and refer to the goods bearing or sold under the POPPY'S Mark.
6. The term "Application" shall mean and refer to Applicant's Ser. No. 86/346,513.
7. The term "POPI Mark" shall mean and refer to the trademark that is the subject of the Application.

8. The term "First Amended Notice of Opposition" shall refer to Opposer's First Amended Notice of Opposition, Docket No. 9 in this proceeding, filed on or around August 5, 2015.

9. The term "person" refers to natural persons, organizations, associations, partnerships, joint ventures, corporations and other legal entities, and the actions taken by a person include the actions of directors, officers, owners, members, partners, joint venturers, employees or agents acting on the person's behalf.

10. The singular includes the plural and *vice versa*; the words "and" and "or" shall be construed in both the conjunctive and disjunctive; the word "all" means "any and all;" the word "any" means "any and all."

11. The terms "relate to," "refer to," "relating to," and "referring to" should be construed in their broadest possible sense to mean relating to, concerning, referring to, regarding, containing, identifying, monitoring, constituting, reflecting, embodying, comprising, stating, dealing with, commenting on, responding to, analyzing, describing, consisting of, discussing, evidencing, mentioning, pertaining to, citing, summarizing, or bearing any logical or factual connection with the matter discussed, as these terms are understood in the broadest sense.

12. The term "document" is used in its customary broad sense and encompasses, without limitation, all handwritten, typed, printed or otherwise visually or aurally reproduced materials, whether copies, drafts or originals, emails, electronically stored, created or transmitted documents, and regardless of whether they are privileged against discovery on any ground, or within the possession, custody or control of Opposer, or her employees, agents, attorneys, consultants or representatives, including but not limited to: letters, correspondence, cables, wires, telegrams, notes, memoranda, diaries, notes or records of telephone conversations, notes

or records of personal conversations or interviews, interoffice and intraoffice communications of all types, drawings, plans, sketches, charts, notebooks, data, operating and maintenance manuals, operating and product specifications, photographs, movies and recordings, books, catalogs, labels, packaging, containers, tags, advertisements, promotional materials, storyboards, press releases, reports, studies, questionnaires, assignments, agreements and other official papers and legal instruments, annual reports, management reports, project reports, reports to shareholders and minutes and reports of meetings (including meetings of directors, officers, executive boards and committees), lists of persons attending meetings, bills, invoices, orders, books, records, files, published material of any kind, and microfilms of documents that may have been destroyed. Any original or copy of a document containing or having attached to it any alterations, notes, comments or other material not included in the first document shall be deemed a separate document.

13. As used herein, the term "identify" means:

- a. as to documents, give their dates, a detailed description of the document, the author thereof, the signee thereof, and specify the person having custody or control thereof;
- b. as to natural persons, give their full name, business address (or, if not available, home address) and telephone number, employer, job title, and, if employed by Registrant, their dates and regular places of employment and general duties;
- c. as to corporations, give the full name and present or last known address of the principal place of business of the corporation, identify the officers and directors of the corporation, and the state of incorporation of the corporation;
- d. as to partnerships, state whether the partnership is a general or limited partnership, identify the limited and general partners of the partnership, and state the principal

place of business of the partnership; and as to joint ventures or other associations, identify all joint venturers or members of the association and state the principal place of business of the joint venture or association.

III. INTERROGATORIES

INTERROGATORY NO. 1:

Identify and describe in detail all products of Opposer's bearing, sold or offered under, or intended to be sold or offered under, the POPPY'S Mark.

INTERROGATORY NO. 2:

For each of the POPPY'S Goods, describe in detail the channels of trade and distribution in which such products are sold, or intended to be sold, including without limitation, the type of retailer or outlet of any kind (e.g., online or brick and mortar) in which each such product is sold or distributed or is intended to be sold or distributed.

INTERROGATORY NO. 3:

For each of the POPPY'S Goods, describe in detail the demographic market to which those products are sold or intended to be sold. Such description shall include the age, location, and mean household income of those purchasers who buy and use or Opposer expects and/or intends to buy and use such products.

INTERROGATORY NO. 4:

For each of the POPPY'S Goods, describe in detail how the POPPY'S Mark appears, or is intended to appear, on each such product, including without limitation, the location and size of said Mark.

INTERROGATORY NO. 5:

Identify all persons who were involved in, participated in, decided upon, or offered suggestions for the selection and/or adoption of the POPPY'S Mark by Opposer.

identical in appearance, sound, connotation, and overall commercial impression to Opposer's mark POPPY'S."

INTERROGATORY NO. 26:

State all facts that relate to, support, or negate Opposer's allegation in Paragraph 78 of the First Amended Notice of Opposition that "the marks are identical in sound (Applicant insisted that consumers use the exact same pronunciation as the Registered Mark), and almost identical in wording, if not actually identical ('POPI ('poppy')[sic], with differences having little, if any trademark significance."

INTERROGATORY NO. 27:

Identify any prior versions, derivative versions, or modernizations of the POPPY'S Mark used by Opposer.

INTERROGATORY NO. 28:

Identify all third party uses and/or registration of, or applications to register, trademarks containing or including the word POPPY'S, POPPY, POPPI, POPI, or any other mark that Opposer believes is confusingly similar to the POPPY'S Mark. For each third party mark, identify the owner or user of each such mark and the goods or services offered under each such mark.

Dated: March 24, 2016



Jill M. Pietrini
Paul A. Bost
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

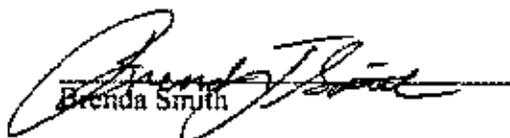
*Attorneys for Applicant
Lions Gate Entertainment Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Hana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 24th day of March, 2016.


Brenda Smith

SMR:H.475787308.1

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

<p><i>In re Matter of Serial No. 86/346,513</i> <i>for the mark: POPI</i></p> <p>Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.</p>	<p>Opposition No. 91-222461</p> <p>APPLICANT LIONS GATE ENTERTAINMENT INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS</p>
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Pursuant to Fed.R.Civ.P. 34 and 37 C.F.R. § 2.120(a)(1), Applicant Lions Gate Entertainment Inc. ("Applicant") hereby requests that Opposer Victoria Kheel ("Opposer") produce and permit the inspection and copying of the documents described herein, regardless of whether only a part of any document meets the description.

I. INSTRUCTIONS

Applicant requests that such documents be made available within thirty days after service hereof by sending the requested documents through the U.S. mail service to accompany Opposer's written response to Applicant's Requests for Production of Documents and Things ("Requests").

The Requests are intended to cover all documents and things in the possession of Opposer, or subject to her custody and control, or available to Opposer wherever such documents and things are located, including, but not limited to, any of Opposer's offices or any other office

maintained or used by Opposer, her agents, employees, joint venturers, partners, independent contractors, accountants, or attorneys, or any other location where documents are kept.

If any document covered by the Requests is withheld for any reason, on a claim of privilege, attorney work product, or otherwise, Opposer shall provide a listing of such withheld documents stating the form of the document withheld, the date of its preparation, the author, each addressee or recipient, the subject matter, the reason for which Opposer is withholding such document, the basis for any claim of privilege for which a document is withheld, and the name and address of any person or persons presently having custody or control of the same or a true copy thereof.

If documents herein requested cannot be produced because they have been destroyed, cannot be located, or are otherwise thought no longer to exist, please provide a statement, indicating to the best of Opposer's ability, the form of the document, the date of its preparation, the author(s), each addressee or recipient, and the subject matter. Further, the Requests are continuing requests. Consequently, if any of the documents which were not produced or could not be produced for the reasons given above, or are discovered, or located, or, for any other reason become known to Opposer after responses to these requests are served, then Opposer must immediately notify Applicant's attorneys, named below, and make such documents available for inspection and copying.

Unless otherwise stated, the relevant time period for the requests below is January 1, 2010 to the present.

II. DEFINITIONS

Applicant incorporates the definitions from Applicant's First Set of Interrogatories served concurrently herewith.

POPI Mark, any goods offered by Applicant under the POPI Mark, or the television program *Orange is the New Black*.

REQUEST FOR PRODUCTION NO. 48:

All drawings, designs, or other documents relating to the creation or inspiration for the POPPY'S Mark.

REQUEST FOR PRODUCTION NO. 49:

Representative samples of each type of label, hang tag, emblem, fastener, imprinting, fabric, or materials for the POPPY'S Goods or any other item showing use of the POPPY'S Mark.

REQUEST FOR PRODUCTION NO. 50:

Documents sufficient to identify any prior versions, derivative versions, or modernizations of the POPPY'S Mark used by Opposer.

REQUEST FOR PRODUCTION NO. 51:

Documents sufficient to identify all third party uses and/or registration of, or applications to register, trademarks containing or including the word POPPY'S, POPPY, POPPI, POPI, or any other mark that Opposer believes is confusingly similar to the POPPY'S Mark.

Dated: March 24, 2016



Jill M. Pietrini
Paul A. Bost
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

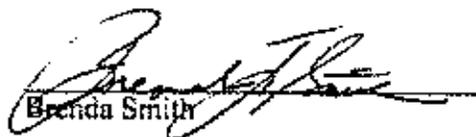
*Attorneys for Applicant
Lions Gate Entertainment Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Ilana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 24th day of March, 2016.


Brenda Smith

SMR11475792639 1

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

<p><i>In re Matter of Serial No. 86/346,513</i> <i>for the mark: POPI</i></p> <p>Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.</p>	<p>Opposition No. 91-222461</p> <p>APPLICANT LIONS GATE ENTERTAINMENT INC.'S FIRST SET OF REQUESTS FOR ADMISSION</p>
--	---

Pursuant to Fed.R.Civ.P. 36 and 37 C.F.R. § 2.120(a)(1), Applicant Lions Gate Entertainment Inc. ("Applicant") hereby requests that Opposer Victoria Kheel ("Opposer") admit, within thirty days from the date of service hereof, the truth of the facts set forth herein.

Unless otherwise stated, the relevant time period for the requests for admission ("RFAs") below is January 1, 2010 to the present.

I. DEFINITIONS

Applicant incorporates the definitions from its First Set of Interrogatories to Opposer served concurrently herewith.

II. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

The POPPY'S Mark and the POPI Mark are not identical in appearance.

REQUEST FOR ADMISSION NO. 2:

The POPPY'S Mark and the POPI Mark are not identical in sound.

REQUEST FOR ADMISSION NO. 107:

The PTO website identifies Bigelow Merchandising, LLC as the owner of U.S. Reg. No. 3,845,892.

REQUEST FOR ADMISSION NO. 108:

A true and correct copy of a printout of the TESS page for U.S. Reg. No. 3,845,892 is attached hereto as **Exhibit L**.

REQUEST FOR ADMISSION NO. 109:

Opposer has not petitioned to cancel U.S. Reg. 3,845,892.

REQUEST FOR ADMISSION NO. 110:

Opposer never opposed the application underlying U.S. Reg. No. 3,845,892.

REQUEST FOR ADMISSION NO. 111:

Opposer has not challenged the use of the mark shown in U.S. Reg. No. 3,845,892.

Dated: March 24, 2016



Jill M. Pietrini
Paul A. Bost
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
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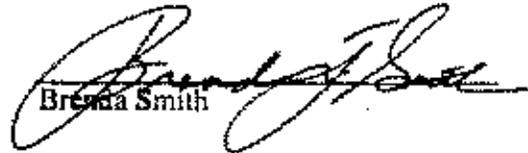
*Attorneys for Applicant
Lions Gate Entertainment Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Hana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 24th day of March, 2016.


Brenda Smith

SMR1E475797067.1

Exhibit B

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

IN THE MATTER OF TRADEMARK APPLICATION SERIAL NO. 86346513

VICTORIA KHEEL,

Opposer,

vs.

LIONS GATE ENTERTAINMENT INC,

Applicant.

Opposition No: 91-222461

OPPOSER VICTORIA KHEELS
OBJECTIONS AND RESPONSES TO
APPLICANT LIONSGATE'S FIRST SET
OF REQUESTS FOR ADMISSIONS

Opposer, by and through her undersigned attorneys, and pursuant to Rules 36 and 26 of the Federal Rules of Civil Procedure, and 37 C.F.R § 2.120(a)(1) hereby responds and objects to Lionsgate's First Set of Requests for Admissions as follows:

GENERAL OBJECTIONS

1. Opposer's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and productions are made without prejudice to, and are not a waiver of, Opposer's right to rely on other facts or documents at trial.
2. By making the accompanying responses and objections, Opposer does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such documents into evidence in this action, or in any other proceedings,

on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege.

3. The following responses/documents reflect the current state of the Opposer's knowledge, understanding and belief respecting matters about which inquiry has been made. Opposer expressly reserve their right to supplement or modify these responses or production with such pertinent information as they may hereafter discover. Inadvertent disclosure of privileged information shall not constitute waiver.

4. Opposer objects to Applicant's Requests, including its definitions (e.g., of the term "document") to they extent it appear to seek attorney-client privileged information, attorney-client work product, trial preparation materials, or to the extent that it purports to impose obligations greater than those set forth in the Federal Rules of Civil Procedure. 1

5. The objections are applicable to each and every Interrogatory

RESPONSES/OBJECTIONS TO RFA'S

REQUEST FOR ADMISSION NO. 1:

The POPPY'S Mark and the POPI Mark are not identical in appearance.

RESPONSE TO REQUEST FOR ADMISSION NO. 1

Opposer admits that the the marks are not identical, but almost identical, in appearance of letters, where applicant's mark ends with an "T" instead of a "Y" and contains one less "P" and has no 'S, however, Opposer denies that the marks are not treated as identical in appearance for purposes of trademark law, whereas these differences have no trademark significance.

REQUEST FOR ADMISSION NO.2:

The POPPY'S Mark and the POPI Mark are not identical in sound

Admits that Opposer never opposed the application underlying U.S. Reg. 3,845,892, whereas there was no likelihood of confusion with Opposer's Mark.

REQUEST FOR ADMISSION NO. 111:

Opposer has not challenged the use of the mark shown in U.S. Reg. No. 3,845,892.

RESPONSE TO REQUEST FOR ADMISSION NO. 111

Admits that Opposer never challenged the use of the mark shown in U.S. Reg. 3,845,892, whereas there was no likelihood of confusion with Opposer's Mark

Dated: April 28, 2016



Ilana Makovoz,
9350 Wilshire Blvd, Suite 203,
Beverly Hills, CA 90212
Phone: (310) 975 2565

Attorneys for Victoria Kheel

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing **VICTORIA KHEEL'S RESPONSES TO LIONSGATE'S FIRST SET RFAs** was served by first class mail, postage prepaid, on April 28, 2016, upon Lions Gate Entertainment Inc.'s attorney of record at the following address of record of the USPTO:

Jill M. Pietrini
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600 Los Angeles, California 90067-6017



Ilana Makovoz

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

IN THE MATTER OF TRADEMARK APPLICATION SERIAL NO. 86346513

VICTORIA KHEEL,

Opposer,

vs.

LIONS GATE ENTERTAINMENT INC,

Applicant.

Opposition No: 91-222461

OPPOSER VICTORIA KHEELS
OBJECTIONS AND RESPONSES TO
APPLICANT LIONSGATE'S FIRST SET
OF INTERROGATORIES

Opposer, by and through her undersigned attorneys, and pursuant to Rules 33 and 26 of the Federal Rules of Civil Procedure, and 37 C.F.R § 2.120(a)(1) hereby responds and objects to Lionsgate's First Set of Interrogatories as follows.

GENERAL OBJECTIONS

1. Opposer's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and objections are made without prejudice to, and are not a waiver of, Opposer's right to rely on other facts or documents at trial.

2. By making the accompanying responses and objections to interrogatories, Opposer does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege.

3. The following responses reflect the current state of the Opposer's knowledge, understanding and belief respecting matters about which inquiry has been made. Opposer expressly reserve their right to supplement or modify these responses with such pertinent information as they may hereafter discover.

4. Opposer objects to Applicant's definition of the term "document" to the extent it appears to seek attorney-client privileged information, attorney-client work product and trial preparation materials.

5. Pursuant to TBMP § 405.03(a) and 37 CFR § 2.120(d)(1), the "total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts." Whereas this first set of interrogatories contains numerous un-numbered subparts, yet counting subparts, the total does not yet exceed 75 interrogatories on its own, Opposer reserves the right that, in the event future sets of interrogatories, when added to this first set, including unnumbered subparts, exceed the 75 total limit, to move for a protective order. Nothing herein, or in Opposer's responses, shall be deemed to be a waiver of Opposer's right to move for a protective order subsequently with respect to the subparts of the Interrogatories that exceed the 75 limit.

6. The objections are applicable to each and every Interrogatory.

RESPONSES/OBJECTIONS

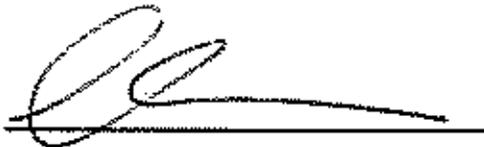
INTERROGATORY NO. 1

Identify and describe in detail all products of Opposer's bearing, sold or offered, under, or intended to be sold or offered under, the POPPY's Mark.

