

ESTTA Tracking number: **ESTTA1051636**

Filing date: **04/27/2020**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Sony Pictures Television Inc.
Granted to Date of previous extension	05/06/2020
Address	10202 WEST WASHINGTON BLVD. CULVER CITY, CA 90232 UNITED STATES

Attorney information	RICHARD S. MANDEL/LYNN S. FRUCHTER COWAN, LIEBOWITZ & LATMAN, P.C. 114 WEST 47TH STREET NEW YORK, NY 10036 UNITED STATES trademark@cll.com, jyc@cll.com, rsm@cll.com, lsf@cll.com 2127909200
----------------------	--

Applicant Information

Application No	88336253	Publication date	01/07/2020
Opposition Filing Date	04/27/2020	Opposition Period Ends	05/06/2020
Applicant	El Pollo Regio IP, LLC 1185 108th Street Grand Prairie, TX 75050 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Shirts; Graphic T-shirts; Short-sleevedshirts; T-shirts
Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Restaurant services; Restaurant services, including sit-down service of food and take-out restaurant services

Grounds for Opposition

Dilution by blurring	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)

Other	Common law priority and likelihood of confusion
-------	---

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	variety of licensed merchandise, including t-shirts; restaurant services and restaurant delivery services		

Attachments	Los Pollos Hermanos .jpg Notice of Opposition_Pollo Regio.pdf(127517 bytes)
-------------	---

Signature	/Jeffrey Chery/
Name	Jeffrey Chery
Date	04/27/2020

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

In re Application Serial No. 88/336,253
Filed: March 12, 2019
For Mark: POLLO REGIO Design
Published in the *Official Gazette* of January 7, 2020
-----X

SONY PICTURES TELEVISION INC., :
 :
 : Opposer, : Opposition No.
 :
 : - against - : **NOTICE OF OPPOSITION**
 :
 EL POLLO REGIO IP, LLC, :
 :
 : Applicant. :
-----X

Sony Pictures Television Inc. ("Opposer") believes that it will be damaged by registration of the mark shown in Application Serial No. 88/336,253 (the "Application"), filed March 12, 2019, and having been granted extensions of time to oppose up to and including May 6, 2020, hereby opposes the same.

As grounds of opposition, Opposer alleges as follows:

1. Opposer is a Delaware corporation with a place of business at 10202 W. Washington Blvd., Culver City, California 90232.
2. Upon information and belief, Applicant El Pollo Regio IP, LLC ("Applicant") is a Texas limited liability company with a place of business at 1185 108th Street, Grand Prairie, Texas 75050.
3. For many years, Opposer and its predecessors in interest and related companies have been engaged in the business of producing audiovisual entertainment programs, including television programs.

4. Opposer is the producer of the renowned, Emmy Award winning television series BREAKING BAD, which premiered on the AMC television network in January 2008. The show tells the fictional story of Walter White, a high school chemistry teacher who, having been diagnosed with terminal lung cancer, turns to a life of crime in partnership with his former student, manufacturing and selling crystal meth in order to provide for his wife and children after his death.

5. BREAKING BAD became one of the most watched cable shows on American television, and has received numerous awards, including the Primetime Emmy Award for Outstanding Drama Series in both 2013 and 2014. Bryan Cranston also won the Primetime Emmy Award for Outstanding Actor in a Drama Series on four separate occasions for his portrayal of Walter White. The show remains available today via Netflix media streaming and DVD rental service, the AMC television channel's website amc.com, airings on the Sundance TV channel and by download for rental or purchase from the Sony Pictures Store, iTunes Store, Google Play, Xbox, and Amazon. The whole series or individual seasons are available for purchase on DVD everywhere that DVDs are sold, including Amazon.com.

6. Prior to Applicant's filing of the Application, the BREAKING BAD show prominently featured a fictional fast food chain named LOS POLLOS HERMANOS, which served as a front for a crystal meth empire run by one of the show's characters, Gustavo Fring. The LOS POLLOS HERMANOS fast food chain is also prominently featured in Opposer's popular television series BETTER CALL SAUL, the spinoff prequel to BREAKING BAD created and produced by the same creative team.

