

ESTTA Tracking number: **ESTTA1252355**

Filing date: **12/06/2022**

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	Home Box Office, Inc.
Granted to date of previous extension	12/28/2022
Address	30 HUDSON YARDS NEW YORK, NY 10001 UNITED STATES

Attorney information	JAMES D. WEINBERGER FROSS ZELNICK LEHRMAN & ZISSU, P.C. 151 WEST 42ND STREET, 17TH FLOOR NEW YORK, NY 10036 UNITED STATES Primary email: jweinberger@fzlz.com Secondary email(s): dnuzzaci@fzlz.com (212) 813-5900
Docket no.	HBO 2220887

Applicant information

Application no.	79319821	Publication date	08/30/2022
Opposition filing date	12/06/2022	Opposition period ends	12/28/2022
International registration no.	1612040	International registration date	07/13/2021
Applicant	SAT 9996 CITRUS NOSTRUM RONDA NARCISO MONTURIOL 3, TORRE A, PLAN E-46980 PATERNA SPAIN		

Goods/services affected by opposition

<p>Class 031. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Fresh fruit and raw fruit, namely, oranges, fresh oranges, fresh apricots, raw apricots, fresh pears, raw apples, fresh apples, fresh mandarin oranges, raw lemons, fresh lemons, grapefruits, fresh grapefruits, fresh peaches, raw peaches, fresh loquats, fresh Japanese persimmons; none of these products intended for the manufacture of ice cream and dairy products, and/or in combination with ice cream and dairy products</p>

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Mark cited by opposer as basis for opposition

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	KHALEESI		
Goods/services	Element of entertainment property and related merchandise, including but not limited to food and beverage, toys, games, video games, apparel, collectibles, footwear, stationery, and other paper products and themed attractions		

Attachments	F4921437.pdf(295548 bytes)
-------------	-----------------------------

Signature	/s/ James D. Weinberger
Name	James D. Weinberger
Date	12/06/2022

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

HOME BOX OFFICE, INC.,

Opposer,

-against-

SAT 9996 CITRUS NOSTRUM,

Applicant.

NOTICE OF OPPOSITION

Home Box Office, Inc. (“Opposer”), a Delaware corporation located at 30 Hudson Yards, New York, New York 10001, believes that it will be damaged by the issuance of a registration to SAT 9996 Citrus Nostrum (“Applicant”) for the below mark:



(“Applicant’s Mark”) as applied for in U.S. Trademark Application Serial No. 79319821 (the “Application”), and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer operates well-known and widely distributed premium television channels and is the producer of the renowned, critically acclaimed, and award-winning television series *Game of Thrones*, which first aired in April 2011.

2. The *Game of Thrones* television series – a fantasy drama about warring families – comprises seventy-three (73) episodes over eight (8) seasons, having concluded its final season

in May 2019. The show is the most popular series in the history of Opposer’s network. During the time that it was on the air, the ratings and popularity of the series rose with each passing season, culminating in an average audience of 44 million viewers per episode across all platforms in its final season.

3. The popularity of *Game of Thrones* and its place in the cultural zeitgeist has been acknowledged by countless media publications. For example, in its July 10, 2017, cover story, *Time Magazine* called *Game of Thrones* “the world’s most popular show.”

4. This popularity has translated into numerous awards for the television series. For example, *Game of Thrones* set the record for the most Primetime Emmy nominations for a series in a single season (32), set the record for the most Primetime Emmy wins for a series in a single season (12), and set the record for the most wins for a scripted primetime television series ever (59). The series has been nominated for the Emmy Award for Outstanding Drama Series for each season that has aired, winning the award in 2015, 2016, 2018, and 2019.

5. Recently, on August 21, 2022, Opposer has launched a second television series in the *Game of Thrones* fictional universe, titled *House of the Dragon*. This new series has helped to reinvigorate consumer interest in the original series as well as the characters, locations, houses, and storylines therein.

6. Opposer exploits its well-known properties in a variety of ways, well beyond their appearances in its entertainment products such as motion pictures. Indeed, it has become common practice for owners of entertainment programming, motion pictures, and characters to exploit commercially the popularity of their well-known symbols, names, characters, and elements in connection with a wide range of merchandise. The broad reach and deep emotional impact of those entertainment products create unparalleled goodwill in the names, characters,

and symbols from those products, and generate a robust licensing business in virtually limitless categories of goods and services. Such additional uses include video games and a wide array of licensed consumer products including apparel, food and beverage, toys, games, collectibles, footwear, fine arts, pet products, stationery and other paper products, and themed attractions, to name a few. Consumers today have come to expect that when elements from entertainment products appear on or in connection with goods or services, such uses are associated with and licensed by the rights holder.