Mark." The follow up question "For each third party mark" then all count as separate interrogatories asking to (2) identify the owner or user of each such mark and (3) the goods and services offered under each such mark.

Subject to and without waiving the foregoing, Opposer believes that in addition to POPL, it has come to Opposer's attention that there is a (1) woman named Lindy Laroche is using a mark poppy soap, though out of small town of 40,000, on (2) bar soap and lip balms/salve, which use Ms. Kheel has been contesting.

Dated: April 28, 2016



Ilana Makovoz,
9350 Wilshire Blvd, Suite 203,
Beverly Hills, CA 90212
Phone: (310) 975 2565

Attorneys for Victoria Kheel

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VERIFICATION

STATE OF CALIFORNIA

COUNTY OF Los Angeles

I have read the foregoing Victoria Kheel's Response To Lions Gate's First Set of Interrogatories and know its contents:

[X] CHECK APPLICABLE PARAGRAPH

I am party to this action before the Trademark Trials & Appeal Board. The matter(s) stated in the foregoing document are true and correct of my own knowledge.

I am an Officer a Partner a _____ of _____ a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

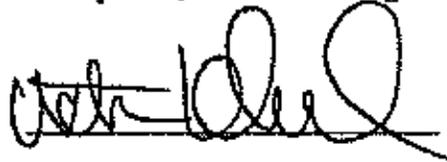
I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

The matters stated in the foregoing document are true of my own knowledge except as to those matters, which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____, a party to this action. Such party is absent from the County of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true

I declare, and certify under oath under penalty of perjury under federal law and the laws of the State of California that the foregoing Responses/Answers to Lions Gate's First Set of Interrogatories are true and correct. Executed on April 20, 2016 in Los Angeles, California.

VICTORIA KHEEL



Victoria Kheel, Declarant

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing VICTORIA KHEEL'S RESPONSES TO LIONSGATE'S FIRST SET INTERROGATORIES was served by first class mail, postage prepaid, on April 28, 2016, upon Lions Gate Entertainment Inc.'s attorney of record at the following address of record of the USPTO:

Jill M. Pietrini
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600 Los Angeles, California 90067-6017

A handwritten signature in black ink, appearing to read 'Ilana Makovoz', is written over a horizontal line.

Ilana Makovoz

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

IN THE MATTER OF TRADEMARK APPLICATION SERIAL NO. 86346513

VICTORIA KHEEL,

Opposer,

vs.

LIONS GATE ENTERTAINMENT INC,

Applicant.

Opposition No: 91-222461

OPPOSER VICTORIA KHEELS
OBJECTIONS AND RESPONSES TO
APPLICANT LIONSGATE'S FIRST SET
REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS

Opposer, by and through her undersigned attorneys, and pursuant to Rules 34 and 26 of the Federal Rules of Civil Procedure, and 37 C.F.R. § 2.120(a)(1) hereby responds and objects to Lionsgate's First Set of Requests for Production of Documents and Things as follows:

GENERAL OBJECTIONS

1. Opposer's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and productions are made without prejudice to, and are not a waiver of, Opposer's right to rely on other facts or documents at trial.

2. By making the accompanying responses and objections, Opposer does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such documents into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege.

3. The following responses/documents reflect the current state of the Opposer's knowledge, understanding and belief respecting matters about which inquiry has been made. Opposer expressly reserve their right to supplement or modify these responses or production with such pertinent information as they may hereafter discover,

4. Opposer objects to Applicant's Requests, including its definitions (e.g., of the term "document") to they extent it appears to seek attorney-client privileged information, attorney-client work product, documents that were prepared for or in anticipation of litigation, or to the extent that it purports to impose obligations greater than those set forth in the Federal Rules of Civil Procedure.

5. Opposer objects to the Requests for documents that the requesting party has equal ability to obtain from public sources, on the grounds that Opposer is not the party in "control" of such documents. *See Estate of Young Through Young v. Holmes* 134 FRD 291, 294 (D NV 1991).

6. Because these Requests do not specify a form for producing electronically stored information, Opposer will produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms either in printout form, or on a USB drive for all internet/web based created documents.

7. The objections are applicable to each and every Interrogatory

RESPONSES/OBJECTIONS TO DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO.1

All documents demonstrating, providing a description of, and/or otherwise providing information about each and all of the type of goods offered under the Poppy's Mark.

RESPONSE TO REQUEST FOR PRODUCTION NO.1

Opposer objects to this request as overly broad, unduly burdensome, vague, and ambiguous, in so far as it asks for "all documents" providing information about each and all of the goods. Subject to and without waiving the foregoing, Opposer will produce documents demanded in this Request. In response to RFP #1 Opposer produces documents 100302 – 100318 (to be found under tab 1).

REQUEST FOR PRODUCTION NO.2

Photographs of each product bearing or sold under the Poppy's Mark.

RESPONSE TO REQUEST FOR PRODUCTION NO.2

Opposer will produce documents demanded in this Request. In response to RFP #2 Opposer produces documents 100302 – 100318 (to be found under tab 1).

REQUEST FOR PRODUCTION NO.3

Representative samples of all website pages, coupons, promotions, brochures, fliers, sales meeting materials, broadcast productions (video and audio), and descriptive materials in general, from the date of first use to the present, relating to each of the Poppy's Goods.

Representatives samples of each type of Label, hang tag, emblem, fastener, imprinting, fabric, or materials for the POPI's Goods or any other item showing use of POPI's Mark.

RESPONSE TO REQUEST FOR PRODUCTION NO.49

Opposer will produce documents demanded in this Request. In response to RFP #49 Opposer produces documents 100302 -100318 [TAB 1] 100413 – 100414 [TAB 13].

REQUEST FOR PRODUCTION NO.50

Documents sufficient to identify any prior versions, derivative versions, or modernizations of the POPPY's Mark used by Opposer.

RESPONSE TO REQUEST FOR PRODUCTION NO.50

A diligent search and reasonable inquiry has been made in an effort to locate the item requested; and the document never existed.

REQUEST FOR PRODUCTION NO.51

Documents sufficient to identify all third party uses and/or registration of, or application to register, trademarks containing or including the word POPPY'S, POPPY, POPPI, POPI, or any other mark that Opposer believes is confusingly similar to the POPI's Mark.

RESPONSE TO REQUEST FOR PRODUCTION NO.51

Opposer will produce documents demanded in this Request. In response to RFP #51 Opposer produces documents 100571 -100574 [TAB 50].

Dated: April 28, 2016

A handwritten signature in black ink, appearing to read 'Ilana Makovoz', is written over a horizontal line.

**Ilana Makovoz,
9350 Wilshire Blvd, Suite 203,
Beverly Hills, CA 90212
Phone: (310) 975 2565**

Attorneys for Victoria Kheel

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing VICTORIA KHEEL'S RESPONSES TO LIONSGATE'S FIRST SET RFPs was served by first class mail, postage prepaid, on April 28, 2016, upon Lions Gate Entertainment Inc.'s attorney of record at the following address of record of the USPTO:

Jill M. Pietrini
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600 Los Angeles, California 90067-6017



Ilana Makovoz

Exhibit C

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

<p><i>In re Matter of Serial No. 86/346,513</i> <i>for the mark: POPI</i></p> <p>Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.</p>	<p>Opposition No. 91-222461</p> <p>APPLICANT LIONS GATE ENTERTAINMENT INC.'S SECOND SET OF INTERROGATORIES</p>
--	---

Pursuant to Fed.R.Civ.P. 33 and 37 C.F.R. § 2.120(a)(1), Applicant Lions Gate Entertainment Inc. ("Applicant") hereby requests that Opposer Victoria Kheel ("Opposer") answer, separately and fully in writing, under oath and within 30 days from service hereof, the Interrogatories set forth below. Pursuant to Fed.R.Civ.P. 26(e), the responses to these Interrogatories are to be supplemented promptly upon acquisition of further additional information.

I. INSTRUCTIONS

If any one or more of these Interrogatories is or are objected to on the grounds of privilege, overbreadth, vagueness, or similar ground, Opposer is instructed for each such Interrogatory to answer the Interrogatory within the 30-day period as narrowed to conform with the objection. Where Opposer lacks knowledge of exact information responsive to an Interrogatory, Opposer is instructed to say so and to answer the Interrogatory to the best of her present knowledge, to supply the best available estimate of the requested information, and to explain the basis of the estimate.

Unless otherwise stated, the relevant time period for the requests below is January 1, 2010 to the present.

These Interrogatories are continuing and Opposer is hereby requested to supplement her responses immediately whenever she acquires additional information pertinent thereto.

II. DEFINITIONS

The following definitions are applicable to terms employed in these Interrogatories, in the Instructions accompanying these Interrogatories, and in these Definitions.

1. The term "POPPY'S Registration" shall mean and refer to Opposer's Reg. No. 4,537,279 of POPPY'S.
2. The term "POPPY'S Mark" shall mean and refer to the trademark that is the subject of the POPPY'S Registration.
3. The term "Application" shall mean and refer to Applicant's Ser. No. 86/346,513.
4. The singular includes the plural and *vice versa*; the words "and" and "or" shall be construed in both the conjunctive and disjunctive; the word "all" means "any and all;" the word "any" means "any and all."
5. The terms "relate to," "refer to," "relating to," and "referring to" should be construed in their broadest possible sense to mean relating to, concerning, referring to, regarding, containing, identifying, monitoring, constituting, reflecting, embodying, comprising, stating, dealing with, commenting on, responding to, analyzing, describing, consisting of, discussing, evidencing, mentioning, pertaining to, citing, summarizing, or bearing any logical or factual connection with the matter discussed, as these terms are understood in the broadest sense.
6. As used herein, the term "identify" means:
 - a. as to documents, give their dates, a detailed description of the document, the author thereof, the signee thereof, and specify the person having custody or control thereof;

b. as to natural persons, give their full name, business address (or, if not available, home address) and telephone number, employer, job title, and, if employed by Registrant, their dates and regular places of employment and general duties;

c. as to corporations, give the full name and present or last known address of the principal place of business of the corporation, identify the officers and directors of the corporation, and the state of incorporation of the corporation; and

d. as to partnerships, state whether the partnership is a general or limited partnership, identify the limited and general partners of the partnership, and state the principal place of business of the partnership; and as to joint ventures or other associations, identify all joint venturers or members of the association and state the principal place of business of the joint venture or association.

III. INTERROGATORIES

INTERROGATORY NO. 29:

Describe in detail the role of Poppy's Pantry, Inc., if any, relating to the use and ownership of the POPPY'S Mark from the date of the filing of the application underlying the Registration to the present.

INTERROGATORY NO. 30:

Describe in detail the nature of Opposer's ownership interest in or management responsibilities for Poppy's Pantry, Inc., if any.

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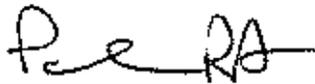
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INTERROGATORY NO. 31:

State whether Opposer licensed use of the POPPY'S Mark to Poppy Pantry, Inc.

Dated: May 26, 2016



Jill M. Pietrini
Paul A. Bost
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

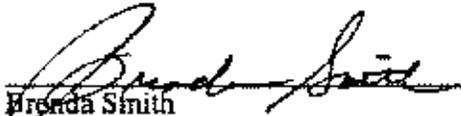
*Attorneys for Applicant
Lions Gate Entertainment Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Iiana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 26th day of May, 2016.


Brenda Smith

SMR2:477043229.1

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

<p><i>In re Matter of Serial No. 86/346,513</i> <i>for the mark: POPI</i></p> <p>Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.</p>	<p>Opposition No. 91-222461</p> <p>APPLICANT LIONS GATE ENTERTAINMENT INC.'S SECOND SET OF REQUESTS FOR ADMISSION</p>
--	--

Pursuant to Fed.R.Civ.P. 36 and 37 C.F.R. § 2.120(a)(1), Applicant Lions Gate Entertainment Inc. ("Applicant") hereby requests that Opposer Victoria Kheel ("Opposer") admit, within 30 days from the date of service hereof, the truth of the facts set forth herein.

Unless otherwise stated, the relevant time period for the requests for admission ("RFAs") below is January 1, 2010 to the present.

I. DEFINITIONS

Applicant incorporates the definitions from its Second Set of Interrogatories to Opposer served concurrently herewith.

II. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 112:

Poppy's Pantry, Inc. is the owner of the POPPY'S Mark.

REQUEST FOR ADMISSION NO. 113:

Poppy's Pantry, Inc. was the owner of the POPPY'S Mark at the time the application

underlying the POPPY'S Registration was filed.

REQUEST FOR ADMISSION NO. 114:

Opposer does not own the POPPY'S Mark.

REQUEST FOR ADMISSION NO. 115:

Opposer did not own the POPPY'S Mark at the time the application underlying the POPPY'S Registration was filed.

REQUEST FOR ADMISSION NO. 116:

Poppy's Pantry, Inc. does business under the name "Poppy's Naturally Clean."

REQUEST FOR ADMISSION NO. 117:

Attached as **Exhibit A** is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry, Inc.'s gross receipts from 2012.

REQUEST FOR ADMISSION NO. 118:

Poppy's Pantry, Inc.'s gross receipts reflected in **Exhibit A** are earned from sales of products offered under the POPPY'S Mark.

REQUEST FOR ADMISSION NO. 119:

Attached as **Exhibit B** is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry, Inc.'s gross receipts from 2013.

REQUEST FOR ADMISSION NO. 120:

Poppy's Pantry, Inc.'s gross receipts reflected in **Exhibit B** are earned from sales of products offered under the POPPY'S Mark.

REQUEST FOR ADMISSION NO. 121:

Attached as **Exhibit C** is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry, Inc.'s gross receipts from 2014.

REQUEST FOR ADMISSION NO. 122:

Poppy's Pantry, Inc.'s gross receipts reflected in **Exhibit C** are earned from sales of products offered under the POPPY'S Mark.

REQUEST FOR ADMISSION NO. 123:

Attached as **Exhibit D** is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry, Inc.'s gross receipts from 2015.

REQUEST FOR ADMISSION NO. 124:

Poppy's Pantry, Inc.'s gross receipts reflected in **Exhibit D** are earned from sales of products offered under the POPPY'S Mark.

REQUEST FOR ADMISSION NO. 125:

Attached as **Exhibit E** is a true and correct copy of the Articles of Incorporation for Poppy's Pantry.

REQUEST FOR ADMISSION NO. 126:

Attached as **Exhibit F** is a true and correct copy of a Certificate of Amendment of Articles of Incorporation filed by Opposer on behalf of Poppy's Pantry.

REQUEST FOR ADMISSION NO. 127:

Attached as **Exhibit G** is a true and correct copy of a Statement of Information filed by Opposer on behalf of Poppy's Pantry, Inc. on June 1, 2011.

///

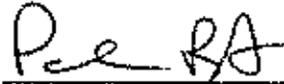
///

///

REQUEST FOR ADMISSION NO. 128:

Attached as **Exhibit H** is a true and correct copy of a Statement of Information filed by
Opposer on behalf of Poppy's Pantry, Inc. on January 30, 2016.

Dated: May 26, 2016



Jill M. Pietrini
Paul A. Bost
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

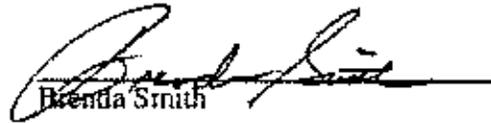
*Attorneys for Applicant
Lions Gate Entertainment Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Ilana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 26th day of May, 2016.


Brenda Smith

SMR11:477045802.1

EXHIBIT A

Form **8879-S**

IRS e-file Signature Authorization for Form 1120S

OMB No. 1545-0047

Do not send to the IRS. Keep for your records.

Information about Form 8879-S and its instructions is at www.irs.gov/form1120s.

2012

Department of the Treasury
Internal Revenue Service

For calendar year 2012, or tax year beginning _____, 2012, ending _____

Name of corporation
**POPPY'S PANTRY
POPPY'S PANTRY INC**

Employer identification number
27-1231639

Part I Tax Return Information (Whole dollars only)

1	Gross receipts or sales less returns and allowances (Form 1120S, line 1c)	1	34,241.
2	Gross profit (Form 205, line 3)	2	14,028.
3	Ordinary business income (loss) (Form 1120S, line 21)	3	-12,823.
4	Net rental real estate income (loss) (Form 1120S, Schedule K, line 2)	4	
5	Income (loss) reconciliation (Form 1120S, Schedule K, line 18)	5	-12,823.

Part II Declaration and Signature Authorization of Officer (Be sure to get a copy of the corporation's return)

Under penalty of perjury, I declare that I am an officer of the above corporation and that I have examined a copy of the corporation's 2012 electronic income tax return and accompanying schedules and statements and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the corporation's electronic income tax return. I consent to allow my electronic return originator (ERO), transmitter, or intermediate service provider to send the corporation's return to the IRS and to receive from the IRS (a) an acknowledgement of receipt or reason for rejection of the transmission, (b) the reason for any delay in processing the return or refund, and (c) the date of any refund, if applicable. I authorize the U.S. Treasury and its designated Financial Agent to initiate an electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of the corporation's federal taxes owed on this return, and the financial institution to debit the entry to this account. To revoke a payment, I must contact the U.S. Treasury Financial Agent at 1-888-353-4537 no later than 2 business days prior to the payment (settlement) date. I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I have selected a personal identification number (PIN) as my signature for the corporation's electronic income tax return and, if applicable, the corporation's consent to electronic funds withdrawal.

