

ESTTA Tracking number: **ESTTA701419**

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

Proceeding	91223751
Party	Defendant Guadalupe Gonzales
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Date	10/09/2015
Attachments	Applicant's Answer _ Chachi Gonazles Brands v. Guadalupe Gonzales _ 91223751.pdf(28158 bytes )



5. Applicant denies the truth of the allegations set forth in Paragraph 5 of the Notice of Opposition.
6. Applicant denies the truth of the allegations set forth in Paragraph 6 of the Notice of Opposition. Applicant filed only one federal trademark application for CHACHI on December 25, 2014, namely, Ser. No. 86/490,548.
7. Applicant admits the truth of the allegations set forth in Paragraph 7 of the Notice of Opposition, but denies Opposer has any rights to the marks at issue as used in connection with Applicant's goods and/or services.
8. Applicant denies the truth of the allegations set forth in Paragraph 8 of the Notice of Opposition.
9. Applicant denies the truth of the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant denies the truth of the allegations set forth in Paragraph 10 of the Notice of Opposition.
11. Applicant denies the truth of the allegations set forth in Paragraph 11 of the Notice of Opposition.
12. Applicant denies the truth of the allegations set forth in Paragraph 12 of the Notice of Opposition.
13. Applicant denies the truth of the allegations set forth in Paragraph 13 of the Notice of Opposition.
14. Applicant denies the truth of the allegations set forth in Paragraph 14 of the Notice of Opposition.

15. Applicant denies the truth of the allegations set forth in Paragraph 15 of the Notice of Opposition.
16. Applicant denies the truth of the allegations set forth in Paragraph 16 of the Notice of Opposition.
17. Applicant denies the truth of the allegations set forth in Paragraph 17 of the Notice of Opposition.
18. Applicant denies the truth of the allegations set forth in Paragraph 18 of the Notice of Opposition.
19. Applicant denies the truth of the allegations set forth in Paragraph 19 of the Notice of Opposition.
20. Applicant denies the truth of the allegations set forth in Paragraph 20 of the Notice of Opposition.
21. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 21 of the Notice of Opposition, and therefore denies all such allegations.
22. Applicant denies the truth of the allegations set forth in Paragraph 22 of the Notice of Opposition.
23. Applicant denies the truth of the allegations set forth in Paragraph 23 of the Notice of Opposition.
24. Applicant admits the truth of the allegations set forth in Paragraph 24 of the Notice of Opposition.
25. Applicant denies the truth of the allegations set forth in Paragraph 25 of the Notice of Opposition.

26. Applicant denies the truth of the allegations set forth in Paragraph 26 of the Notice of Opposition.
27. Applicant denies the truth of the allegations set forth in Paragraph 27 of the Notice of Opposition.
28. Applicant denies the truth of the allegations set forth in Paragraph 28 of the Notice of Opposition.
29. Applicant denies the truth of the allegations set forth in Paragraph 29 of the Notice of Opposition.
30. Applicant denies the truth of the allegations set forth in Paragraph 30 of the Notice of Opposition. Specifically, U.S. Trademark Application Serial Nos. 86590519 and 86590576 are not owned by the Applicant.
31. Applicant denies the truth of the allegations set forth in Paragraph 31 of the Notice of Opposition.
32. Applicant denies the truth of the allegations set forth in Paragraph 32 of the Notice of Opposition.
33. Applicant denies the truth of the allegations set forth in Paragraph 33 of the Notice of Opposition.
34. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 34 of the Notice of Opposition, and therefore denies all such allegations.
35. Applicant denies the truth of the allegations set forth in Paragraph 35 of the Notice of Opposition.
36. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 36 of the Notice of Opposition, and therefore denies all such allegations.

