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

Proceeding	92060387
Party	Defendant Fabian Claudio Olemberg
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Date	12/17/2014
Attachments	28438542_1_Answer to Petition for Cancellation No 92060387.pdf(166571 bytes )

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

PRL USA HOLDINGS, INC.,

Petitioner,

v.

FABIAN CLAUDIO OLEMBERG,

Registrant.

Cancellation No. : 92060387

Registration No. : 4,589,994

Trademark :



**ANSWER TO PETITION OF CANCELLATION**

Fabian Claudio Olemborg (“Registrant”), by and through its undersigned counsel, hereby answers the Petition for Cancellation (“Petition”), filed November 17, 2014 by PRL USA Holdings, Inc. (“Petitioner”), as follows:

1. Registrant admits that Ralph Lauren is a clothing designer. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 1.
2. Registrant admits that Petitioner currently markets clothing and accessories bearing the POLO word mark and the “Polo Player” design mark. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 2.
3. Registrant admits, to the extent that the records of the PTO substantiate, that Petitioner owns the marks contained in Exhibit A. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 3.

4. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 4.

5. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 5.

6. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 6.

7. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 7.

8. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 8.

9. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 9.

10. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 10.

11. Registrant admits the allegations of paragraph 11.

12. Registrant admits that Petitioner began using the POLO marks prior to Registrant's use of the Registered Mark. Registrant denies the remaining allegations of paragraph 12.

13. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 14.

14. Registrant lacks sufficient information about and consequently denies the remaining allegations of paragraph 14.

15. Registrant denies the allegations of paragraph 15.

16. Registrant denies the allegations of paragraph 16.

17. Registrant denies the allegations of paragraph 17.

18. Registrant denies the allegations of paragraph 18

19. Registrant admits that he sells goods identified in the '994 registration. Registrant denies the remaining allegations of paragraph 19.

20. Registrant denies the allegations of paragraph 20

### **AFFIRMATIVE DEFENSES**

Registrant submits the following affirmative defenses:

1. Petitioner fails to state a cause of action upon which relief can be granted.

2. Petitioner's claim is barred, in whole or in part, by the doctrine of laches, estoppel, and acquiescence.

3. Petitioner's alleged mark is weak and entitled to limited protection because multiple unaffiliated third-parties use and have registered trademarks featuring the term POLO and an image of a polo player. Examples of such trademarks, with print-outs from the Coresearch database, are attached hereto as Exhibit A.

4. There is no likelihood of confusion, mistake, or deception because, among other factors, Registrant's mark and Petitioner's alleged mark are not confusingly similar and the respective goods are not similar.

5. Petitioner has failed to adequately maintain, police, or enforce any trademark or proprietary rights it may have in its alleged trademark.

6. Registrant hereby reserves its right to assert any and all other defenses as appropriate as they present themselves through the course of this proceeding.

WHEREFORE, Registrant respectfully prays that this Board dismiss this Petition and grant such other relief as the Board deems just and proper.

Respectfully submitted,

FABIAN CLAUDIO OLEMBERG

Dated: December 17, 2014

By: /Perla M. Kuhn/

Perla M. Kuhn  
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100 Park Avenue  
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New York, NY 10017  
Tel: 212.878.7900

Attorneys for Registrant

Attorney Ref.: 135909.04006

CERTIFICATE OF SERVICE

I hereby certify that I am over the age of 18 years, not a party to this action, and that on the 17<sup>th</sup> day of December, 2014, I caused to be served a true and correct copy of the foregoing Answer to Petition of Cancellation by first class mail and electronic mail to the following attorney for Petitioner:

ANDREA L. CALVARUSO  
AMY GAVEN  
KELLEY DRYE & WARREN LLP  
101 PARK AVENUE  
NEW YORK, NY 10178

I further certify under penalty of perjury that the foregoing is true and correct.