Officer's PIN: check one box only

I authorize MARGO LINDEN KATZ, CPA to enter my PIN 93112 as my signature
ERO firm name do not enter all zeros

on the corporation's 2012 electronically filed income tax return.

As an officer of the corporation, I will enter my PIN as my signature on the corporation's 2012 electronically filed income tax return.

Officer's signature _____ Title PRESIDENT & CEO

Part III Certification and Authentication

ERO's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN. 96206114535
do not enter all zeros

I certify that the above numeric entry is my PIN, which is my signature on the 2012 electronically filed income tax return for the corporation indicated above. I confirm that I am submitting this return in accordance with the requirements of Pub 9112, IRS e-file Application and Participation, and Pub 4163, Modernized e-File (MeF) Information for Authorized IRS e-file Providers for Business Returns.

ERO's signature MARGO LINDEN KATZ Date _____

**ERO Must Retain This Form -- See Instructions
Do Not Submit This Form to the IRS Unless Requested To Do So**

BAA For Paperwork Reduction Act Notice, see Instructions.

Form 8879-S (2012)

EXHIBIT B

IRS e-file Signature Authorization for Form 1120S

OMB No. 1545-0047

Do not send to the IRS. Keep for your records. Information about Form 8879-S and its instructions is at www.irs.gov/form8879.

2013

Department of the Treasury Internal Revenue Service

For calendar year 2013, or tax year beginning 2014, ending

Name of corporation

PRYCE & PARTNER
PRYCE & PARTNER, INC.

Employer identification number

87-1231639

Part I Tax Return Information (Use only if filing a return)

1	Gross receipts or sales less returns and allowances (Form 1120S, line 1c)	1	32,053.
2	Gross profit (Form 1120S, line 2)	2	15,925.
3	Ordinary business income (loss) (Form 1120S, line 3)	3	-11,488.
4	Net rental and estate income (loss) (Form 1120S, Schedule K, line 2)	4	
5	Income (loss) reconciliation (Form 1120S, Schedule K, line 5)	5	-11,488.

Part II Declaration and Signature Authorization of Officer (Be sure to get a copy of the corporation's return)

I, the undersigned officer, declare that I am an officer of the above corporation and that I have examined a copy of the corporation's 2013 electronic return for 2013 and accompanying schedules and attachments and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amount in Part I above are the accurate figures on the copy of the corporation's electronic 2013 tax return. I warrant to enter my electronic return signature (ERS), password, or identification number provided to send the corporation's return to the IRS and to receive from the IRS the tax acknowledgment of receipt or reason for rejection of the transmission. For the reason for any delay in processing the return or return, and for the sake of my record, if applicable, I authorize the U.S. Treasury and its designated financial agent to substitute an electronic return signature (ERS) entry to the Electronic Return Signature Protocol in the tax preparation software for purposes of the corporation's future returns based on this return, and the financial institution to whom the money is due account. To receive a payment, I must contact the U.S. Treasury Financial Agent at 1-800-829-4829 no later than 2 business days prior to the payment settlement date. I also authorize the financial institution involved in the processing of the electronic payment of taxes to receive confidential information necessary to create, update and receive future notices to the payment. I have attached a personal identification number (PIN) as my signature for the corporation's electronic return for 2013. If applicable, the corporation's consent to electronic filing withdrawal.

Officer's PIN check one box only

I authorize MARGO LINDSE KATZ, CPA to enter my PIN 8312 as my signature

on the corporation's 2013 electronically filed income tax return.

As an officer of the corporation, I will enter my PIN as my signature on the corporation's 2013 electronically filed income tax return.

Officer's signature MARGO LINDSE KATZ Date 1/23/14 Title PARTNER & CEO

Part III Certification and Authorization

ERO's EFIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN. 880111455

I certify that the above electronic entry is my PIN, which is my signature on the 2013 electronically filed income tax return for the corporation (indicated above). I confirm that I am authorized to file returns in accordance with the requirements of Part III, IRS e-file Application and Participation, and Pub 4781, Instructions e-file (2013) Information for Authorized IRS e-file Providers for Business Returns.

ERO's signature MARGO LINDSE KATZ Date 1/23/14

ERO Must Retain This Form - See Instructions Do Not Submit This Form to the IRS Unless Requested To Do So

EXHIBIT C

Form **8879-S**

IRS e-file Signature Authorization for Form 1120S

OMB No. 1545-0047

Do not send to the IRS. Keep for your records.

Information about Form 8879-S and its instructions is at www.irs.gov/form8879s.

2014

Department of the Treasury
Internal Revenue Service

For calendar year 2014, or tax year beginning _____ 2014 ending _____

Name of corporation

**POPPY'S PANTRY
POPPY'S PANTRY INC**

Employer identification number

27-1231638

Part I Tax Return Information (Whole dollars only)

1	Gross receipts or sales less returns and allowances (Form 1120S, line 1c)	1	31,461.
2	Gross profit (Form 1120S, line 3)	2	11,797.
3	Ordinary business income (loss) (Form 1120S, line 2)	3	-11,278.
4	Net rental real estate income (loss) (Form 1120S Schedule K, line 2)	4	
5	Income (loss) reconciliation (Form 1120S, Schedule K, line 18)	5	-11,278.

Part II Declaration and Signature Authorization of Officer (Be sure to get a copy of the corporation's return)

Under penalties of perjury, I declare that I am an officer of the above corporation and that I have examined a copy of the corporation's 2014 electronic income tax return and accompanying schedules and statements and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that the amounts in Part I above are the amounts shown on the copy of the corporation's electronic income tax return. I consent to allow my electronic return preparator (ERP), transmitter, or internet data service provider to send the corporation's return to the IRS and to receive from the IRS (a) an acknowledgement of receipt or reason for rejection of the transmission (b) the reason for any delay in processing the return or refund, and (c) the date of any refund. If applicable, I authorize the U.S. Treasury and its designated Financial Agent to initiate an electronic funds withdrawal (direct debit) entry to the financial institution account indicated in the tax preparation software for payment of the corporation's federal taxes owed on this return, and the financial institution to debit the entry to this account. To revoke a payment, I must contact the U.S. Treasury Financial Agent at 1-888-353-4537 no later than 2 business days prior to the payment (settlement date). I also authorize the financial institutions involved in the processing of the electronic payment of taxes to receive confidential information necessary to answer inquiries and resolve issues related to the payment. I have selected a personal identification number (PIN) as my signature for the corporation's electronic income tax return and, if applicable, the corporation's consent to electronic funds withdrawal.

Officer's PIN: check one box only

I authorize MARGO LINDEN KATZ, CPA to enter my PIN 93112 as my signature on the corporation's 2014 electronically filed income tax return.

As an officer of the corporation, I will enter my PIN as my signature on the corporation's 2014 electronically filed income tax return.

Officer's signature

MARGO LINDEN KATZ Tax PRESIDENT & CEO

Part III Certification and Authentication

ERP's EFIN/PIN. Enter your six-digit EFIN followed by your five-digit self-selected PIN.

96206114535

I certify that the above numeric entry is my PIN, which is my signature on the 2014 electronically filed income tax return for the corporation indicated above. I confirm that I am submitting this return in accordance with the requirements of Pub 3112, IRS e-file Application and Participation, and Pub 4181, Modernized e-File (MeF) Information for Authorized IRS e-file Providers for Business Returns.

ERP's signature

MARGO LINDEN KATZ

Date

ERP Must Retain This Form - See Instructions
Do Not Submit This Form to the IRS Unless Requested To Do So

BAA For Paperwork Reduction Act Notice, see instructions.

Form 8879-S (2014)

EXHIBIT D

EXHIBIT E

3112517

ARTICLES OF INCORPORATION

FILED
In the Office of the Secretary of State
of the State of California

SEP 18 2003

I.

THE NAME OF THIS CORPORATION IS: POPPY'S PANTRY

II.

THE PURPOSE OF THE CORPORATION IS TO ENGAGE IN ANY LAWFUL ACT OR ACTIVITY FOR WHICH A CORPORATION MAY BE ORGANIZED UNDER THE GENERAL CORPORATION LAW OF CALIFORNIA OTHER THAN THE BANKING BUSINESS, THE TRUST COMPANY BUSINESS OR THE PRACTICE OF A PROFESSION PERMITTED TO BE INCORPORATED BY THE CALIFORNIA CORPORATIONS CODE.

III.

THE NAME AND ADDRESS IN THE STATE OF CALIFORNIA OF THIS CORPORATION'S INITIAL AGENT FOR SERVICE OF PROCESS IS:

VICTORIA KHEEL
13407 RAND DRIVE
SHERMAN OAKS, CA. 91423

IV.

THIS CORPORATION IS AUTHORIZED TO ISSUE ONLY ONE CLASS OF SHARES OF STOCK; AND THE TOTAL NUMBER OF SHARES WHICH THIS CORPORATION IS AUTHORIZED TO ISSUE IS 10,000.



VICTORIA KHEEL, INCORPORATOR

EXHIBIT F

A0702406

3112517
**CERTIFICATE OF AMENDMENT OF
ARTICLES OF INCORPORATION**

FILED
In the Office of the Secretary of State
of the State of California
MAR 03 2010

The undersigned certify that: Poppy's Pantry

Article 1 of the Articles of Incorporation of this corporation is amended to read as follows:

The name of the corporation is: *Poppy's Pantry, Inc.*

This amendment has been approved by the board of directors.

The corporation has issued no shares.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

DATE: 2/28/2010

Victoria Kheel
(Victoria Kheel), President

Victoria Kheel
(Victoria Kheel), Secretary

EXHIBIT G



**State of California
Secretary of State**

S

E-F33807

FILED

In the office of the Secretary of State of the State of California

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

Jun - 1 2011

FEE\$ (Filing and Disclosure): \$25.00. If amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

This Space For Filing Use Only

1 CORPORATE NAME
C3112517
POPPY'S PANTRY INC.

Due Date:

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 2 and 3 cannot be P.O. Boxes.)

2 STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE	CITY	STATE	ZIP CODE
13407 RAND DRIVE SHERMAN OAKS CA 91423			
3 STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
4 MAILING ADDRESS OF THE CORPORATION, IF DIFFERENT THAN ITEM 2	CITY	STATE	ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

5 CHIEF EXECUTIVE OFFICER	ADDRESS	CITY	STATE	ZIP CODE
VICTORIA KHEEL	13407 RAND DRIVE SHERMAN OAKS, CA 91423			
6 SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
VICTORIA KHEEL	13407 RAND DRIVE SHERMAN OAKS, CA 91423			
7 CHIEF FINANCIAL OFFICER	ADDRESS	CITY	STATE	ZIP CODE
VICTORIA KHEEL	13407 RAND DRIVE SHERMAN OAKS, CA 91423			

Names and Complete Addresses of All Directors, Including Directors Who Are Also Officers (The corporation must have at least one director. Attach additional pages, if necessary.)

8 NAME	ADDRESS	CITY	STATE	ZIP CODE
VICTORIA KHEEL	13407 RAND DRIVE SHERMAN OAKS, CA 91423			
9 NAME	ADDRESS	CITY	STATE	ZIP CODE
10 NAME	ADDRESS	CITY	STATE	ZIP CODE

11 NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

Agent for Service of Process (If the agent is an individual the agent must reside in California and Item 13 must be completed with a California street address (a P.O. Box address is not acceptable). If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 13 must be left blank.)

12 NAME OF AGENT FOR SERVICE OF PROCESS
VICTORIA KHEEL

13 STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL	CITY	STATE	ZIP CODE
13407 RAND DRIVE SHERMAN OAKS, CA 91423			

Type of Business

14 DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
PRODUCTION AND SALES

15 BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

05/31/2011 VICTORIA KHEEL PRESIDENT
DATE TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM TITLE SIGNATURE

EXHIBIT H



**State of California
Secretary of State**

S

Statement of Information

(Domestic Stock and Agricultural Cooperative Corporations)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT - READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

FB89276

FILED

In the office of the Secretary of State
of the State of California

JAN-30 2018

This Space for Filing Use Only

1. CORPORATE NAME
POPPY'S PANTRY INC.

2. CALIFORNIA CORPORATE NUMBER
C3112517

Has Change Occurred? **YES** (If YES, list address of record in a P.O. box address. See instructions.)
 NO If there has been any change in the information provided in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.
 If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to item 17.

Complete Addresses for the Following: (Use the appropriate name of the corp. items 4 and 6 are names of P.O. boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE 13407 RAND DRIVE, SHERMAN OAKS, CA 91423	CITY	STATE	ZIP CODE
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY 13407 RAND DRIVE, SHERMAN OAKS, CA 91423	CITY	STATE	ZIP CODE
6. MAILING ADDRESS OF CORPORATION IF DIFFERENT THAN ITEM 4	CITY	STATE	ZIP CODE

Names and Complete Addresses of the Following Officers: (The corporation must list these three officers. A complete list for the principal officer may be attached hereto. The preferred lists on this form need not be stated.)

7. CHIEF EXECUTIVE OFFICER VICTORIA KHEEL 13407 RAND DRIVE, SHERMAN OAKS, CA 91423	ADDRESS	CITY	STATE	ZIP CODE
8. SECRETARY VICTORIA KHEEL 13407 RAND DRIVE, SHERMAN OAKS, CA 91423	ADDRESS	CITY	STATE	ZIP CODE
9. CHIEF FINANCIAL OFFICER VICTORIA KHEEL 13407 RAND DRIVE, SHERMAN OAKS, CA 91423	ADDRESS	CITY	STATE	ZIP CODE

Names and Complete Addresses of All Directors, including Directors Who are Also Officers: (The corporation must have at least one director. Attach additional pages, if necessary.)

10. NAME VICTORIA KHEEL 13407 RAND DRIVE, SHERMAN OAKS, CA 91423	ADDRESS	CITY	STATE	ZIP CODE
11. NAME	ADDRESS	CITY	STATE	ZIP CODE
12. NAME	ADDRESS	CITY	STATE	ZIP CODE

13. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY

Agent for Service of Process: If the agent is an individual, the agent must reside in California and item 14 must be completed with a California street address; a P.O. box address is not acceptable. If the agent is another corporation, the agent must have an file with the California Secretary of State a process consent to California Corporations Code sections 1806 and item 18 must be set blank.

14. NAME OF AGENT FOR SERVICE OF PROCESS
VICTORIA KHEEL

15. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL
13407 RAND DRIVE, SHERMAN OAKS, CA 91423

STATE ZIP CODE

Type of Business

16. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
AGRICULTURE

17. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE CALIFORNIA SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREON, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

01/30/2018 VICTORIA KHEEL PRESIDENT
 DATE TYPEPRINT NAME OF PERSON COMPLETING FORM TITLE SIGNATURE

Exhibit D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD
IN THE MATTER OF TRADEMARK APPLICATION SERIAL NO. 86346513

VICTORIA KHEEL,

Opposer,

vs.

LIONS GATE ENTERTAINMENT INC,

Applicant.

Opposition No: 91-222461

**OPPOSER VICTORIA KHEELS
OBJECTIONS TO APPLICANT
LIONSGATE'S SECOND SET OF
INTERROGATORIES**

Opposer, by and through her undersigned attorneys, and pursuant to Rules 33 and 26 of the Federal Rules of Civil Procedure, and 37 C.F.R. § 2.120(a)(1) hereby objects to Lionsgate's Second Set of Interrogatories as follows.

GENERAL OBJECTIONS

1. Pursuant to TBMP § 405.03(a) and 37 CFR § 2.120(d)(1), the "total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts." Whereas this first set of interrogatories contains numerous un-numbered subparts, totaling 75 interrogatories on its own, Opposer hereby objects to all the interrogatories in the Second Set, and all future sets of interrogatories, on the grounds that that they intentionally and willfully exceed the 75 total limit in order to burden Opposer with an unnecessary and burdensome expenses, unfairly multiplying the costs of this proceeding. Applicant was informed of such in the objections to the first set, but persisted in serving a second set.

RECEIVED

JUN 16 2016

2. By making the accompanying objections to interrogatories, Opposer does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of any responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege.

3. Opposer objects to Applicant's definition of the term "document" to the extent it appears to seek attorney-client privileged information, attorney-client work product and trial preparation materials.

4. The objections are applicable to each and every Interrogatory.

OBJECTIONS:

INTERROGATORY NO. 29

Describe in detail the role of Poppy's Pantry, Inc., if any, relating to the use and ownership of the POPPY'S Mark from the date of filing of the application underlying the Registration to the present.