7. Because of Opposer’s shepherding and careful development of the characters, places, and things that populate the *Game of Thrones* universe, the franchise has become associated with certain names, marks, places, and indicia which, in the public mind, are inextricably linked with the franchise and which function as trademarks, both for entertainment works and for various goods and services. Among the marks inextricably linked in the public mind with the *Game of Thrones* television series is KHALEESI (“Opposer’s Mark”), a coined/fictional title that means “queen” and is given to the wife of the leader of the nomadic Dothraki tribe. In *Game of Thrones*, the title of “Khaleesi” is given to Daenerys Targaryen – one of the last remaining members of House Targaryen – after she is married off to Khal Drogo, the warlord and leader of the Dothraki. Khaleesi is one of the show’s principal characters and a favorite amongst the show’s audience. Moreover, because Khaleesi hails from the House Targaryen (whose insignia is a dragon) and goes on to raise three dragons in the show, the KHALEESI mark is strongly affiliated with dragons in the minds of consumers, as shown below:



8. Due to Opposer's nurturing of the people, places, and things that populate the *Game of Thrones* universe, Opposer's Mark has captured the popular imagination, and it is beyond dispute that it is well-known among consumers of all ages.

9. Opposer is the owner of all right, title, and interest in and to Opposer's Mark in connection with a wide range of goods and services based on a first use in commerce dating back to at least as early as 2011 – a date prior to any date upon which Applicant can rely.

10. In addition, consistent with consumers' expectations, Opposer also has licensed the rights for various merchandise bearing Opposer's Mark, including but not limited to food and beverage, toys, games, video games, apparel, collectibles, footwear, stationery, and other paper products and themed attractions.

11. Opposer has significantly promoted the *Game of Thrones* franchise and has derived substantial revenue from the television series itself, associated merchandise, and licensing fees.

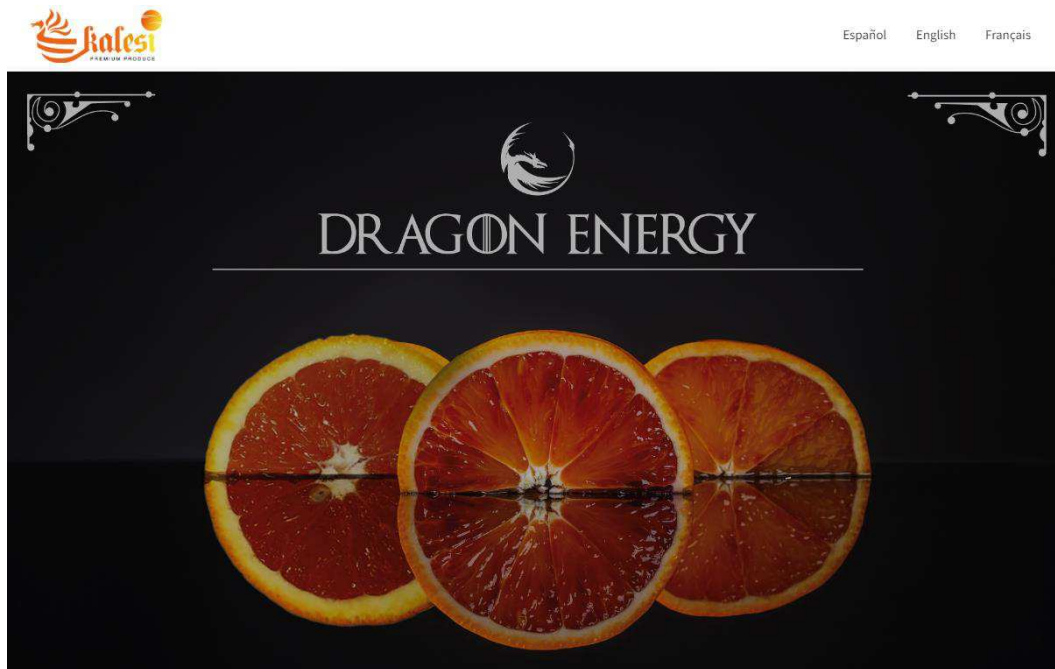
12. As a result of Opposer's use and promotion of Opposer's Mark and the success of the *Game of Thrones* television series, Opposer's Mark has become a strong trademark in identifying Opposer's goods and services exclusively. As such, Opposer's Mark represents enormous goodwill and is an extremely valuable asset of Opposer.