37. Applicant denies the truth of the allegations set forth in Paragraph 37 of the Notice of Opposition.
38. Applicant denies the truth of the allegations set forth in Paragraph 38 of the Notice of Opposition.
39. Applicant denies the truth of the allegations set forth in Paragraph 39 of the Notice of Opposition.
40. Applicant denies the truth of the allegations set forth in Paragraph 40 of the Notice of Opposition.
41. Applicant denies the truth of the allegations set forth in Paragraph 41 of the Notice of Opposition.
42. Applicant denies the truth of the allegations set forth in Paragraph 42 of the Notice of Opposition.
43. Applicant denies the truth of the allegations set forth in Paragraph 43 of the Notice of Opposition.
44. Applicant denies the truth of the allegations set forth in Paragraph 44 of the Notice of Opposition.
45. Applicant denies the truth of the allegations set forth in Paragraph 45 of the Notice of Opposition.
46. Applicant denies the truth of the allegations set forth in Paragraph 46 of the Notice of Opposition.
47. Applicant denies the truth of the allegations set forth in Paragraph 47 of the Notice of Opposition.

48. Applicant denies the truth of the allegations set forth in Paragraph 48 of the Notice of Opposition.

49. Applicant denies the truth of the allegations set forth in Paragraph 49 of the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

50. As a first and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the doctrine of unclean hands. Opposer has unclean hands because the Opposer filed the Notice of Opposition for the purpose of harassment and extortion, after having failed at previous attempts to wrongfully disgorge Applicant of its profits and stop Applicant from using the mark(s) at issue in connection with the sale of Applicant's goods. Opposer also has unclean hands due to Opposer's attempts to personally profit off of the promotion and sale of Applicant's goods bearing the mark(s) at issue, via public endorsement of Applicant's licensed goods.

51. As a second and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the doctrine of equitable estoppel, as Applicant created and was the first to use the mark(s) at issue. Only following Opposer's estrangement with Applicant, due to a personal issue, did Opposer object to Applicant's long-time and continuous use of the mark(s) at issue. Prior to the family estrangement, Opposer had consistently ratified and approved of Applicant's use of the marks at issue.

52. As a third and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the doctrine of waiver and/or acquiescence. Specifically, through Opposer's own actions and interactions with Applicant, approving of Applicant's continuous use of the mark(s) at issue, including, but not limited to, Opposer's own admissions on various social media outlets and Opposer's endorsement of Applicant's goods, Opposer's claims are barred by the doctrine of waiver and/or acquiescence.
53. As a fourth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the doctrine of consent. Specifically, Opposer's own admissions, actions, and interactions with Applicant and Applicant's business partners and/or licensees, clearly demonstrates Opposer's consent for Applicant's use of the mark(s) at issue.
54. As a fifth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the doctrine of collateral estoppel.
55. As a sixth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the doctrine of laches.
56. As a seventh and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the fact that Applicant is the senior user of the mark(s), which are the subject matter of this Notice of Opposition, and has priority.

57. As an eighth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery, in whole or in part, due to the fact that Olivia Gonzales, Opposer, and the alleged designation, CHACHI, are not famous.

58. As a ninth and separate affirmative defense, Applicant is informed and believes, and on this basis asserts that Opposer's claims are barred from recovery due to Opposer's failure to state a claim upon which relief may be granted. Specifically, Opposer, in its Notice of Opposition, fails to state any claim upon which relief may be granted with respect to Applicant's applications, Ser. Nos. 86/490,858, 86/490,548 and 86/490,857, which were all cited in the Notice of Opposition cover sheet.

WHEREFORE, Applicant prays that this Notice of Opposition be dismissed.

Dated as of: October 9, 2015

By:           /Michael W. Schroeder/            
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Attorneys for Applicant,  
Guadalupe Gonzales dba Chachimomma

**PROOF OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** has been served on Victor K. Sapphire, counsel for Petitioner, on October 9, 2015, via First Class U.S. Mail, postage prepaid to:

VICTOR K. SAPHIRE, ESQ.  
MICHELMAN & ROBINSON LLP  
10880 WILSHIRE BLVD., 19TH FLOOR  
LOS ANGELES, CA 90024

By: /Michael W. Schroeder/  
Michael W. Schroeder