OBJECTION TO INTERROGATORY NO. 29

Opposer objects and declines to answer this Interrogatory on the grounds that the "total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts." TBMP § 405.03(a); 37 CFR § 2.120(d)(1); *see Kellogg Co. v. Nugget*, 16 U.S.P.Q.2d 1468 (P.T.O. June 20, 1990) (holding "[i]n determining whether a set of interrogatories exceeds this limit, each subdivision of separate questions, whether set forth as a numbered or lettered subpart, or as a compound question or a conjunctive question, is counted as

a separate interrogatory ... The Board will look to the substance of the interrogatories in making its determination on the number thereof and will not be bound by the propounding party's numbering system."); TBMP § 405.03(d) ("If an interrogatory requests information concerning more than one issue, such as information concerning both 'sales and advertising figures,' or both 'adoption and use,' the Board will count each issue on which information is sought as a separate interrogatory."); TBMP § 405.03(d) "if an interrogatory begins with a broad introductory clause ("Describe fully the facts and circumstances surrounding applicant's first use of the mark XYZ, including:") followed by several subparts ("Applicant's date of first use of the mark on the goods listed in the application," "Applicant's date of first use of the mark on such goods in commerce," etc.), the Board will count the broad introductory clause and each subpart as a separate interrogatory, whether or not the subparts are separately designated. [Note 6.]" ; TBPM § 405.03(d) ("[i]f an interrogatory includes an initial question followed by additional questions to be answered if the first is answered in the affirmative, the initial question and each follow-up question will be counted as separate interrogatories."); see also, *Collaboration Properties, Inc. v. Polycom*, 224 F.R.D. 473, 475 (N.D. Cal. 2004) (where interrogatories asked for information about *all* of the accused products, which totaled 26 different products, each such interrogatory had 26 discrete subparts and violated the limitation on the number of interrogatories); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (an interrogatory asking for "facts, persons, and documents" in actuality "has at least three discrete subparts"); *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, 235 F.R.D. 521, 527 (D.D.C.2006) (Interrogatory seeking "all facts supporting Relator's contention that [defendant] was aware of the illegal conduct of the medical directors ...; asks Relator to identify each person who knew, and to explain how they knew, of the violations [and] requests that Relator identify all

documents that support the contention as to each medical director” is “more accurately counted as three separate interrogatories.”); *Trevino v. ACB Am., Inc.*, 232 F.R.D. 612, 614 (N.D. Cal. 2006) (Interrogatory asking defendant to “[i]dentify each person whom you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify and the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion and the expert’s qualifications” constitutes (“three separate interrogatories.”))

TBMP § 402.01 further provides “[Note 4.] The parties are expected to take into account the principles of proportionality with regard to discovery. [Note 5.] The scope of discovery in Board proceedings, though, is generally narrower than in court proceedings, especially those involving infringement and/or where both parties have made extensive use of the marks.”) *see also Domond v. 37*, 113 U.S.P.Q.2d 1264 (P.T.O. Jan. 2, 2015) (stating “When it comes to serving discovery, the parties are expected to take into account the principles of proportionality with regard to discovery requests such that the volume of requests does not render them harassing and oppressive and are expected to consider the scope of the requests.)

Applicant already served 75 interrogatory requests in the First Set, attempting to disguise this fact by burdensomely using numerous subparts in each interrogatory. Applicant was informed of such by Opposer's Interrogatory Responses to the First Set, objecting to any further requests and preserving her right not to answer and object to any further interrogatories in light of Applicant's intentional and willful violations of the Federal Rules, unfairly multiplying the costs of the proceeding, and harassing Opposer. Applicant persisted in serving still more interrogatories. In addition, Applicant's current interrogatory contains two additional discrete

subparts, including asking for (1) "Poppy's Pantry, Inc., role relating to the use...of the POPPY'S Mark" and (2) Poppy's Pantry's ownership of the Poppy's Mark.

INTERROGATORY NO. 30:

Describe in detail the nature of Opposer's ownership interest in or management responsibilities for Poppy's Pantry Inc. if any.

OBJECTION TO INTERROGATORY NO. 30:

Opposer objects and declines to answer this Interrogatory on the grounds that the "total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts." TBMP § 405.03(a); 37 CFR § 2.120(d)(1); *see Kellogg Co. v. Nugget*, 16 U.S.P.Q.2d 1468 (P.T.O. June 20, 1990) (holding "[i]n determining whether a set of interrogatories exceeds this limit, each subdivision of separate questions, whether set forth as a numbered or lettered subpart, or as a compound question or a conjunctive question, is counted as a separate interrogatory... The Board will look to the substance of the interrogatories in making its determination on the number thereof and will not be bound by the propounding party's numbering system."); TBMP § 405.03(d) ("If an interrogatory requests information concerning more than one issue, such as information concerning both 'sales and advertising figures,' or both 'adoption and use,' the Board will count each issue on which information is sought as a separate interrogatory."); TBMP § 405.03(d) "if an interrogatory begins with a broad introductory clause ("Describe fully the facts and circumstances surrounding applicant's first use of the mark XYZ, including:") followed by several subparts ("Applicant's date of first use of the mark on the

goods listed in the application," "Applicant's date of first use of the mark on such goods in commerce," etc.), the Board will count the broad introductory clause and each subpart as a separate interrogatory, whether or not the subparts are separately designated. [Note 6.]; TBPM § 405.03(d) ("[i]f an interrogatory includes an initial question followed by additional questions to be answered if the first is answered in the affirmative, the initial question and each follow-up question will be counted as separate interrogatories."); see also, *Collaboration Properties, Inc. v. Polycom*, 224 F.R.D. 473, 475 (N.D. Cal. 2004) (where interrogatories asked for information about *all* of the accused products, which totaled 26 different products, each such interrogatory had 26 discrete subparts and violated the limitation on the number of interrogatories); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (an interrogatory asking for "facts; persons; and documents" in actuality "has *at least three* discrete subparts"); *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, 235 F.R.D. 521, 527 (D.D.C.2006) (Interrogatory seeking "all facts supporting Relator's contention that [defendant] was aware of the illegal conduct of the medical directors ...; asks Relator to identify each person who knew, and to explain how they knew, of the violations [and] requests that Relator identify all documents that support the contention as to each medical director" is "more accurately counted as three separate interrogatories."); *Trevino v. ACB Am., Inc.*, 232 F.R.D. 612, 614 (N.D. Cal. 2006) (Interrogatory asking defendant to "[i]dentify each person whom you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify and the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion and the expert's qualifications" constitutes ("three separate interrogatories."))

TBMP § 402.01 further provides “[Note 4.] The parties are expected to take into account the principles of proportionality with regard to discovery. [Note 5.] The scope of discovery in Board proceedings, though, is generally narrower than in court proceedings, especially those involving infringement and/or where both parties have made extensive use of the marks.”) *see also Demand v. 37*, 113 U.S.P.Q.2d 1264 (P.T.O. Jan. 2, 2015) (stating “When it comes to serving discovery, the parties are expected to take into account the principles of proportionality with regard to discovery requests such that the volume of requests does not render them harassing and oppressive and are expected to consider the scope of the requests.)

Applicant already served 75 interrogatory requests in the First Set, attempting to disguise this fact by burdensomely using numerous subparts in each interrogatory. Applicant was informed of such by Opposer’s Interrogatory Responses to the First Set, objecting to any further requests and preserving her right not to answer and object to any further interrogatories in light of Applicant’s intentional and willful violations of the Federal Rules, unfairly multiplying the costs of the proceeding, and harassing Opposer. Applicant persisted in serving still more interrogatories. In addition, Applicant’s interrogatory contains two additional discrete subparts, including (1) “Describe in detail the nature of Opposer’s ownership interest in ...Poppy’s Pantry and (2) “Describe in detail...Opposer’s...management responsibilities for Poppy’s Pantry.”

INTERROGATORY NO. 31:

State whether Opposer licensed use of the POPPY’S Mark to Poppy Pantry, Inc.

OBJECTION TO INTERROGATORY NO. 31:

Opposer objects and declines to answer this Interrogatory on the grounds that the “total number of written interrogatories which a party may serve upon another party pursuant to Rule 33 of the Federal Rules of Civil Procedure, in a proceeding, shall not exceed seventy-five, counting subparts.” TBMP § 405.03(a); 37 CFR § 2.120(d)(1); *see Kellogg Co. v. Nugget*, 16 U.S.P.Q.2d 1468 (P.T.O. June 20, 1990) (holding “[i]n determining whether a set of interrogatories exceeds this limit, each subdivision of separate questions, whether set forth as a numbered or lettered subpart, or as a compound question or a conjunctive question, is counted as a separate interrogatory... The Board will look to the substance of the interrogatories in making its determination on the number thereof and will not be bound by the propounding party's numbering system.”); TBMP § 405.03(d) (“If an interrogatory requests information concerning more than one issue, such as information concerning both ‘sales and advertising figures,’ or both ‘adoption and use,’ the Board will count each issue on which information is sought as a separate interrogatory.”); TBMP § 405.03(d) (“if an interrogatory begins with a broad introductory clause (“Describe fully the facts and circumstances surrounding applicant’s first use of the mark XYZ, including:”) followed by several subparts (“Applicant’s date of first use of the mark on the goods listed in the application,” “Applicant’s date of first use of the mark on such goods in commerce,” etc.), the Board will count the broad introductory clause and each subpart as a separate interrogatory, whether or not the subparts are separately designated. [Note 6.]”); TBMP § 405.03(d) (“[i]f an interrogatory includes an initial question followed by additional questions to be answered if the first is answered in the affirmative, the initial question and each follow-up question will be counted as separate interrogatories.”); *see also, Collaboration Properties, Inc. v. Polycam*, 224 F.R.D. 473, 475 (N.D. Cal. 2004) (where interrogatories asked for information about *all* of the accused products, which totaled 26 different products, each such interrogatory

had 26 discrete subparts and violated the limitation on the number of interrogatories); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (an interrogatory asking for "facts; persons; and documents" in actuality "has at least three discrete subparts"); *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, 235 F.R.D. 521, 527 (D.D.C.2006) (Interrogatory seeking "all facts supporting Relator's contention that [defendant] was aware of the illegal conduct of the medical directors ...; asks Relator to identify each person who knew, and to explain how they knew, of the violations [and] requests that Relator identify all documents that support the contention as to each medical director" is "more accurately counted as three separate interrogatories."); *Trevino v. ACB Am., Inc.*, 232 F.R.D. 612, 614 (N.D. Cal. 2006) (Interrogatory asking defendant to "[i]dentify each person whom you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify and the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion and the expert's qualifications" constitutes ("three separate interrogatories."))

TBMP § 402.01 further provides "[Note 4.] The parties are expected to take into account the principles of proportionality with regard to discovery. [Note 5.] The scope of discovery in Board proceedings, though, is generally narrower than in court proceedings, especially those involving infringement and/or where both parties have made extensive use of the marks.") *see also Domond v. 37*, 113 U.S.P.Q.2d 1264 (P.T.O. Jan. 2, 2015) (stating "When it comes to serving discovery, the parties are expected to take into account the principles of proportionality with regard to discovery requests such that the volume of requests does not render them harassing and oppressive and are expected to consider the scope of the requests.)

Applicant already served 75 interrogatory requests in the First Set, attempting to disguise this fact by burdensomely using numerous subparts in each interrogatory. Applicant was informed of such by Opposer's Interrogatory Responses to the First Set, objecting to any further requests and preserving her right not to answer and object to any further interrogatories in light of Applicant's intentional and willful violations of the Federal Rules, unfairly multiplying the costs of the proceeding, and harassing Opposer. Applicant persisted in serving still more interrogatories.

Dated: June 30, 2016



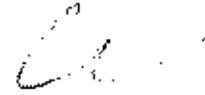
Ilana Makovoz,
9350 Wilshire Blvd, Suite 203,
Beverly Hills, CA 90212
Phone: (310) 975 2565

Attorneys for Victoria Kheel

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing VICTORIA KHEEL'S OBJECTIONS TO LIONSGATE'S SECOND SET OF INTERROGATORIES was served by first class mail, postage prepaid, on June 30, 2016, upon Lions Gate Entertainment Inc.'s attorney of record at the following address of record of the USPTO:

Jill M. Pietrini
Sheppard, Mullin, Richter & Hampton LLP
901 Avenue of the Stars, Suite 1600 Los Angeles, California 90067-6017



Ilana Makovoz

Exhibit E

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

IN THE MATTER OF TRADEMARK APPLICATION SERIAL NO. 86346513

VICTORIA KHEEL,

Opposer,

vs.

LIONS GATE ENTERTAINMENT INC,

Applicant.

Opposition No: 91-222461

OPPOSER VICTORIA KHEELS
OBJECTIONS AND RESPONSES TO
APPLICANT LIONSGATE'S SECOND
SET OF REQUESTS FOR ADMISSIONS

Opposer, by and through her undersigned attorneys, and pursuant to Rules 36 and 26 of the Federal Rules of Civil Procedure, and 37 C.F.R. § 2.120(a)(1) hereby responds and objects to Lionsgate's Second Set of Requests for Admissions as follows:

GENERAL OBJECTIONS

1. Opposer's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and productions are made without prejudice to, and are not a waiver of, Opposer's right to rely on other facts or documents at trial.
2. By making the accompanying responses and objections, Opposer does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such documents into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege.

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3. The following responses/documents reflect the current state of the Opposer's knowledge, understanding and belief respecting matters about which inquiry has been made. Opposer expressly reserve their right to supplement or modify these responses or production with such pertinent information as they may hereafter discover. Inadvertent disclosure of privileged information shall not constitute waiver.

4. Opposer objects to Applicant's Requests, including its definitions (e.g., of the term "document") to they extent it appear to seek attorney-client privileged information, attorney-client work product, trial preparation materials, or to the extent that it purports to impose obligations greater than those set forth in the Federal Rules of Civil Procedure. I

5. The objections are applicable to each and every Request.

RESPONSES/OBJECTIONS TO RFA'S

REQUEST FOR ADMISSION NO. 112:

Poppy's Pantry, Inc. is the owner of POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 112

Deny.

REQUEST FOR ADMISSION NO. 113:

Poppy's Pantry, Inc. is the owner of the POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 113:

Deny.

REQUEST FOR ADMISSION NO. 114:

Opposer does not own the POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 114:

Deny.

REQUEST FOR ADMISSION NO.115:

Opposer did not own the POPPY'S Mark at the time the application underlying the POPPY'S Registration was filed.

RESPONSE TO REQUEST FOR ADMISSION NO.115:

Deny.

REQUEST FOR ADMISSION NO.116:

Poppy's Pantry Inc., does business under the name Poppy's Naturally Clean.

RESPONSE TO REQUEST FOR ADMISSION NO.116

Opposer objects to this Request on grounds that the word "does business under" are vague and ambiguous. Subject to and without waiving the foregoing, Opposer admits.

REQUEST FOR ADMISSION NO.117:

Attached as Exhibit A is a true and correct copy of an IRS e-file signature Authorization Form 1120S reflecting Poppy's Pantry Inc.'s gross receipts for 2012.

RESPONSE TO REQUEST FOR ADMISSION NO.117

Admit.

REQUEST FOR ADMISSION NO.118:

Poppy's Pantry, Inc.'s gross receipts reflected in Exhibit A are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO.118

Admit.

REQUEST FOR ADMISSION NO.119:

Attached as Exhibit B is a true and correct copy of an IRS e-file Signature

Authorization Form 1120S reflecting Poppy's Pantry Inc.'s gross receipts from 2013.

RESPONSE TO REQUEST FOR ADMISSION NO. 119

Admit.

REQUEST FOR ADMISSION NO. 120:

Poppy's Pantry, Inc.'s gross receipts reflected in Exhibit B are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 120

Admit.

REQUEST FOR ADMISSION NO. 121:

Attached as Exhibit C is a true and correct copy of an IRS e-file Signature Authorization Form 1120S reflecting Poppy's Pantry, Inc.'s gross receipts from 2014.

RESPONSE TO REQUEST FOR ADMISSION NO. 121:

Admit.

REQUEST FOR ADMISSION NO. 122:

Poppy's Pantry, Inc.'s gross receipts reflected Exhibit C are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 122

Admit.

REQUEST FOR ADMISSION NO. 123:

Attached as Exhibit D is a true and correct copy of an IRS e-file Signature Authorization Form 1120 S reflecting Poppy's Pantry, Inc.'s gross receipts from 2015.

RESPONSE TO REQUEST FOR ADMISSION NO. 123:

Admit.

REQUEST FOR ADMISSION NO. 124:

Poppy's Pantry, Inc.'s gross receipts reflected in Exhibit D are earned from sales of products offered under the POPPY'S Mark.

RESPONSE TO REQUEST FOR ADMISSION NO. 124

Admit.

REQUEST FOR ADMISSION NO. 125:

Attached as Exhibit E is a true and correct copy of the Articles of Incorporation for Poppy's Pantry.

RESPONSE TO REQUEST FOR ADMISSION NO. 125

Admit.

REQUEST FOR ADMISSION NO. 126:

Attached as Exhibit F is a true and correct copy of a Certificate of Amendment of Articles of Incorporation filed by Opposer on behalf of Poppy's Pantry.

RESPONSE TO REQUEST FOR ADMISSION NO. 126

Admit.