Dated: December 17, 2014  
New York, New York

By: *Varant Ekmekjian/*  
Varant Ekmekjian

# **Exhibit A**

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
US Federal Q1 uf 2	BEVERLY HILLS POLO CLUB and Design   SN:74-209022 RN:1,751,058  Disclaimer: "BEVERLY HILLS"	Renewed February 9, 2013	(Int'l Class: 9) Ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses (Int'l Class: 14) Watches (Int'l Class: 18) Wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses (Int'l Class: 24) Beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers (Int'l Class: 25) Clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats...	Bhpc Associates LLC (Delaware Limited Liability Company) 1370 Broadway New York, New York 10018
US Federal Q1 uf 3	BEVERLY HILLS POLO CLUB and Design 	Renewed December 29, 2008	(Int'l Class: 25) Footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes	Bhpc Associates LLC (Delaware Limited Liability Company) 1370 Broadway New York, New York 10018

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	SN:74-558586 RN:2,214,846  Disclaimer: "BEVERLY HILLS"			
US Federal Q1 uf 4	KEY WEST POLLO and Design    SN:77-153272 RN:3,505,982	Registered September 23, 2008	(Int'l Class: 18) Purses and bags, namely, tote bags, handbags, athletic bags, beach bags, carry-all bags, and book bags (Int'l Class: 25) Clothing, namely, shorts, shirts, dresses, hats, pants, belts, ties, scarves, jackets, fleece sweatshirts, sweatshirts, shoes, boots, sandals	Weaver, Marcia G. (United States Citizen) 19 Fife Road Wellesley, Massachusetts 02481
US Federal Q1 uf 5	MEADOW BROOK and Design  	Renewed November 24, 2004	(Int'l Class: 25) Ladies' coats and suits	R. Josephs Licensing Inc. (California Corp.) 21250 Califa Street Suite 106 Woodland Hills,

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	SN:71-079546 RN:101,340			California 91367
US Federal Q1 uf 6	NAPL NORTH AMERICAN POLO LEAGUE and Design  SN:77-136991 RN:3,481,504 Disclaimer: "NORTH AMERICAN"	Registered August 5, 2008	(Int'l Class: 25) Belts; golf shirts; pajamas; shirts; t-shirts; jackets; pants; footwear; shorts; socks; sweat pants; sweat shirts; sweat shorts; sweaters; ties; scarves; vests; suspenders; gloves; headgear, namely, caps; hats; headbands	North American Polo League, LLC (Delaware Limited Liability Company) 109 North Post Oak Lane Houston, Texas 77024
US Federal Q1 uf 7	NIC NATIONAL INTERCOLLEGIATE CHAMPIONSHIP UNITED STATES POLO ASSOCIATION and Design	Registered November 8, 2011	(Int'l Class: 25) Clothing, namely, polo shirts and t-shirts	United States Polo Association (Illinois Corp.) Suite 430 771 Corporate Drive Lexington,

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	 <p>SN:77-745283 RN:4,053,447</p> <p>Disclaimer: "UNITED STATES, ASSOCIATION AND NATIONAL"</p>			Kentucky 40503
US Federal Q1 uf 10	<p>POLOGEAR and Design</p>  <p>SN:85-458112 RN:4,493,254</p>	Registered Principal Register - Sec. 2(F) March 11, 2014	(Int'l Class: 18) Saddles, horse tack, namely, bridles, reins, leads, bits, stirrup leathers, girth straps, lunge lines, halters, bags for sports, spats and... (Int'l Class: 25) Clothing for wear in equestrian activities, namely, athletic uniforms, pants, shorts, shirts, underwear, socks, boots, shoes, belts, suspenders, gloves, hats,...	Polo Gear Intellectual Properties, Inc. (Wyoming Corp.) 544 Pass Creek Rd Parkman, Wyoming 82838
US Federal Q1	POLUSO : 1180 and Design	Registered	(Int'l Class: 25) Luxury clothing and ready-to-wear clothing for women and girls,	Anthony L. Hinton Rn, Bsn,

