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Trademark case: To-Ricos, Ltd. v. Productos Avícolas Del Sur, Inc., USA

Robert B. Barnett (Wolters Kluwer Legal & Regulatory US) · Monday, October 28th, 2024

A Puerto Rican chicken company abandoned its mark because it stopped using it for five years and never could offer any evidence of an intent to resume use.

The U.S. Court of Appeals for the First Circuit has affirmed a Puerto Rican district court's grant of summary judgment to To-Ricos for use of the mark POLLO PICÙ after To-Ricos sufficiently established that the prior owner, Productos Avícolas del Sur, had abandoned the mark for five years after encountering legal difficulties. In doing so, the appellate court upheld the Puerto Rican court's finding that Avícolas failed to offer proof of any intent to resume use of the mark when its legal difficulties ended. Furthermore, the appellate court reiterated that financial difficulties and litigation do not excuse nonuse or toll the running of the nonuse period (To-Ricos, Ltd. v. Productos Avícolas Del Sur, Inc., No. 22-1853 (1st Cir. Sept. 19, 2024)).

Case date: 19 September 2024

Case number: No. 22-1853,

Court: United States Court of Appeals, First Circuit

A full summary of this case has been published on [Kluwer IP Law](#)

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