REQUEST FOR ADMISSION NO. 127:

Attached as Exhibit G is a true and correct copy of a Statement of Information filed by Opposer on behalf of Poppy's Pantry, Inc. on June 1, 2011.

RESPONSE TO REQUEST FOR ADMISSION NO. 127:

Admit that Exhibit G is true and correct copy of a Statement of Information filed on behalf of Poppy's Pantry, Inc. on June 1, 2011, but deny it is signed by Opposer or anyone.

REQUEST FOR ADMISSION NO. 128:

Attached as Exhibit H is a true and correct copy of a Statement of Information filed by Opposer on behalf of Poppy's Pantry, Inc. on January 30, 2016.

RESPONSE TO REQUEST FOR ADMISSION NO. 128

Admit that Exhibit H is a true and correct copy of a Statement of Information filed on behalf of Poppy's Pantry, Inc. on January 30, 2016, but deny it is signed by Opposer or anyone.

Dated: June 29, 2016



Ilana Makovoz,
9350 Wilshire Blvd, Suite 203,
Beverly Hills, CA 90212
Phone: (310) 975 2565

Attorneys for Victoria Kheel

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing VICTORIA KHEEL'S RESPONSES TO LIONSGATE'S SECOND SET OF RFAs was served by first class mail, postage prepaid, on June 30, 2016, upon Lions Gate Entertainment Inc.'s attorney of record at the following address of record of the USPTO:

Jill M. Petrini
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600 Los Angeles, California 90067-6017



Ilana Makovoz

Exhibit F

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

<p><i>In re Matter of Serial No. 86/346,513</i> <i>for the mark: POPI</i></p> <p>Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.</p>	<p>Opposition No. 91-222461</p> <p>APPLICANT LIONS GATE ENTERTAINMENT INC.'S SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS</p>
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Pursuant to Fed.R.Civ.P. 34 and 37 C.F.R. § 2.120(a)(1), Applicant Lions Gate Entertainment Inc. ("Applicant") hereby requests that Opposer Victoria Kheel ("Opposer") produce and permit the inspection and copying of the documents described herein, regardless of whether only a part of any document meets the description.

I. INSTRUCTIONS

Applicant requests that such documents be made available within thirty days after service hereof by sending the requested documents through the U.S. mail service to accompany Opposer's written response to Applicant's Second Set of Requests for Production of Documents and Things ("Requests").

The Requests are intended to cover all documents and things in the possession of Opposer, or subject to her custody and control, or available to Opposer wherever such documents and things are located, including, but not limited to, any of Opposer's offices or any other office maintained or used by Opposer, her agents, employees, joint venturers, partners, independent contractors, accountants, or attorneys, or any other location where documents are kept.

If any document covered by the Requests is withheld for any reason, on a claim of privilege, attorney work product, or otherwise, Opposer shall provide a listing of such withheld documents stating the form of the document withheld, the date of its preparation, the author, each addressee or recipient, the subject matter, the reason for which Opposer is withholding such document, the basis for any claim of privilege for which a document is withheld, and the name and address of any person or persons presently having custody or control of the same or a true copy thereof.

If documents herein requested cannot be produced because they have been destroyed, cannot be located, or are otherwise thought no longer to exist, please provide a statement, indicating to the best of Opposer's ability, the form of the document, the date of its preparation, the author(s), each addressee or recipient, and the subject matter. Further, the Requests are continuing requests. Consequently, if any of the documents which were not produced or could not be produced for the reasons given above, or are discovered, or located, or, for any other reason become known to Opposer after responses to these requests are served, then Opposer must immediately notify Applicant's attorneys, named below, and make such documents available for inspection and copying.

Unless otherwise stated, the relevant time period for the requests below is January 1, 2010 to the present.

II. DEFINITIONS

The following definitions are applicable to terms employed in these Interrogatories, in the Instructions accompanying these Interrogatories, and in these Definitions.

1. The term "Opposer" shall mean and refer to Victoria Kheel, and includes any and all of her affiliates and affiliated entities, and her partners, employees, agents, licensees, and

representatives of the foregoing, and any other person acting or purporting to act on behalf of any of the foregoing.

2. The term "Registration" shall mean and refer to Opposer's Reg. No. 4,537,279 of POPPY'S.

3. The term "POPPY'S Mark" shall mean and refer to the trademark that is the subject of the Registration.

III. DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 52:

All documents relating to, describing, or evidencing the role of Poppy's Pantry, Inc. relating to the use and ownership of the POPPY'S Mark from the date of the filing of the application underlying the Registration to the present.

REQUEST FOR PRODUCTION NO. 53:

All documents relating to, describing, or evidencing the nature of Opposer's ownership interest in or management responsibilities for Poppy's Pantry, Inc.

REQUEST FOR PRODUCTION NO. 54:

All documents relating to, describing, or evidencing the nature of the business conducted by Poppy's Pantry, Inc.

///

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REQUEST FOR PRODUCTION NO. 55:

All agreements or contracts relating to the POPPY'S Mark or any goods offered thereunder to which Poppy's Pantry, Inc. is a party.

Dated: August 31, 2016



Jill M. Pietrini
Paul A. Bost
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017
Telephone: (310) 228-3700
Facsimile: (310) 228-3701

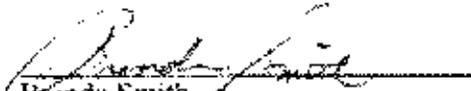
*Attorneys for Applicant
Lions Gate Entertainment Inc.*

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:

Hana Makovoz, Esq.
MAKOVOZ LAW GROUP
9350 Wilshire Blvd., Suite 203
Beverly Hills, CA 90212

on this 31st day of August, 2016.


Brenda Smith

SMR11 4757026/29 1

Exhibit G

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

IN THE MATTER OF TRADEMARK APPLICATION SERIAL NO. 86346513

VICTORIA KHEEL,

Opposer,

vs.

LIONS GATE ENTERTAINMENT INC,

Applicant.

Opposition No: 91-222461

OPPOSER VICTORIA KHEELS
OBJECTIONS AND RESPONSES TO
APPLICANT LIONSGATE'S SECOND
SET REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS

Opposer, by and through her undersigned attorneys, and pursuant to Rules 34 and 26 of the Federal Rules of Civil Procedure, and 37 C.F.R § 2.120(a)(1) hereby responds and objects to Lionsgate's Second Set of Requests for Production of Documents and Things as follows:

GENERAL OBJECTIONS

1. Opposer objects to the Requests for Production to the extent they confusingly state "the following definitions are applicable to terms employed in these Interrogatories, in the Instructions accompanying these Interrogatories, and in these Definitions." These are not Interrogatories. These are Requests for Production
2. Opposer's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and productions are made without

prejudice to, and are not a waiver of, Opposer's right to rely on other facts or documents at trial.

3. By making the accompanying responses and objections, Opposer does not waive, and hereby expressly reserves, her right to assert any and all objections as to the admissibility of such documents into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege.

4. The following responses/documents reflect the current state of the Opposer's knowledge, understanding and belief respecting matters about which inquiry has been made. Opposer expressly reserve their right to supplement or modify these responses or production with such pertinent information as they may hereafter discover,

5. Opposer objects to Applicant's Requests, including its definitions (e.g., of the term "Opposer") to they extent it appears to seek attorney-client privileged information, attorney-client work product, documents that were prepared for or in anticipation of litigation, or to the extent that it purports to impose obligations greater than those set forth in the Federal Rules of Civil Procedure.

6. Opposer objects to the Requests for documents that the requesting party has equal ability to obtain from public sources, on the grounds that Opposer is not the party in "control" of such documents. *See Estate of Young Through Young v. Holmes* 134 FRD 291, 294 (D NV 1991).

7. Because these Requests do not specify a form for producing electronically stored information, Opposer will produce it in a form or forms in which it is ordinarily

maintained or in a reasonably usable form or forms either in printout form, or on a USB drive for all internet/web based created documents.

8. The objections are applicable to each and every Request

RESPONSES/OBJECTIONS TO DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 52

All documents relating to, describing or evidencing the role of Poppy's Pantry Inc., relating to the use and ownership of the POPPY'S Mark from the date of the filing of the application underlying the Registration to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 52

Opposer objects to this request as overly broad, unduly burdensome, vague, and ambiguous, in so far as it asks for "all documents relating to use or ownership of the POPPY'S Mark." Subject to and without waiving the foregoing, concerning use of the mark, Opposer has already produced documents 100302 – 100318 [TAB 1]. As for ownership of the POPPY'S Mark, a diligent search and reasonable inquiry has been made in an effort to locate the item requested and the document never existed.

REQUEST FOR PRODUCTION NO. 53

All documents relating to, describing, or evidencing the nature of Opposer's ownership interest in or management responsibilities of Poppy's Pantry Inc.,

RESPONSE TO REQUEST FOR PRODUCTION NO. 53

Opposer has already produced documents 100516-100517 [TAB 26]. Further, Opposer produces documents 100571.

REQUEST FOR PRODUCTION NO. 54

All documents relating to, describing, or evidencing the nature of the business conducted by Poppy's Pantry, Inc.,

RESPONSE TO REQUEST FOR PRODUCTION NO. 54

Opposer objects to this request as overly broad, unduly burdensome, vague, and ambiguous, in so far as it asks for "all documents" relating to, describing, or evidencing the "nature of the business." Subject to and without waiving the foregoing, Opposer has already produced 100302-100317 [TAB 1] and 100516-100517 [TAB 26].

REQUEST FOR PRODUCTION NO. 55

All agreements or contracts relating to the POPPY'S Mark or any goods offered thereunder to which Poppy's Pantry is a party.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55

Opposer objects to this request as overly broad, unduly burdensome, vague, and ambiguous, in so far as it asks for "relating to the POPPY'S Mark." Subject to and without waiving the foregoing, a diligent search and reasonable inquiry has been made in an effort to locate the item requested and the document never existed.

Dated: October 4, 2016



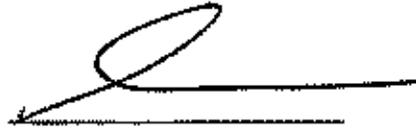
Ilana Makovoz,
9350 Wilshire Blvd, Suite 203,
Beverly Hills, CA 90212
Phone: (310) 975 2565

Attorneys for Victoria Kheel

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing **VICTORIA KHEEL'S RESPONSES TO LIONSGATE'S SECOND SET RFPs** was served by first class mail, postage prepaid, on October 5, 2016, upon Lions Gate Entertainment Inc.'s attorney of record at the following address of record of the USPTO:

Jill M. Pietrini
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600 Los Angeles, California 90067-6017

A handwritten signature in black ink, appearing to read 'Ilana Makovoz', written over a horizontal line.

Ilana Makovoz

MAKOVOZ LAW GROUP
9350 Wilshire Blvd #203,
Beverly Hills, CA 90212

Jill M. Pietrini
Paul Bost
Sheppard, Mullin, Richter & Hampton LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, California 90067-6017

RECEIVED

6/17 07 2016

PREPARED BY SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
TRACKING DEPARTMENT

USPS TRACKING NUMBER



9505 6001 3504 6279 0001 30



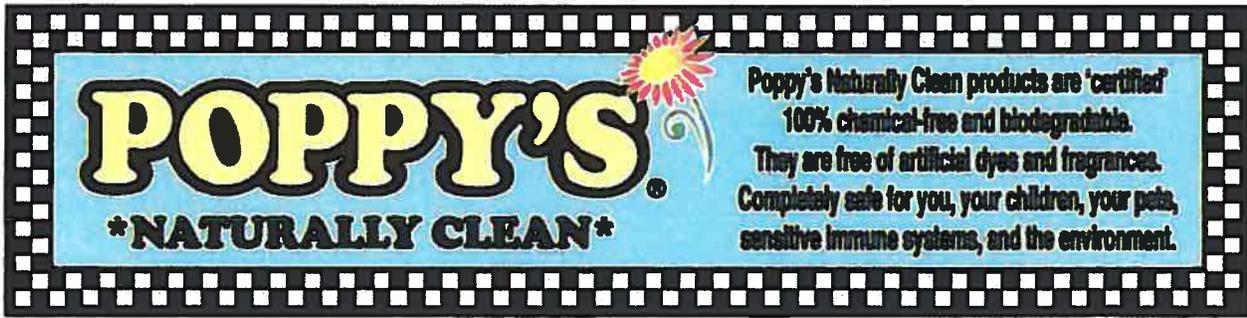
U.S. POSTAGE
\$6.00
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01507 0023
10/05/16
2503
08502418

2016 JUN 17 10:00 AM

MAKOVOZ

7:05

Exhibit H

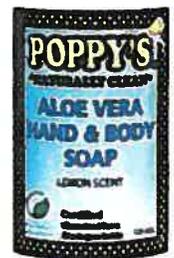
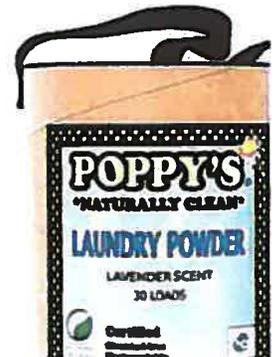


HOME

PRODUCTS
ABOUT US

WHERE TO BUY
CERTIFICATIONS

WHOLESALE
CONTACT US

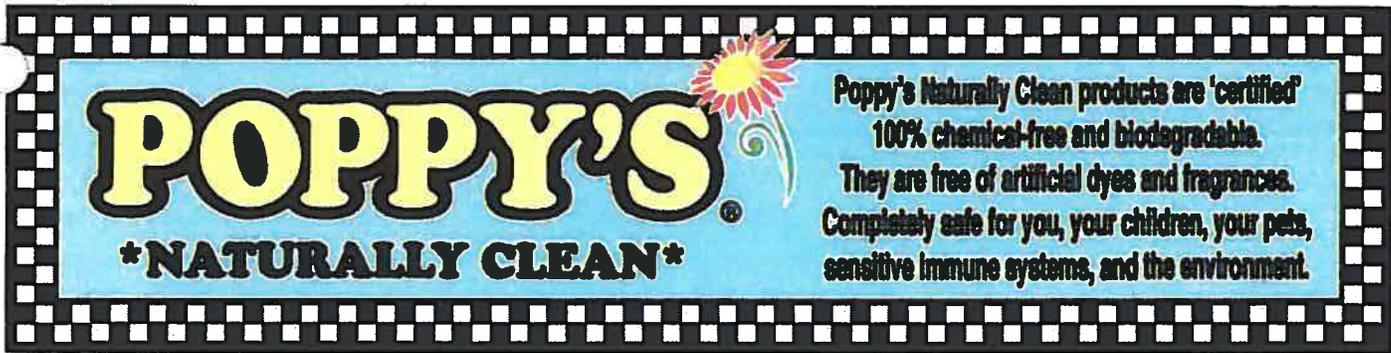




Poppy's Naturally Clean products are:

Biodegradable, Compostable, All Natural, Non Toxic, Chemical Free, and Eco-Friendly.





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HOUSEHOLD
CLEANERS



LAUNDRY



BATH & BODY



PETS



REFILLS

100304

POPPY'S
NATURALLY CLEAN

Poppy's Naturally Clean products are 'certified' 100% chemical-free and biodegradable. They are free of artificial dyes and fragrances. Completely safe for you, your children, your pets, sensitive immune systems, and the environment.