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
uf 11	 <p>SN:85-684782 RN:4,515,419</p> <p>Disclaimer: "1180"</p>	April 15, 2014	namely, shirts, swimwear, jackets, socks, sweaters, blouses, dresses, and pants, and outerwear in the nature of coats, raincoats, rain hats, and ski pants; footwear; none of the aforementioned goods intended for...	Aka Mcbean-Hinton LLP (United States Citizen) 1180 Raymond Blvd - #6 Newark, New Jersey 07102
US Federal Q1 uf 12	<p>PROFESSIONAL POLO ASSOCIATION PPA TOUR and Design</p>  <p>SN:77-647275 RN:4,194,907</p> <p>Disclaimer: "PROFESSIONAL POLO</p>	Registered August 21, 2012	(Int'l Class: 25) Clothing for use in connection with or promotion of the equestrian sport of polo, namely, caps, jerseys, t-shirts, sweat shirts, jackets, and polo pants	Moertl, Michael G. (United States Citizen) 14248 Dickens Street #207 Sherman Oaks, California 91423

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	ASSOCIATION"			
US Federal Q1 of 16	<p>SANTA BARBARA POLO &amp; RACQUET CLUB and Design</p>  <p>SN:74-273515 RN:1,743,296</p> <p>Disclaimer: "SANTA BARBARA"</p>	Renewed December 29, 2012	(Int'l Class: 25) Clothing; namely, shirts, sweatshirts, hats, neckties, and shoes	Santa Barbara Polo Club (California Corp.) 301 North Lake Avenue No.900 Pasadena, California 91101
US Federal Q1 of 20	<p>ST. MORITZ POLO WORLD CUP ON SNOW and Design</p> 	Published December 17, 2013	<p>(Int'l Class: 18) Leather and imitations of leather; trunks and travelling bags; umbrellas; saddle pads; all for the practice of the sport of...</p> <p>(Int'l Class: 25) Clothing, namely, shirts, pants and polo uniforms; headgear, namely, hats and caps; polo shirts, t-shirts, tops, bottoms, rainwear, raincoats, coats,...</p>	St. Moritz Polo Ag (Switzerland Aktiengesellschaft) Plazza Dal Mulin 6 7500 St. Moritz

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	SN:85-619907  Disclaimer: "ST. MORITZ POLO WORLD CUP ON SNOW"			Switzerland
US Federal Q1 uf 21	TEAM USPA and Design    SN:85-172493	Allowed - Intent to Use 5th Extension of Time Granted February 8, 2014	(Int'l Class: 25) Clothing, namely, tops, bottoms, jackets, blazers, headwear, and shirts	United States Polo Association, Inc. (Illinois Corp.) 771 Corporate Drive, Suite 430 Lexington, Kentucky 40503
US Federal Q1 uf 22	TEAM USPA and Design  	Registered October 8, 2013	(Int'l Class: 25) Clothing, namely, tops, bottoms, jackets, blazers, headwear, and shirts  (Int'l Class: 41) Entertainment services, namely, organizing and conducting polo tournaments	United States Polo Association, Inc. (Illinois Corp.) 771 Corporate Drive, Suite 430 Lexington,

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	SN:85-323982 RN:4,415,233  Disclaimer: "TEAM"			Kentucky 40503
US Federal Q1 uf 23	USPA and Design    SN:77-584144 RN:3,729,640	Registered December 22, 2009	(Int'l Class: 18) Backpacks, book bags, sports bags, bum bags, wallets and handbags; briefcases; business card cases; coin purses; handbags; luggage; umbrellas (Int'l Class: 25) Clothing for men, women and children, namely, suits, coats, jackets, ties, shirts, pants, leatherwear, namely, jackets and coats, jeans, t-shirts,...	United States Polo Association, Inc. (Illinois Non-Profit Corporation) 771 Corporate Drive, Suite 430 Lexington, Kentucky 40503
US Federal Q1 uf 24	USPA and Design    USPA	Registered 8 & 15 December 27, 2013	(Int'l Class: 25) Clothing for ladies and children, namely, polo shirts, t-shirts, outerwear, namely, coats, and jackets, socks, sweaters, blouses and shirts; footwear	United States Polo Association, Inc. (Illinois Non-Profit Corporation) Suite 430 771

