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Filing date: **07/20/2020**

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

Proceeding	91256291
Party	Defendant Sony Pictures Television Inc.
Correspondence Address	LYNN S. FRUCHTER COWAN, LIEBOWITZ & LATMAN, P.C. 114 WEST 47TH STREET NEW YORK, NY 10036 UNITED STATES Primary Email: trademark@cll.com No phone number provided.
Submission	Answer
Filer's Name	Jeffrey Chery
Filer's email	trademark@cll.com, rsm@cll.com, jyc@cll.com
Signature	/Jeffrey Chery/
Date	07/20/2020
Attachments	Answer Pollo Regio Opposition.pdf(131668 bytes)

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

In re Application Serial No. 88/619,704
Filed: September 17, 2019
For Mark: POLLO REGIO Design
Published in the *Official Gazette* of February 11, 2020
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EL POLLO REGIO IP, LLC, :
 :
 : Opposer, : Opposition No. 91256291
 :
 : - against - : **ANSWER**
 :
 : SONY PICTURES TELEVISION INC., :
 :
 : Applicant. :
 :
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Applicant Sony Pictures Television Inc. ("Applicant"), by and for its Answer to the Notice of Opposition, alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.
2. Admits the allegations contained in paragraph 2 of the Notice of Opposition.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Notice of Opposition.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Notice of Opposition, except admits that Opposer has

attached as Exhibits A-D what purport to be copies downloaded from TSDR reflecting the current status of the cited applications and/or registrations.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition, except admits that Serial No. 78/608,923 depicts the mark shown in paragraph 6 of the Notice of Opposition.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Notice of Opposition, and respectfully refers the Board to TSDR in response to all allegations concerning the details of Serial No. 78/608,923, including design codes, as the record speaks for itself with respect to the contents thereof.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Notice of Opposition, and respectfully refers the Board to TSDR in response to all allegations concerning Serial No. 78/608,923, including the description of the mark, as the record speaks for itself with respect to the contents thereof.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Notice of Opposition, except admits that Opposer has attached as Exhibits E-Q what purport to be copies downloaded from TSDR reflecting the current status of the cited applications and/or registrations and/or registration certificates covering the various cited registrations.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Notice of Opposition, and respectfully refers the Board to the designs for Opposer's marks, which speak for themselves with respect to the contents thereof, in response to all allegations purporting to describe such designs.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Notice of Opposition.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Notice of Opposition.

13. Denies the allegations contained in paragraph 13 of the Notice of Opposition, except admits that on September 17, 2019, Applicant filed an application for the mark shown in paragraph 14 of the Notice of Opposition below on an intent-to-use basis under section 1B.

14. Denies the allegations contained in paragraph 14 of the Notice of Opposition, except admits that on September 17, 2019, Applicant filed an application for the mark shown in paragraph 14 of the Notice of Opposition for the referenced services in International Class 43.

15. Denies the allegations contained in paragraph 15 of the Notice of Opposition, and further answering the allegations of this paragraph, avers that the only confusing similarities between any of Opposer's Marks and Applicant's LOS POLLOS HERMANOS Design Mark exist with respect to the designs for those of Opposer's Marks shown in App. Serial Nos. 88/336,253 and 88/112,977, which designs deliberately copied Applicant's LOS POLLOS HERMANOS Design Mark in an attempt to ride on the fame and goodwill of that mark previously established through Applicant's BREAKING BAD hit television series as well as through the prior use of such mark in connection with a variety of goods and services. Applicant also respectfully refers the Board to Applicant's LOS POLLOS HERMANOS Design Mark and the TSDR record thereof in response to any allegations purporting to describe the mark or any portions of the record, as the design mark and the record speak for themselves with respect to the contents thereof.

16. Denies the allegations contained in paragraph 16 of the Notice of Opposition, except admits that Applicant's LOS POLLOS HERMANOS Design Mark was filed on September 17, 2019, App. Serial No. 88/112,977 was filed on September 11, 2018 and App. Serial No. 88/336,253 was filed on March 12, 2019, and respectfully refers the Board to Applicant's LOS POLLOS HERMANOS Design Mark in response to any allegations purporting to describe the mark, as the design mark speaks for itself with respect to the contents thereof.

17. Denies the allegations contained in paragraph 17 of the Notice of Opposition, except admits that the parties have registered or sought registration of marks for the same or closely related services, and further answering the allegations of this paragraph, avers that Applicant has prior rights in Applicant's LOS POLLOS HERMANOS Design Mark pre-dating any purported rights owned by Opposer with respect to the specific marks depicted in App. Serial Nos. 88/336,253 and 88/112,977, the only ones of the cited Opposer's Marks that bear confusing similarities to Applicant's LOS POLLOS HERMANOS Design Mark.

18. Denies the allegations contained in paragraph 18 of the Notice of Opposition, and further answering the allegations of this paragraph, avers that Applicant has prior rights in Applicant's LOS POLLOS HERMANOS Design Mark pre-dating any purported rights owned by Opposer with respect to the specific marks depicted in App. Serial Nos. 88/336,253 and 88/112,977, the only ones of the cited Opposer's Marks that bear confusing similarities to Applicant's LOS POLLOS HERMANOS Design Mark.

19. Denies the allegations contained in paragraph 19 of the Notice of Opposition.

20. Denies the allegations contained in paragraph 20 of the Notice of Opposition.

21. Denies the allegations contained in paragraph 21 of the Notice of Opposition.

22. Denies the allegations contained in paragraph 22 of the Notice of Opposition.

AFFIRMATIVE AND OTHER DEFENSES

FIRST DEFENSE

23. The opposition is barred by the doctrine of unclean hands inasmuch as Opposer has deliberately copied Applicant's LOS POLLOS HERMANOS Design Mark in connection with Opposer's App. Serial Nos. 88/336,253 and 88/112,977 in an attempt to ride on the fame and goodwill of that mark long established through Applicant's BREAKING BAD hit television series, just as Applicant has previously developed other derivative versions of Opposer's original chicken design in such a manner as to ride on the goodwill of other prior marks, designs or motifs not owned by Opposer.

SECOND DEFENSE

24. Applicant owns prior rights in Applicant's LOS POLLOS HERMANOS Design Mark pre-dating any purported rights owned by Opposer with respect to the marks depicted in App. Serial Nos. 88/336,253 and 88/112,977, which are the only two of the various cited marks by Opposer that are confusingly similar to Applicant's LOS POLLOS HERMANOS Design Mark.

WHEREFORE, Applicant respectfully requests that the opposition be dismissed with prejudice.

Dated: New York, New York
July 20, 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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ANSWER was served on Opposer by emailing a true copy on July 20, 2020 to Jerry C. Harris at jerry.harris@wickphillips.com.

Dated: New York, New York
July 20, 2020

By: /Jeffrey Chery/
Jeffrey Chery