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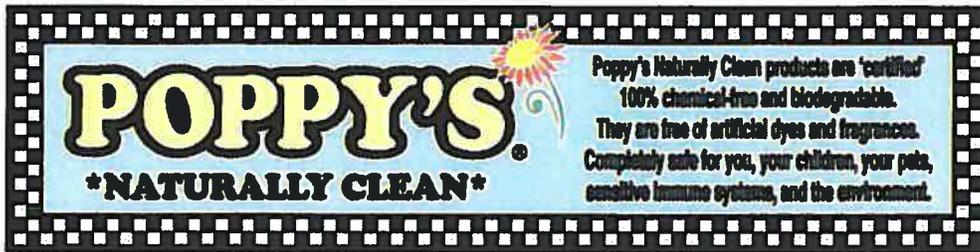
Brick & Mortar



E-Commerce



• 100305



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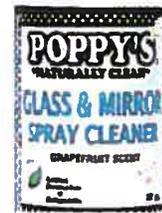
WHOLESALE
CONTACT US



ALL PURPOSE SPRAY CLEANER
\$5.99



ALL PURPOSE CLEANING POWDER
\$5.99



GLASS & MIRROR SPRAY CLEANER
\$5.99



TOILET BOWL CLEANER
\$8.99



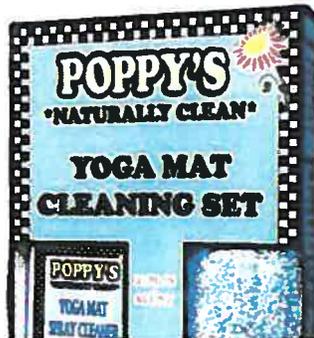
DISHWASHING LIQUID
\$8.99



MARBLE & GRANITE SPRAY CLEANER
\$4.99



MICROFIBER CLEANING CLOTHS
\$8.99

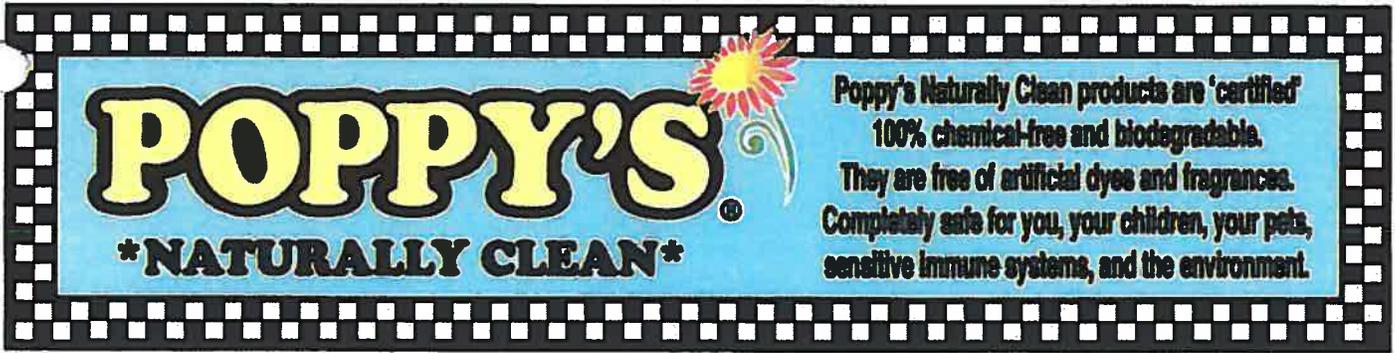


YOGA MAT CLEANING SET
\$13.99



OFF-KEY! COMPUTER KEYBOARD CLEANING SET
\$11.99



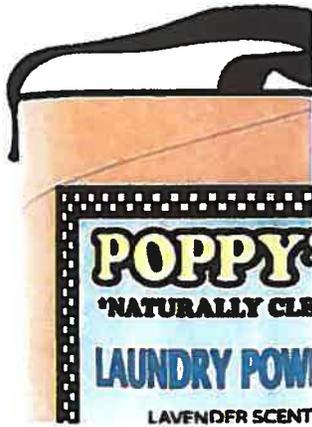


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CONTACT US

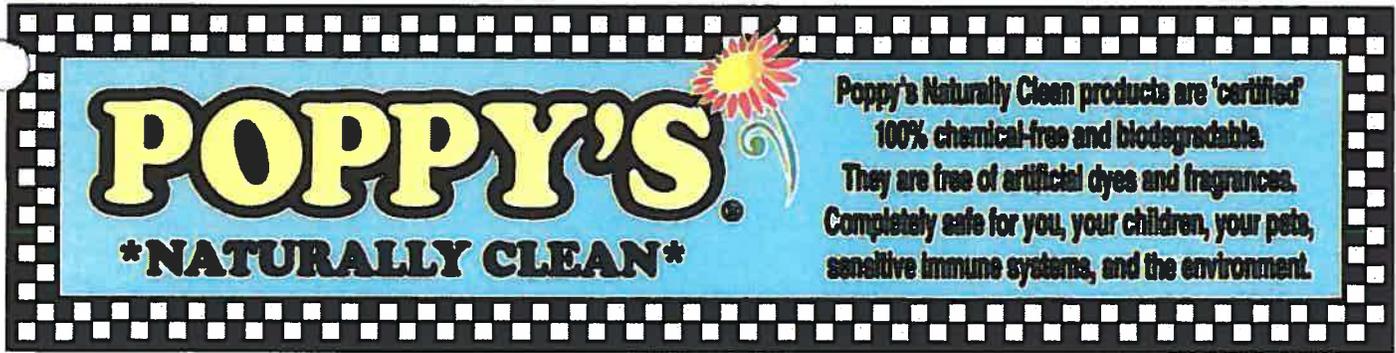


LAUNDRY POWDER
\$14.99



LAVENDER DRYER POUCHES
\$5.99





HOME

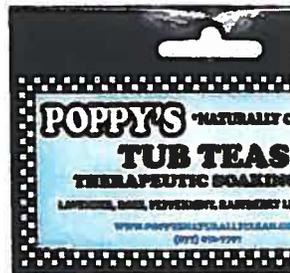
PRODUCTS
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CERTIFICATIONS

WHOLESALE
CONTACT US

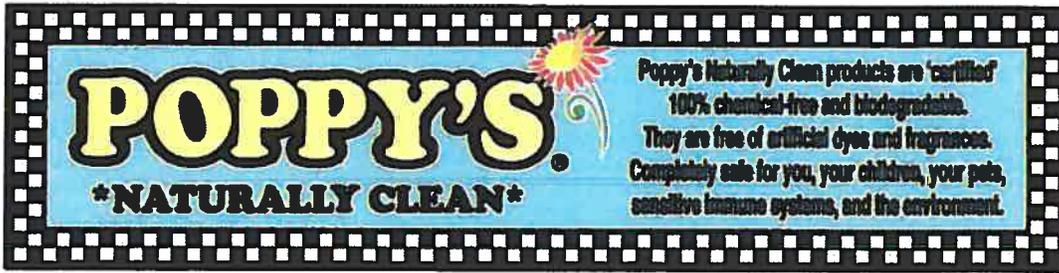


ALOE VERA HAND & BODY
SOAP
\$7.99



TUB TEAS
\$5.99



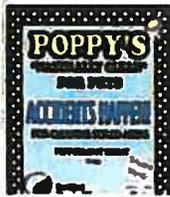


HOME

PRODUCTS ABOUT US

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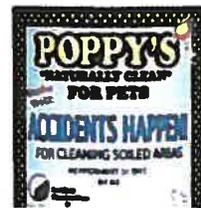
ACCIDENTS HAPPEN! SPRAY CLEANER -

16oz
\$5.99



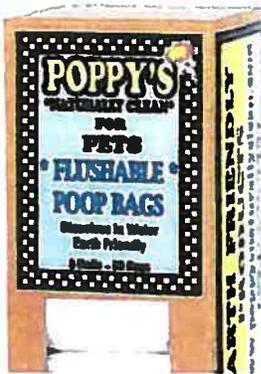
ACCIDENTS HAPPEN! SPRAY CLEANER -

32oz
\$11.99



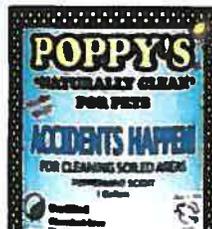
ACCIDENTS HAPPEN! SPRAY CLEANER -

64oz
\$21.99



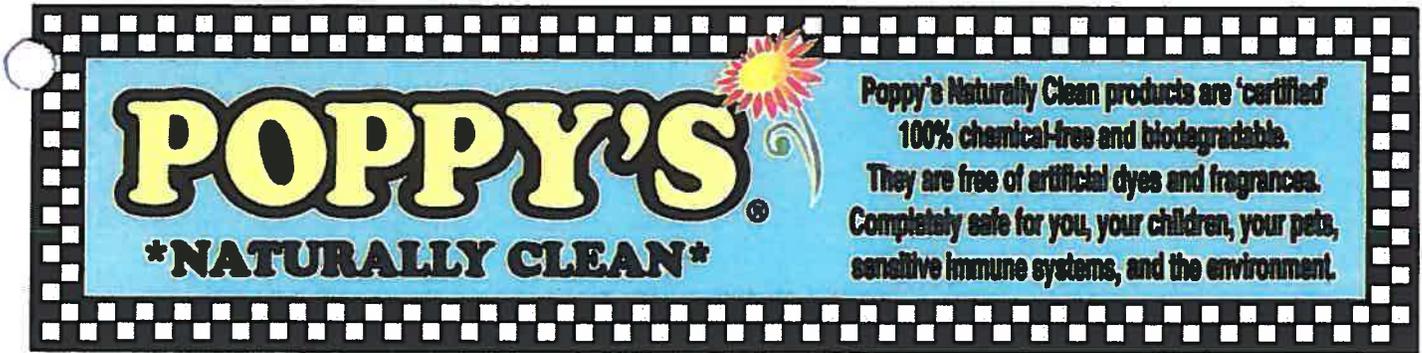
FLUSHABLE DOG POOP BAGS

\$12.99



ACCIDENTS HAPPEN! SPRAY CLEANER - 1

GALLON
\$33.99



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Aloe Vera Liquid Hand & Body
Soap Refill
\$25.00



POPPY'S
NATURALLY CLEAN

Poppy's Naturally Clean products are 'certified' 100% chemical-free and biodegradable. They are free of artificial dyes and fragrances. Completely safe for you, your children, your pets, sensitive immune systems, and the environment.

HOME

**PRODUCTS
ABOUT US**

**WHERE TO BUY
CERTIFICATIONS**

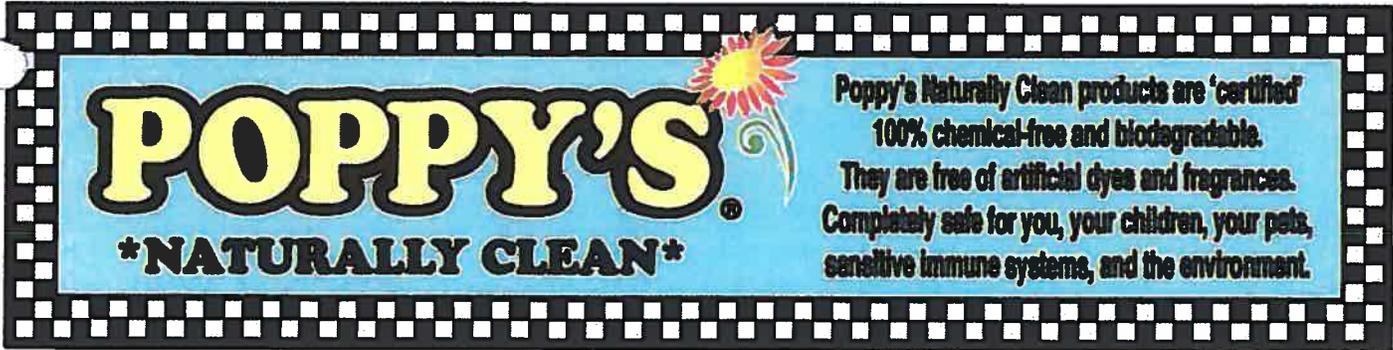
**WHOLESALE
CONTACT US**

OUR MISSION:

All natural, non-toxic, biodegradable, compostable, recycled, organic, eco friendly, and 'green' are all words that are being used more and more every day to describe products that we use on a daily basis. Our mission at Poppy's Naturally Clean, is to provide you with products that fall under these categories. It is important for us to create products that not only work well and are good for the environment, but are also affordable! In our quest to expand this concept for your benefit, we will continue to research and test out new products to add to poppy.naturallyclean.com.



Poppy's Naturally Clean products are non-toxic and biodegradable. They are not harmful to you, your children, your pets, the environment, or the earth. They are free of chemicals, additives, fragrances, and stabilizers. Our bottles can be recycled and we hope that you will join us through with this by recycling them. Now is the time for change. We all need to work together to make the changes that will brighten the future. We have the knowledge, we can make the right choices. Please join our mission to reduce the amount of toxins that are poisoning the world, given the smallest efforts.



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OUR CERTIFICATIONS:

Poppy's Naturally Clean made the decision to seek out a third party verification company to evaluate all the ingredients in our products, because we feel that it is important for us to stand by the claim that all of our products are "certified" non-toxic, chemical-free, biodegradable, and compostable.

Sadly, there are no laws at this time as per label content for cleaning products. Therefore, many companies will put on their labels keywords such as: *Green, Eco-friendly, Natural, Organic, Biodegradable, Compostable, etc.*, yet these products are far from these claims!

Our suggestion is to read the ingredients listed on the labels:

If Sodium Lauryl Sulfate is the 2nd or 3rd ingredient on the list, then there is too high of a percentage of this chemical in it and it can become harmful to those with skin sensitivities (as for example: skin irritation).



**NATURAL
verifiers®**



If you see the words "fragrance" or "parfum" there could be up to 2000 different chemical ingredients. Essential Oils are best to use for scent.

If you notice long words that are hard to pronounce, especially at the end of the ingredient list, these are most likely chemical preservatives.

Just because some of the "bigger" more well-known companies that have been around for decades have been marketed as being "natural" products, DO NOT believe it! Again, read the ingredients.

Avoid any products that are tested on animals. This is cruel and unnecessary.

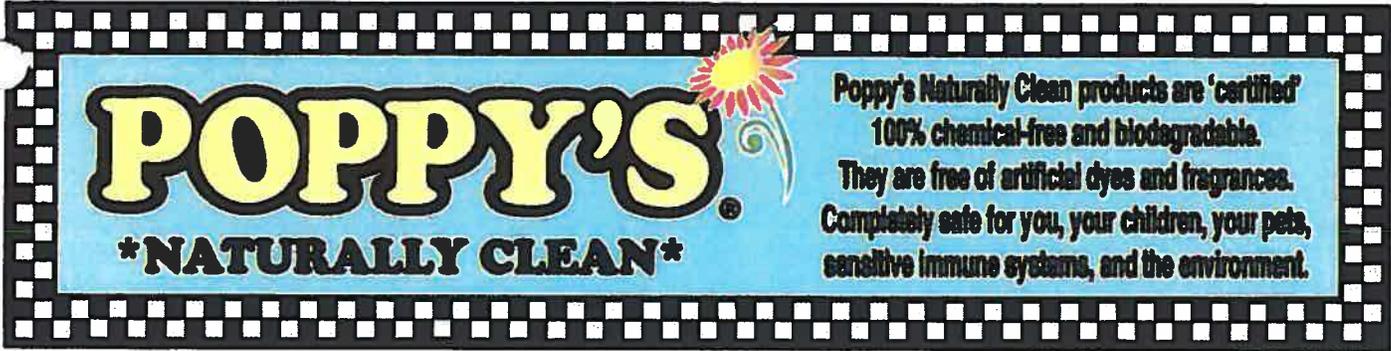
We chose to use the third party certification company Natural Verifiers. More information about this company can be found at:

www.naturalverifiers.com

In addition, our products have been analyzed by the non-profit Leaping Bunny to be cruelty free (no animal testing) and vegan. Animal testing is an unnecessary practice and we are proud to take a stand against it.

www.leapingbunny.org





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CONTACT US:

Please contact us with any questions or comments using the form to the right or via telephone at the number below. We will respond to all inquiries as soon as possible. We can also be reached through our various social media accounts.

Telephone

1877-676-7797



Name

Street Last Name

Home Address

City

State

Subject

Comments

SUBMIT



Exhibit I

ARTICLES OF INCORPORATION

FILED
In the Office of the Secretary of State
of the State of California

SEP 18 2009

I.

THE NAME OF THIS CORPORATION IS: POPPY'S PANTRY

II.

**THE PURPOSE OF THE CORPORATION IS TO ENGAGE IN ANY
LAWFUL ACT OR ACTIVITY FOR WHICH A CORPORATION MAY BE
ORGANIZED UNDER THE GENERAL CORPORATION LAW OF
CALIFORNIA OTHER THAN THE BANKING BUSINESS, THE TRUST
COMPANY BUSINESS OR THE PRACTICE OF A PROFESSION
PERMITTED TO BE INCORPORATED BY THE CALIFORNIA
CORPORATIONS CODE.**

III.

**THE NAME AND ADDRESS IN THE STATE OF CALIFORNIA OF THIS
CORPORATION'S INITIAL AGENT FOR SERVICE OF PROCESS IS:**

**VICTORIA KHEEL
13407 RAND DRIVE
SHERMAN OAKS, CA. 91423**

IV.