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	SN:78-979348 RN:3,370,932			Corporate Drive Lexington, Kentucky 40503
US Federal Q1 uf 25	WELLINGTON POLO CLUB and Design  Wellington Polo Club  SN:86-030936  Disclaimer: "POLO CLUB"	Pending - Publication Review Complete August 12, 2014	(Int'l Class: 25) Belts; blazers; cardigans; coats; dresses; gloves; headgear, namely, hats and caps; jackets; neckties; pants; polo shirts; raincoats; scarfs; shirts; short-sleeved shirts; socks; stockings; sweaters; swimwear; t- shirts; turtle neck shirts; underwear; v-neck sweaters; vests; waistcoats	Adler, Mauricio David (Argentina Citizen) Loyola 599, Esq. Acevedo 1414 Buenos Aires Argentina
US Federal Q1 uf 26		Registered July 21, 2009	(Int'l Class: 24) Children's blankets; pillow cases; place mats not of paper; textile napkins; towels (Int'l Class: 25) Clothing, namely, shirts, jackets, sweaters, sweat shirts and snow suits; hats; infant and toddler one piece clothing;	First Atlanta Equity, LLC (Georgia Limited Liability Company) 4680 Polo Lane

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
	SN:77-598792 RN:3,657,070		bibs not of...	S.E. Atlanta, Georgia 30339
US Federal Q1 uf 28	  SN:77-962017	Published - Opposed December 2, 2010	(Int'l Class: 25) Belts; bottoms; coats; footwear; headwear; jackets; shorts; sweat pants; swimwear; ties; tops; wearable garments and clothing, namely, shirts	United States Polo Association, Inc. (Illinois Corp.) 771 Corporate Drive Suite 430 Lexington, Kentucky 40503
US Federal Q1 uf 29	  SN:77-962020	Published - Opposed December 2, 2010	(Int'l Class: 25) Belts; bottoms; coats; footwear; headwear; jackets; shorts; sweat pants; swimwear; ties; tops; wearable garments and clothing, namely, shirts	United States Polo Association, Inc. (Illinois Corp.) 771 Corporate Drive Suite 430 Lexington, Kentucky 40503

TM Record	TM/SN/RN/Disclaimer	Status/Status Date	Brief Goods/Services	Owner
US Federal Q1 uf 31	  SN:78-217632 RN:3,395,661	Registered 8 & 15 March 4, 2014	(Int'l Class: 3) Saddle soaps, perfumes and colognes (Int'l Class: 18) Bags, namely, handbags, all-purpose sport bags, carry-on bags, duffel bags, and travel bags (Int'l Class: 25) Clothing, namely, shirts, sweatshirts, jackets, vests, pants, shorts, sweaters, caps, and polo uniforms	Capinel S.A. (Uruguay Corp.) Buenos Aires No. 484 Piso 2, Escritorio 10 Montevideo Uruguay
US Federal Q1 uf 34	  SN:74-201912 RN:1,748,598	Renewed January 26, 2013	(Int'l Class: 25) Shirts, sweatshirts, jeans, shoes, boots and belts	Capinel S.A. (Uruguay Corp.) Buenos Aires No. 484 Piso 2, Escritorio 10 Montevideo Uruguay
US Federal Q1 uf 35		Registered March 31, 2009	(Int'l Class: 14) Jewelry of precious metal, namely, watches; costume jewelry, namely, watches (Int'l Class: 18) Tote bags; backpacks; briefcases; luggage; calling card and key cases; handbags; and umbrellas	United States Polo Association (Illinois Corp.) 771 Corporate Drive, Suite 430

<b>TM Record</b>	<b>TM/SN/RN/Disclaimer</b>	<b>Status/Status Date</b>	<b>Brief Goods/Services</b>	<b>Owner</b>
	SN:75-646825 RN:3,598,829		(Int'l Class: 25) Clothing, namely, tops; bottoms; coats; jackets; jeans; slacks; shorts; sweaters; shirts; ties; belts; head wear; foot wear; swim wear; and...	Lexington, Kentucky 40503