7. In both the BREAKING BAD and BETTER CALL SAUL shows, the LOS POLLOS HERMANOS fast foot restaurants utilize a distinctive logo in which two animated

chickens stand back to back inside a circular design while holding sombreros, with the words “Los Pollos” appearing above them and the word “Hermanos” appearing beneath them, as shown below (“Opposer’s LOS POLLOS HERMANOS Design Mark”):



8. As a result of the tremendous fame achieved by the BREAKING BAD show, which is widely regarded as one of the greatest television series in history, and the BETTER CALL SAUL spinoff series, Opposer’s LOS POLLOS HERMANOS Design Mark has become widely known and immediately recognizable to consumers. Since prior to Applicant’s filing of the Application, Opposer has sold a variety of licensed merchandise, including t-shirts, bearing Opposer’s LOS POLLOS HERMANOS Design Mark.

9. Opposer has also used the LOS POLLOS HERMANOS Design Mark in connection with restaurant services, beginning in 2017 with certain pop-up restaurants opened at locations around the country and more recently in connection with restaurant delivery services offered through a deal with Family Style Inc., a delivery kitchen network.

10. As a result of the widespread fame and success of the BREAKING BAD and BETTER CALL SAUL shows and Opposer’s extensive merchandising program, Opposer has built up tremendously valuable goodwill in the LOS POLLOS HERMANOS Design Mark as a trademark signifying Opposer and its hit television shows.

11. On or about March 12, 2019, Applicant filed the Application in the United States Patent & Trademark Office on an intent-to-use basis seeking to register the mark shown below

(“Applicant’s POLLO REGIO Design Mark”) for “restaurant services; restaurant services, including sit-down service of food and take-out restaurant services” in International Class 43 and “shirts; graphic T-shirts; short-sleeved shirts; T-shirts” in International Class 25:



12. Applicant’s POLLO REGIO Design Mark is confusingly similar to Opposer’s LOS POLLOS HERMANOS Design Mark. Like Opposer’s mark, Applicant’s POLLO REGIO Design Mark contains two animated chickens standing back to back inside a circular design, beneath the word “POLLO” and above another word forming part of the mark.

13. Upon information and belief, Applicant adopted and selected Applicant’s POLLO REGIO Design Mark with the intention of trading upon the fame and success of Opposer’s BREAKING BAD show and Opposer’s LOS POLLOS HERMANOS Design Mark.

14. Applicant seeks to register Applicant’s POLLO REGIO Design Mark for goods and services which are identical and/or closely related to those for which Opposer has used Opposer’s LOS POLLOS HERMANOS Design Mark.

15. Applicant’s POLLO REGIO mark is likely, when used in connection with Applicant's goods and services, to cause confusion, to cause mistake or to deceive the public into believing that Applicant's goods and services have their origin with Opposer and/or that

Applicant's goods and services are approved, endorsed or sponsored by Opposer or associated with Opposer in some other way, thereby causing injury to Opposer and the consuming public.

16. Opposer would be further injured by the granting of a certificate of registration to Applicant for Applicant's POLLO REGIO Design Mark because such mark, which is the same as and/or a close approximation of Opposer's LOS POLLOS HERMANOS Design Mark, and which points uniquely to Opposer when used in connection with the applied-for goods and services, would falsely suggest a connection between Opposer and Applicant, which is not connected with or authorized by Opposer.

17. Opposer's LOS POLLOS HERMANOS Design Mark is distinctive and famous and has enjoyed distinctiveness and fame since prior to the Applicants' filing of the Application or any use of the POLLO REGIO Design Mark.

18. Applicant's use of Applicant's POLLO REGIO Design Mark in connection with Applicant's goods and services is likely to dilute Opposer's LOS POLLOS HERMANOS Design Mark by rendering it less distinctive through blurring.

19. Opposer would be injured by the granting to Applicant of the registration sought because Applicant's POLLO REGIO Design Mark so resembles Opposer's LOS POLLOS HERMANOS Design Mark as to be likely, when used in connection with Applicant's goods and services:

- (a) to cause confusion, or to cause mistake, or to deceive;
- (b) to falsely suggest a connection with Opposer;
- (c) to damage Opposer's valuable goodwill in Opposer's LOS POLLOS HERMANOS Design Mark;

- (d) to interfere with Opposer's sale and/or potential sale of its own goods and/or services under Opposer's LOS POLLOS HERMANOS Design Mark; and
- (e) to dilute Opposer's LOS POLLOS HERMANOS Design Mark by rendering it less distinctive through blurring.

WHEREFORE, Opposer, by its attorneys, respectfully requests that its opposition be sustained and that the registration sought by Applicant be denied.

Dated: New York, New York
April 27, 2020

Respectfully submitted,

COWAN LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Richard S. Mandel/
Richard S. Mandel
114 West 47th Street
New York, New York 10036
(212)790-9200