**THIS CORPORATION IS AUTHORIZED TO ISSUE ONLY ONE CLASS
OF SHARES OF STOCK; AND THE TOTAL NUMBER OF SHARES
WHICH THIS CORPORATION IS AUTHORIZED TO ISSUE IS 10,000.**

Victoria Kheel

VICTORIA KHEEL, INCORPORATOR



100516



State of California
Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

DEC 05 2009

Debra Bowen

DEBRA BOWEN
Secretary of State

100517

Exhibit J

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86090175

Filing Date: 10/12/2013

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	Poppy's
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Poppy's
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Kheel, Victoria
*STREET	13407 Rand Dr.
*CITY	Sherman Oaks
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	91423
PHONE	310-770-0348
FAX	1-877-676-7797
EMAIL ADDRESS	poppysnaturallyclean@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	www.poppysnaturallyclean.com
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	

*INTERNATIONAL CLASS	003
*IDENTIFICATION	All purpose cleaning preparations; All-purpose cleaners; Bath soaps; Carpet cleaning preparations; Cleaning agents and preparations; Cleaning preparations; Cleaning preparations for household purposes; Dish detergents; General purpose cleaning, polishing, and abrasive liquids and powders; Glass cleaning preparations; Granulated soaps; Hand soaps; Household cleaning preparations; Laundry soap; Leather cleaning preparations; Liquid soaps for hands, face and body; Odor removers for pets; Oven cleaners; Pet stain removers; Powder cleaners for metals, ceramics and carpets; Soap powder; Soaps for household use; Soaps for personal use; Soaps for toilet purposes
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/12/2010
FIRST USE IN COMMERCE DATE	At least as early as 07/12/2010
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\860\901\86090175\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	scanned/digitally photographed tags or labels
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	Kheel, Victoria
*STREET	13407 Rand Dr.
*CITY	Sherman Oaks
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE	91423
PHONE	310-770-0348
FAX	1-877-676-7797
*EMAIL ADDRESS	poppysnaturallyclean@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275

SIGNATURE INFORMATION

* SIGNATURE	/victoria kheel/
* SIGNATORY'S NAME	Victoria Kheel
* SIGNATORY'S POSITION	Owner
SIGNATORY'S PHONE NUMBER	310-770-0348
* DATE SIGNED	10/12/2013

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86090175

Filing Date: 10/12/2013

To the Commissioner for Trademarks:

MARK: Poppy's (Standard Characters, see mark)

The literal element of the mark consists of Poppy's.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Victoria Kheel, a citizen of United States, having an address of
13407 Rand Dr.
Sherman Oaks, California 91423
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 003: All purpose cleaning preparations; All-purpose cleaners; Bath soaps; Carpet cleaning preparations; Cleaning agents and preparations; Cleaning preparations; Cleaning preparations for household purposes; Dish detergents; General purpose cleaning, polishing, and abrasive liquids and powders; Glass cleaning preparations; Granulated soaps; Hand soaps; Household cleaning preparations; Laundry soap; Leather cleaning preparations; Liquid soaps for hands, face and body; Odor removers for pets; Oven cleaners; Pet stain removers; Powder cleaners for metals, ceramics and carpets; Soap powder; Soaps for household use; Soaps for personal use; Soaps for toilet purposes

In International Class 003, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 07/12/2010, and first used in commerce at least as early as 07/12/2010, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) scanned/digitally photographed tags or labels.

[Specimen File 1](#)

For informational purposes only, applicant's website address is: www.poppysnaturallyclean.com

The applicant's current Correspondence Information:

Kheel, Victoria
13407 Rand Dr.
Sherman Oaks, California 91423
310-770-0348(phone)
1-877-676-7797(fax)
poppysnaturallyclean@gmail.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or

association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /victoria kheel/ Date Signed: 10/12/2013
Signatory's Name: Victoria Kheel
Signatory's Position: Owner

RAM Sale Number: 86090175
RAM Accounting Date: 10/15/2013

Serial Number: 86090175
Internet Transmission Date: Sat Oct 12 21:04:50 EDT 2013
TEAS Stamp: USPTO/FTK-XXX.XXX.XXX.XXX-20131012210450
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Poppy's

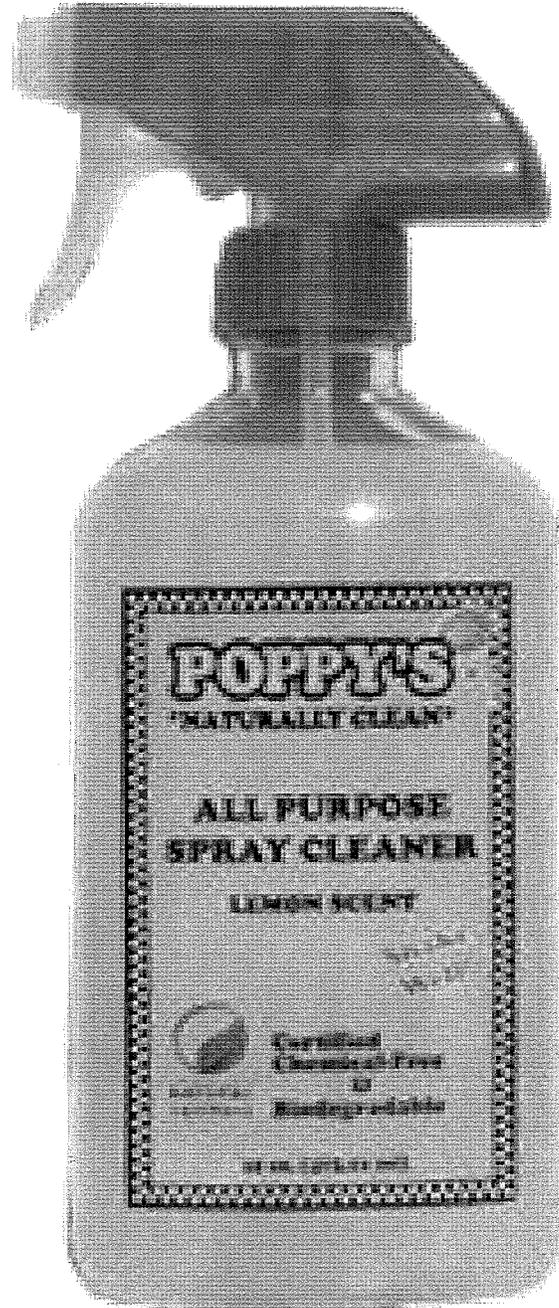


Exhibit K

Granulated soaps; Hand soaps; Household cleaning preparations; Laundry soap; Leather cleaning preparations; Liquid soaps for hands, face and body; Odor removers for pets; Oven cleaners; Pet stain removers; Powder cleaners for metals, ceramics and carpets; Soap powder; Soaps for household use; Soaps for personal use; Soaps for toilet purposes.” Applicant admits that, according to information available to it on <uspto.gov>, the Registration issued on May 27, 2014. Applicant denies that emphases used by Opposer in her description of the goods recited in the Registration are used in the actual recitation of goods the Registration. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 1 of the Opposition, and therefore denies each and every such allegation.

2. Applicant denies the allegations contained in paragraph 2 of the Opposition.

3. Applicant admits that it was aware of the Registration when its licensee began selling soap under the POPI mark. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 3 of the Opposition, and therefore denies each and every such allegation.

4. Applicant admits that it filed the Application on July 24, 2014 in International Class 3 for “Cosmetics; cosmetic preparations for body care; nail polish; nail decals; bath crystals; bath gel; bath oil; bath salts; body lotion; cream soaps; fragrances; moisturizing creams; shaving soap; soaps for personal use.” Applicant denies that the emphases used by Opposer in her description of the goods recited in the Application are used in the actual recitation of goods the Application.

5. Applicant admits that it filed the Application pursuant to 15 U.S.C. § 1051(b) and that its authorized licensee has used the POPI mark on soap in commerce. Applicant denies the remaining allegations contained in paragraph 5 of the Opposition.

6. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 6 contains quotes taken out of context from that office action.

7. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 6 contains a quote taken out of context from that office action. Applicant denies that the emphases used by Opposer in her quotation of the office action are used in the actual office action.

8. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 8 contains a quote taken out of context from that office action. Applicant denies that the emphases used by Opposer in her quotation of the office action are used in the actual office action.

9. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 9 contains a quote taken out of context from that office action.

10. Applicant admits that on December 3, 2014, Dan Hadl, Senior Vice President of Opposer, executed an Optional Declaration in Support of Trademark Application Filed Via Electronic Means in support of the Application, and that said declaration contained a typographic error by stating "Class 9" instead of "Class 3."

11. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 11 contains quotes taken out of context from that office action response.

12. Applicant denies the allegations contained in paragraph 12 of the Opposition.

13. Applicant denies the allegations contained in paragraph 13 of the Opposition.

14. Applicant denies the allegations contained in paragraph 14 of the Opposition.

15. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 15 contains a quote taken out of context from that office action response. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 15 of the Opposition, and therefore denies each and every such allegation.

16. Applicant denies the allegations contained in paragraph 16 of the Opposition.

17. Applicant admits that the domain name <popisoap.com> automatically redirects web browsers to <chivasskincare.com/oitnb>. Applicant admits that Paragraph 17 contains quotes taken out of context from <chivasskincare.com/oitnb>. Applicant is unable to verify the authenticity of Exhibit C because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 17 of the Opposition.

18. Applicant admits that Paragraph 18 contains quotes taken out of context from <chivasskincare.com/faq>. Applicant is unable to verify the authenticity of Exhibit B because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 18 of the Opposition.

19. Applicant admits that Paragraph 19 contains quotes taken out of context from <chivasskincare.com/faq>. Applicant is unable to verify the authenticity of Exhibit B because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 19 of the Opposition.

20. Applicant denies the allegations contained in paragraph 20 of the Opposition.

21. Applicant denies the allegations contained in paragraph 21 of the Opposition.

22. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 22 of the Opposition related to the definition of “distinguishable” in the

Cambridge Dictionary, and therefore denies this allegation. Applicant denies the remaining allegations contained in paragraph 22 of the Opposition.

23. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 23 contains a quote taken out of context from that office action response. Applicant denies that the emphases used by Opposer in her quotation of the office action response are used in the actual office action response.

24. Applicant admits that Paragraph 24 contains a quote taken out of context from <chivasskincare.com/oitnb>. Applicant is unable to verify the authenticity of Exhibit C because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 24 of the Opposition.

25. Applicant denies the allegations contained in paragraph 25 of the Opposition.

26. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, which response included, as an attachment, a printout from Opposer's website. Applicant is unable to admit or deny what documents were included in the contents of the PTO's file for the Application, and, therefore denies this allegation.

Applicant denies the remaining allegations contained in paragraph 26 of the Opposition.

27. Applicant denies the allegations contained in paragraph 27 of the Opposition.

28. Applicant denies the allegations contained in paragraph 28 of the Opposition.

29. Applicant denies the allegations contained in paragraph 29 of the Opposition.

30. Applicant denies the allegations contained in paragraph 30 of the Opposition.

31. Applicant denies the allegations contained in paragraph 31 of the Opposition.

32. Applicant denies the allegations contained in paragraph 32 of the Opposition.

33. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 33 contains a quote taken out of context

from that office action. Applicant denies the remaining allegations contained in paragraph 33 of the Opposition.

34. Applicant denies the allegations contained in paragraph 34 of the Opposition.

35. Applicant denies the allegations contained in paragraph 35 of the Opposition.

36. Opposer has not defined the phrase “POPI Soap website” and, therefore, Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 36 of the Opposition, and therefore denies each and every such allegation.

37. Applicant denies the allegations contained in paragraph 37 of the Opposition.

38. Applicant admits that whether the sound of Applicant’s and Opposer’s marks is the same is a fact that can be proven true or false. Applicant denies the remaining allegations contained in paragraph 38 of the Opposition.

39. Applicant denies the allegations contained in paragraph 39 of the Opposition.

40. Applicant denies the allegations contained in paragraph 40 of the Opposition.

41. Applicant is unable to verify the authenticity of Exhibit D because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 41 of the Opposition.

42. Opposer has not defined the phrase “POPI Soap website” and has not clearly marked Exhibit D as an attachment to the Opposition and, therefore, Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 42 of the Opposition, and therefore denies each and every such allegation.

43. Applicant denies the allegations contained in paragraph 43 of the Opposition.

44. Applicant denies the allegations contained in paragraph 44 of the Opposition.

45. Applicant denies the allegations contained in paragraph 45 of the Opposition.

46. Applicant denies the allegations contained in paragraph 46 of the Opposition.

47. Applicant denies the allegations contained in paragraph 47 of the Opposition.

48. Applicant denies the allegations contained in paragraph 48 of the Opposition.

49. Applicant denies the allegations contained in paragraph 49 of the Opposition.

50. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 50 contains edited quotes taken out of context from that office action response, and that Applicant submitted the office action response in support of its position that the Application should mature to registration. Applicant denies that the emphases used by Opposer in her quotation of the office action response are used in the actual office action response. Applicant denies the remaining allegations contained in paragraph 50 of the Opposition.

51. Applicant denies the allegations contained in paragraph 51 of the Opposition.

52. Applicant denies the allegations contained in paragraph 52 of the Opposition.

53. Applicant denies the allegations contained in paragraph 53 of the Opposition.

54. Applicant denies the allegations contained in paragraph 54 of the Opposition.

55. Applicant denies the allegations contained in paragraph 55 of the Opposition.

56. Applicant denies the allegations contained in paragraph 56 of the Opposition.

57. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 57 contains an edited quote taken out of context from that office action. Applicant denies the remaining allegations contained in paragraph 57 of the Opposition.

58. Opposer did not include an allegation in paragraph 58 of the Opposition.

59. Applicant denies the allegations contained in paragraph 59 of the Opposition.

60. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 60 contains edited quotes taken out of

context from that office action. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015 which was signed by its attorney. Applicant denies any remaining allegations contained in Paragraph 60 of the Opposition.

61. Opposer's allegations in Paragraph 61 constitute legal conclusions and, thus, Applicant is unable to admit or deny them.

62. Certain of Opposer's allegations in Paragraph 62 constitute legal conclusions and, thus, Applicant is unable to admit or deny them. Applicant denies the remaining allegations contained in paragraph 62 of the Opposition.

63. Opposer's allegation in Paragraph 63 constitutes a legal conclusion and, thus, Applicant is unable to admit or deny them.

64. Applicant denies the allegations contained in paragraph 64 of the Opposition.

65. Applicant denies the allegations contained in paragraph 65 of the Opposition.

66. Applicant admits the allegations contained in paragraph 66 of the Opposition.

67. Applicant admits the allegations contained in paragraph 67 of the Opposition.

68. Applicant admits that it filed a motion to dismiss the Opposition on July 16, 2015. Applicant denies the remaining allegations contained in paragraph 68 of the Opposition.

69. Applicant admits that, according to information available to it on <uspto.gov>, the Registration issued on May 27, 2014. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 69, and therefore denies these allegations.

70. Applicant admits that it filed the Application on July 24, 2014, and that this date postdates the issuance of the Registration. Applicant lacks sufficient information or belief to

admit or deny the remaining allegations contained in paragraph 70, and therefore denies these allegations.

71. Applicant denies the allegations contained in paragraph 71 of the Opposition.

72. Applicant admits that its use of the POPI mark is without the consent of Opposer, and that Opposer's consent is not required. Applicant denies the remaining allegations contained in paragraph 72 of the Opposition.

73. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 73, and therefore denies these allegations.

74. Applicant denies the allegations contained in paragraph 74 of the Opposition.

75. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 75, and therefore denies these allegations.

76. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 76, and therefore denies these allegations.

77. Applicant is unable to verify the authenticity of Exhibits E and F because Opposer has not clearly marked them as attachments to the Opposition. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 77, and therefore denies these allegations.

78. Applicant denies the allegations contained in paragraph 78 of the Opposition.

79. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 79, and therefore denies these allegations.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure to State a Claim

Opposer fails to state a claim for fraud on the PTO.

Second Affirmative Defense – Third Party Use

Opposer's rights, if any, to the POPPY'S trademark is weakened by third party use.

COUNTERCLAIM

FACTUAL BACKGROUND REGARDING THE APPLICATION

1. On July 24, 2014, Applicant and counterclaimant, filed its Application Serial No. 86/346,513 in International Class 3 for use with "Cosmetics; cosmetic preparations for body care; nail polish; nail decals; bath crystals; bath gel; bath oil; bath salts; body lotion; cream soaps; fragrances; moisturizing creams; shaving soap; soaps for personal use." Applicant's proposed trademark is shown below:

POPI

2. Application was published for opposition in the Official Gazette on April 1, 2015, and was opposed by Opposer Victoria Kheel.

**FACTUAL BACKGROUND REGARDING THE
REGISTRATION AND NOTICE OF OPPOSITION**

3. Opposer Victoria Kheel, an individual, having an address of 13407 Rand Dr., Sherman Oaks, California 91423, is listed as the owner of the standard character mark POPPY'S, in International Class 35, U.S. Reg. No. 4,537,279 (the "Registration"), filed in the U.S. Patent & Trademark Office ("PTO") on October 12, 2013 (the "POPPY'S Application"), for the following goods: "All purpose cleaning preparations; All-purpose cleaners; Bath soaps; Carpet cleaning preparations; Cleaning agents and preparations; Cleaning preparations; Cleaning preparations for household purposes; Dish detergents; General purpose cleaning, polishing, and abrasive liquids and powders; Glass cleaning preparations; Granulated soaps; Hand soaps; Household cleaning preparations; Laundry soap; Leather cleaning preparations; Liquid soaps for hands, face and

body; Odor removers for pets; Oven cleaners; Pet stain removers; Powder cleaners for metals, ceramics and carpets; Soap powder; Soaps for household use; Soaps for personal use; Soaps for toilet purposes” in International Class 3. The Registration issued on May 27, 2014.

4. On June 20, 2016, Opposer filed a Notice of Opposition opposing the registration of Applicant’s mark POPI trademark based on her alleged rights in the registered POPPY’S mark.

5. On information and belief, Opposer did not own the POPPY’S mark at the time the POPPY’S Application was filed on October 12, 2016.

6. Instead, on information and belief, at the time of filing, the POPPY’S mark was owned by Poppy’s Pantry Inc., a corporation formed in September 2009 by Victoria Kheel and who does business as Poppy’s Naturally Clean and uses the POPPY’S mark.