13. Upon information and belief, Applicant is a Spanish Sociedad Agrícola de Transformación with an address at Ronda Narciso Monturiol 3, Torre A, Plan E-46980 Paterna, Spain.

14. Upon information and belief, on July 13, 2021, Applicant filed the Application to register Applicant's Mark in International Class 31 for use in connection with "Fresh fruit and raw fruit, namely, oranges, fresh oranges, fresh apricots, raw apricots, fresh pears, raw apples,

fresh apples, fresh mandarin oranges, raw lemons, fresh lemons, grapefruits, fresh grapefruits, fresh peaches, raw peaches, fresh loquats, fresh Japanese persimmons; none of these products intended for the manufacture of ice cream and dairy products, and/or in combination with ice cream and dairy products” pursuant to Section 66(a) of the Lanham Act, 15 U.S.C. § 1141f(a).

15. Moreover, Applicant is presently using Applicant’s Mark on its website at <https://kalesi.es/en/home-english>, as shown below:



16. Opposer’s Mark has been used continuously by Opposer since a date prior to any date on which Applicant can rely in support of Applicant’s Mark.

17. Upon information and belief, prior to any date on which Applicant can rely in support of Applicant’s Mark, Applicant was on actual notice of Opposer’s prior rights in and to Opposer’s Mark.

18. The earliest date upon which Applicant can rely in support of Applicant’s Mark is long after the use and acquisition of rights in Opposer’s Mark by Opposer. As such, Opposer’s

rights in Opposer's Mark are prior and superior to any rights Applicant may claim in Applicant's Mark. The registration of Applicant's Mark is inconsistent with Opposer's prior rights.

19. Applicant's Mark is highly similar to Opposer's Mark, including because Applicant's Mark incorporates in prominent fashion the term KALESI, which is highly similar to KHALEESI. Despite the differences in spelling (namely, deleting the letter H and the second letter E), the term KALESI is nearly identical to the term KHALEESI in terms of appearance, sound, and overall commercial impression. Moreover, Applicant's use of a dragon design element in Applicant's Mark fails to differentiate the mark from Opposer's Mark and, instead, exacerbates the likelihood of confusion given that the Khaleesi character in *Game of Thrones* hails from the House Targaryen – the House of the Dragon – and raises three dragons during the show's eight season run.

20. Furthermore, Applicant is using other indicia associated with the *Game of Thrones* franchise. For example, on its website, Applicant is using various dragon designs as well as the phrase "DRAGON ENERGY" where the letter O is stylized to resemble the letter O as it appears in the GAME OF THRONES logo mark, as shown below:



21. The goods identified in the Application are consumer products and are identical and/or highly related to the goods and services offered under Opposer's Mark.

22. Upon information and belief, the goods offered under Applicant's Mark are or will be sold to the same types of customers and through the same trade channels as goods and services offered under Opposer's Mark.

23. Based on the strength of Opposer's Mark, the similarity of Opposer's Mark and Applicant's Mark, the relatedness of the parties' goods and services, and Applicant's bad-faith intent to trade on the cachet and goodwill associated with the *Game of Thrones* franchise, consumers are likely to be deceived into falsely believing that the goods offered by Applicant under Applicant's Mark originate from or are otherwise associated with or endorsed by Opposer, or that there is some relationship between Applicant and Opposer or the goods of Applicant and the goods and services of Opposer, all to Opposer's injury and harm.

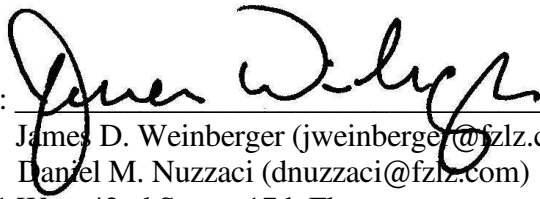
24. Thus, registration of Applicant's Mark in connection with the goods set forth in the Application is likely to cause confusion, to cause mistake, or to deceive the public into the false belief that the goods offered by Applicant under Applicant's Mark come from or are otherwise sponsored by or connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

25. By reason of the foregoing, Opposer is likely to be harmed by the registration of the Application for Applicant's Mark.

THEREFORE, it is respectfully requested that this opposition be sustained and that registration of Applicant's Mark as shown in the Application be refused in its entirety.

Dated: New York, New York
December 6, 2022

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
James D. Weinberger (jweinberge@fzllz.com)
Daniel M. Nuzzaci (dnuzzaci@fzllz.com)
151 West 42nd Street, 17th Floor
New York, New York 10036
Tel: (212) 813-5900

Attorneys for Opposer Home Box Office, Inc.