FIRST GROUND – VOID AB INITIO

7. Opposer incorporates the allegations contained in Paragraphs 1 to 6 herein.

8. On information an belief, Opposer, an individual, did not own and use the mark POPPY’S at the time of the POPPY’S Application. Instead, on information and belief, at the time the POPPY’S Application was filed, Poppy’s Pantry Inc., a corporation, owned and used the POPPY’S mark and continues to own and use the mark.

9. Because Opposer is not the owner of the POPPY’S mark, the POPPY’S Application did not meet the requirements of 15 U.S.C. § 1051(a) and is, thus, *void ab initio*.

* * *

In sum, Applicant prays that the Opposition be dismissed with prejudice, judgment be entered for Applicant, the POPPY'S Application mature to registration, that this Cancellation be sustained in favor of Applicant, and Opposer's pleaded Registration be canceled.

Respectfully submitted,

Dated: October 27, 2016

/s/Paul A. Bost
Jill M. Pietrini
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(310) 228-3700

Attorneys for Applicant
Lions Gate Entertainment Inc.

SMRH:479621363.2

Exhibit L

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

<p><i>In re Matter of Application No. 86/346,513 for the mark: POPI</i></p> <p>Victoria Kheel, Opposer, v. Lions Gate Entertainment Inc., Applicant.</p>	<p>Opposition No. 91-222461</p> <p>APPLICANT LIONS GATE ENTERTAINMENT INC.’S <u>FIRST AMENDED</u> ANSWER TO OPPOSER VICTORIA KHEEL’S FIRST AMENDED NOTICE OF OPPOSITION <u>AND COUNTERCLAIM</u></p>
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Applicant Lions Gate Entertainment Inc. (“Applicant” and “Counterclaimant”), by and through its counsel, responds to the First Amended Notice of Opposition (“Opposition”) filed by Opposer Victoria Kheel (“Opposer” and “Counter-defendant”) as follows:

In response to the preliminary paragraph of the Opposition, Applicant admits that it filed Application Serial No. 86/346,513 (the “Application”) for the trademark POPI, but denies that Opposer will be damaged by the Application or its registration. Applicant lacks sufficient information or belief to admit or deny any remaining allegations contained in the preliminary paragraph of the Opposition, and therefore denies each and every such allegation.

1. Applicant admits that, according to information available to it on <uspto.gov>, Opposer is listed as the owner of the standard character mark POPPY’S, in International Class 35, U.S. Reg. No. 4,537,279 (the “Registration”), filed in the U.S. Patent & Trademark Office (“PTO”) on October 12, 2013, for the following goods: “All purpose cleaning preparations; All-purpose cleaners; Bath soaps; Carpet cleaning preparations; Cleaning agents and preparations; Cleaning preparations; Cleaning preparations for household purposes; Dish detergents; General purpose cleaning, polishing, and abrasive liquids and powders; Glass cleaning preparations;

Granulated soaps; Hand soaps; Household cleaning preparations; Laundry soap; Leather cleaning preparations; Liquid soaps for hands, face and body; Odor removers for pets; Oven cleaners; Pet stain removers; Powder cleaners for metals, ceramics and carpets; Soap powder; Soaps for household use; Soaps for personal use; Soaps for toilet purposes.” Applicant admits that, according to information available to it on <uspto.gov>, the Registration issued on May 27, 2014. Applicant denies that emphases used by Opposer in her description of the goods recited in the Registration are used in the actual recitation of goods the Registration. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 1 of the Opposition, and therefore denies each and every such allegation.

2. Applicant denies the allegations contained in paragraph 2 of the Opposition.

3. Applicant admits that it was aware of the Registration when its licensee began selling soap under the POPI mark. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 3 of the Opposition, and therefore denies each and every such allegation.

4. Applicant admits that it filed the Application on July 24, 2014 in International Class 3 for “Cosmetics; cosmetic preparations for body care; nail polish; nail decals; bath crystals; bath gel; bath oil; bath salts; body lotion; cream soaps; fragrances; moisturizing creams; shaving soap; soaps for personal use.” Applicant denies that the emphases used by Opposer in her description of the goods recited in the Application are used in the actual recitation of goods the Application.

5. Applicant admits that it filed the Application pursuant to 15 U.S.C. § 1051(b) and that its authorized licensee has used the POPI mark on soap in commerce. Applicant denies the remaining allegations contained in paragraph 5 of the Opposition.

6. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 6 contains quotes taken out of context from that office action.

7. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 6 contains a quote taken out of context from that office action. Applicant denies that the emphases used by Opposer in her quotation of the office action are used in the actual office action.

8. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 8 contains a quote taken out of context from that office action. Applicant denies that the emphases used by Opposer in her quotation of the office action are used in the actual office action.

9. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 9 contains a quote taken out of context from that office action.

10. Applicant admits that on December 3, 2014, Dan Hadl, Senior Vice President of Opposer, executed an Optional Declaration in Support of Trademark Application Filed Via Electronic Means in support of the Application, and that said declaration contained a typographic error by stating “Class 9” instead of “Class 3.”

11. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 11 contains quotes taken out of context from that office action response.

12. Applicant denies the allegations contained in paragraph 12 of the Opposition.

13. Applicant denies the allegations contained in paragraph 13 of the Opposition.

14. Applicant denies the allegations contained in paragraph 14 of the Opposition.

15. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 15 contains a quote taken out of context from that office action response. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 15 of the Opposition, and therefore denies each and every such allegation.

16. Applicant denies the allegations contained in paragraph 16 of the Opposition.

17. Applicant admits that the domain name <popisoap.com> automatically redirects web browsers to <chivasskincare.com/oitnb>. Applicant admits that Paragraph 17 contains quotes taken out of context from <chivasskincare.com/oitnb>. Applicant is unable to verify the authenticity of Exhibit C because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 17 of the Opposition.

18. Applicant admits that Paragraph 18 contains quotes taken out of context from <chivasskincare.com/faq>. Applicant is unable to verify the authenticity of Exhibit B because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 18 of the Opposition.

19. Applicant admits that Paragraph 19 contains quotes taken out of context from <chivasskincare.com/faq>. Applicant is unable to verify the authenticity of Exhibit B because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 19 of the Opposition.

20. Applicant denies the allegations contained in paragraph 20 of the Opposition.

21. Applicant denies the allegations contained in paragraph 21 of the Opposition.

22. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 22 of the Opposition related to the definition of “distinguishable” in the

Cambridge Dictionary, and therefore denies this allegation. Applicant denies the remaining allegations contained in paragraph 22 of the Opposition.

23. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 23 contains a quote taken out of context from that office action response. Applicant denies that the emphases used by Opposer in her quotation of the office action response are used in the actual office action response.

24. Applicant admits that Paragraph 24 contains a quote taken out of context from <chivasskincare.com/oitnb>. Applicant is unable to verify the authenticity of Exhibit C because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 24 of the Opposition.

25. Applicant denies the allegations contained in paragraph 25 of the Opposition.

26. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, which response included, as an attachment, a printout from Opposer's website. Applicant is unable to admit or deny what documents were included in the contents of the PTO's file for the Application, and, therefore denies this allegation.

Applicant denies the remaining allegations contained in paragraph 26 of the Opposition.

27. Applicant denies the allegations contained in paragraph 27 of the Opposition.

28. Applicant denies the allegations contained in paragraph 28 of the Opposition.

29. Applicant denies the allegations contained in paragraph 29 of the Opposition.

30. Applicant denies the allegations contained in paragraph 30 of the Opposition.

31. Applicant denies the allegations contained in paragraph 31 of the Opposition.

32. Applicant denies the allegations contained in paragraph 32 of the Opposition.

33. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 33 contains a quote taken out of context

from that office action. Applicant denies the remaining allegations contained in paragraph 33 of the Opposition.

34. Applicant denies the allegations contained in paragraph 34 of the Opposition.

35. Applicant denies the allegations contained in paragraph 35 of the Opposition.

36. Opposer has not defined the phrase “POPI Soap website” and, therefore, Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 36 of the Opposition, and therefore denies each and every such allegation.

37. Applicant denies the allegations contained in paragraph 37 of the Opposition.

38. Applicant admits that whether the sound of Applicant’s and Opposer’s marks is the same is a fact that can be proven true or false. Applicant denies the remaining allegations contained in paragraph 38 of the Opposition.

39. Applicant denies the allegations contained in paragraph 39 of the Opposition.

40. Applicant denies the allegations contained in paragraph 40 of the Opposition.

41. Applicant is unable to verify the authenticity of Exhibit D because Opposer has not clearly marked it as an attachment to the Opposition. Applicant denies the remaining allegations contained in paragraph 41 of the Opposition.

42. Opposer has not defined the phrase “POPI Soap website” and has not clearly marked Exhibit D as an attachment to the Opposition and, therefore, Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 42 of the Opposition, and therefore denies each and every such allegation.

43. Applicant denies the allegations contained in paragraph 43 of the Opposition.

44. Applicant denies the allegations contained in paragraph 44 of the Opposition.

45. Applicant denies the allegations contained in paragraph 45 of the Opposition.

46. Applicant denies the allegations contained in paragraph 46 of the Opposition.

47. Applicant denies the allegations contained in paragraph 47 of the Opposition.

48. Applicant denies the allegations contained in paragraph 48 of the Opposition.

49. Applicant denies the allegations contained in paragraph 49 of the Opposition.

50. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015, and that Paragraph 50 contains edited quotes taken out of context from that office action response, and that Applicant submitted the office action response in support of its position that the Application should mature to registration. Applicant denies that the emphases used by Opposer in her quotation of the office action response are used in the actual office action response. Applicant denies the remaining allegations contained in paragraph 50 of the Opposition.

51. Applicant denies the allegations contained in paragraph 51 of the Opposition.

52. Applicant denies the allegations contained in paragraph 52 of the Opposition.

53. Applicant denies the allegations contained in paragraph 53 of the Opposition.

54. Applicant denies the allegations contained in paragraph 54 of the Opposition.

55. Applicant denies the allegations contained in paragraph 55 of the Opposition.

56. Applicant denies the allegations contained in paragraph 56 of the Opposition.

57. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 57 contains an edited quote taken out of context from that office action. Applicant denies the remaining allegations contained in paragraph 57 of the Opposition.

58. Opposer did not include an allegation in paragraph 58 of the Opposition.

59. Applicant denies the allegations contained in paragraph 59 of the Opposition.

60. Applicant admits that the PTO issued an office action refusing registration of the Application on August 25, 2014, and that Paragraph 60 contains edited quotes taken out of

context from that office action. Applicant admits that it, through its attorney, submitted a response to the August 25, 2014 office action on March 2, 2015 which was signed by its attorney. Applicant denies any remaining allegations contained in Paragraph 60 of the Opposition.

61. Opposer's allegations in Paragraph 61 constitute legal conclusions and, thus, Applicant is unable to admit or deny them.

62. Certain of Opposer's allegations in Paragraph 62 constitute legal conclusions and, thus, Applicant is unable to admit or deny them. Applicant denies the remaining allegations contained in paragraph 62 of the Opposition.

63. Opposer's allegation in Paragraph 63 constitutes a legal conclusion and, thus, Applicant is unable to admit or deny them.

64. Applicant denies the allegations contained in paragraph 64 of the Opposition.

65. Applicant denies the allegations contained in paragraph 65 of the Opposition.

66. Applicant admits the allegations contained in paragraph 66 of the Opposition.

67. Applicant admits the allegations contained in paragraph 67 of the Opposition.

68. Applicant admits that it filed a motion to dismiss the Opposition on July 16, 2015. Applicant denies the remaining allegations contained in paragraph 68 of the Opposition.

69. Applicant admits that, according to information available to it on <uspto.gov>, the Registration issued on May 27, 2014. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 69, and therefore denies these allegations.

70. Applicant admits that it filed the Application on July 24, 2014, and that this date postdates the issuance of the Registration. Applicant lacks sufficient information or belief to

admit or deny the remaining allegations contained in paragraph 70, and therefore denies these allegations.

71. Applicant denies the allegations contained in paragraph 71 of the Opposition.

72. Applicant admits that its use of the POPI mark is without the consent of Opposer, and that Opposer's consent is not required. Applicant denies the remaining allegations contained in paragraph 72 of the Opposition.

73. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 73, and therefore denies these allegations.

74. Applicant denies the allegations contained in paragraph 74 of the Opposition.

75. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 75, and therefore denies these allegations.

76. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 76, and therefore denies these allegations.

77. Applicant is unable to verify the authenticity of Exhibits E and F because Opposer has not clearly marked them as attachments to the Opposition. Applicant lacks sufficient information or belief to admit or deny the remaining allegations contained in paragraph 77, and therefore denies these allegations.

78. Applicant denies the allegations contained in paragraph 78 of the Opposition.

79. Applicant lacks sufficient information or belief to admit or deny the allegations contained in paragraph 79, and therefore denies these allegations.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Failure to State a Claim

Opposer fails to state a claim for fraud on the PTO.

Second Affirmative Defense – Third Party Use

Opposer's rights, if any, to the POPPY'S trademark is weakened by third party use.

COUNTERCLAIM

FACTUAL BACKGROUND REGARDING THE APPLICATION

1. On July 24, 2014, Applicant and counterclaimant, filed its Application Serial No. 86/346,513 in International Class 3 for use with “Cosmetics; cosmetic preparations for body care; nail polish; nail decals; bath crystals; bath gel; bath oil; bath salts; body lotion; cream soaps; fragrances; moisturizing creams; shaving soap; soaps for personal use.” Applicant's proposed trademark is shown below:

POPI

2. Application was published for opposition in the Official Gazette on April 1, 2015, and was opposed by Opposer Victoria Kheel.

FACTUAL BACKGROUND REGARDING THE REGISTRATION AND NOTICE OF OPPOSITION

3. Opposer Victoria Kheel, an individual, having an address of 13407 Rand Dr., Sherman Oaks, California 91423, is listed as the owner of the standard character mark POPPY'S, in International Class 35, U.S. Reg. No. 4,537,279 (the “Registration”), filed in the U.S. Patent & Trademark Office (“PTO”) on October 12, 2013 (the “POPPY'S Application”), for the following goods: “All purpose cleaning preparations; All-purpose cleaners; Bath soaps; Carpet cleaning preparations; Cleaning agents and preparations; Cleaning preparations; Cleaning preparations for household purposes; Dish detergents; General purpose cleaning, polishing, and abrasive liquids and powders; Glass cleaning preparations; Granulated soaps; Hand soaps; Household cleaning preparations; Laundry soap; Leather cleaning preparations; Liquid soaps for hands, face and

body; Odor removers for pets; Oven cleaners; Pet stain removers; Powder cleaners for metals, ceramics and carpets; Soap powder; Soaps for household use; Soaps for personal use; Soaps for toilet purposes” in International Class 3. The Registration issued on May 27, 2014.

4. On June 20, 2016, Opposer filed a Notice of Opposition opposing the registration of Applicant’s mark POPI trademark based on her alleged rights in the registered POPPY’S mark.

5. On information and belief, Opposer did not own the POPPY’s mark at the time the POPPY’s Application was filed on October 12, 2016.

6. Instead, on information and belief, at the time of filing, the POPPY’S mark was owned by Poppy’s Pantry Inc., a corporation formed in September 2009 by Victoria Kheel and who does business as Poppy’s Naturally Clean and uses the POPPY’S mark.

FIRST GROUND – VOID AB INITIO

7. Opposer incorporates the allegations contained in Paragraphs 1 to 6 herein.

8. On information an belief, Opposer, an individual, did not own and use the mark POPPY’S at the time of the POPPY’S Application. Instead, on information and belief, at the time the POPPY’S Application was filed, Poppy’s Pantry Inc., a corporation, owned and used the POPPY’S mark and continues to own and use the mark.

9. Because Opposer is not the owner of the POPPY’S mark, the POPPY’S Application did not meet the requirements of 15 U.S.C. § 1051(a) and is, thus, void ab initio.

* * *

In sum, Applicant prays that the Opposition be dismissed with prejudice, judgment be entered for Applicant, ~~and~~ the POPPY’S Application mature to registration, that this

Cancellation be sustained in favor of Applicant, and Opposer's pleaded #Registration be canceled.

Respectfully submitted,

Dated: ~~February 3~~October 27, 2016

/s/Paul A. Bost
Jill M. Pietrini
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SHEPPARD MULLIN RICHTER & HAMPTON LLP
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Attorneys for Applicant
Lions Gate Entertainment Inc.

CERTIFICATE OF ELECTRONIC TRANSMISSION

~~I hereby certify that this correspondence is being transmitted electronically to Commissioner of Trademarks, Attn: Trademark Trial and Appeal Board through ESTTA pursuant to 37 C.F.R.~~

~~§2.195(a), on this 3rd day of February, 2016.~~

~~/s/ Paul A. Bost~~

~~Paul A. Bost~~

CERTIFICATE OF SERVICE

~~I hereby certify that this correspondence is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to:~~

~~Hana Makovoz, Esq.~~

~~MAKOVOZ LAW GROUP~~

~~9350 Wilshire Blvd., Suite 203~~

~~Beverly Hills, CA 90212~~

~~on this 3rd day of February, 2016.~~

~~/s/ Lynne Thompson~~

~~Lynne Thompson~~