EXHIBIT 22

MONTGOMERY McCRACKEN
ATTORNEYS AT LAW

John J. Powell
Partner

437 Madison Avenue
New York, NY 10022
Tel: 212-867-9500

1735 Market Street
Philadelphia, PA 19103-7505
Tel: 215-772-1500

Admitted in New York
and Pennsylvania

Direct Dial: 215-772-7298
Fax: 215-731-3742
Email: jpowell@mmwr.com

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By Email

David K. Caplan
Kilpatrick Townsend & Stockton LLP
1801 Century Park East, Suite 2300
Los Angeles, CA 90067
dcaplan@kilpatricktownsend.com

Re: Paramount's Cease & Desist Letter to JMC Pop-ups

Dear Mr. Caplan:

This firm represents JMC Pop Ups LLC in connection with Paramount's letter of April 11, 2022 demanding that JMC cancel an upcoming pop-up restaurant event inspired by "McDowell's" from the *Coming to America* films.

The facts as I understand them are as follows. Paramount's film "Coming to America" tells the story of Akeem, the prince of a fictional African country who travels to New York in search of true love. He finds it in Lisa, bests a competing suitor for her affection, returns home, and marries her. A subplot in the film involves "McDowell's," a fictional restaurant owned by Lisa's father, Cleo McDowell. The film makes a gag of the blatant similarity between McDowell's name, logo, appearance, and menu items, and those of McDonald's. The film lampoons Cleo's tortured attempts to distinguish those similarities and his fear of McDonald's reprisal. In one scene, Cleo reads a McDonald's operations manual and hides it when someone walks in. In another, Cleo asks forebodingly if the person who's come to see him is from McDonald's. In short, McDowell's is a rip-off of McDonalds.

Last March, Paramount released "Coming 2 America," set years after the original. It reveals that Akeem has an adult son in New York and focuses on Akeem's family's efforts to incorporate this new member while fending off a challenge to their regime. There's less of McDowell's in the sequel, but two scenes revisit the infringement gag. In one, Cleo announces McDowell's new meatless burger, the Beyond Big Mick. In the other, Cleo inspires Akeem to

press forward in the face of adversity by recounting how Cleo once pressed forward in the face of adversity—by continuing to promote McDowell's knock-off frozen desert, the McFlurby, despite receiving ominous cease and desist letters from McDonald's lawyers alleging infringement and threatening legal action.

JMC is a small business that creates and runs pop-up restaurants that people love. JMC's manager is a big fan of the *Coming to America* films. JMC conceived and organized a McDowell's inspired pop-up restaurant event to take place in Cherry Hill, New Jersey, from April 16 to 25, 2021. The event included a temporary fast-food restaurant with elements inspired by McDowell's name, logo, appearance, and menu items. JMC viewed this event as a creative and humorous way to celebrate the films while bringing fans together for a fun occasion that also helped their community. Two weeks before the event, JMC received an ominous cease-and-desist letter from Paramount's lawyers alleging infringement and threatening legal action. Paramount claimed to be the exclusive owner of McDowell's name, logo, appearance, and menu items. It alleged that JMC's use of these elements for the pop-up violated Paramount's rights and demanded that the pop-up be cancelled. JMC offered to negotiate an agreement to address Paramount's concerns but JMC refused to cancel the pop-up. As I understand it, Paramount was not then interested in an agreement. The discussions ended, and the pop-up took place.

JMC organized a second McDowell's inspired pop-up restaurant event to take place in Virginia from May 20 to June 5, 2022. Although not identical to the first, this event will also include a temporary fast-food restaurant featuring elements inspired by McDowell's name, logo, appearance, and menu items. Paramount's recent letter of April 11, 2022 reiterates its claim that it is the exclusive owner of McDowell's name, logo, appearance, and menu items and demands that JMC cancel the second pop-up and promise not to hold any similar events.

* * *

What we have here is a case of life imitating art imitating McDonalds: Paramount made movies celebrating Cleo McDowell for creating a restaurant imitating McDonalds and standing strong when that big corporation sends him ominous letters. JMC made a pop-up restaurant celebrating Paramount's movies celebrating Cleo for creating a restaurant imitating McDonalds and standing strong when it sends him ominous letters. Now, Paramount is sending JMC ominous letters for celebrating Paramount's movies celebrating Cleo for imitating McDonalds.

Like Cleo, JMC is not eager for a costly legal battle with a large corporation. We would much rather work with you and agree on terms to address Paramount's concerns and provide it some reasonable benefit from these popular events. I look forward to discussing this possibility with you as soon. On the other hand, JMC is not infringing Paramount's intellectual property.

Paramount alleges infringement of the name "McDowell's" and the "stylized 'Golden Arcs.'" We don't see how Paramount could have any exclusive rights to these elements. If these elements qualified for any intellectual property protection, it would be trademark, not copyright.

See generally Benjamin Arrow, *Real-Life Protection for Fictional Trademarks*, 21 Fordham Intell. Prop. Media & Ent. L.J. 111, 127 (2010). As you know, copyright protects original works of authorship. It does not protect common surnames or yellow versions of the letter "M." Even if someone could claim original authorship of these elements, that person would not be Paramount. It would, of course, be McDonald's. The absurdity of anyone else claiming authorship of these elements is what makes Cleo's character funny. As for trademarks, Paramount doesn't have any for these elements and could not get them. Trademarks require use in commerce with the protected goods or services. Paramount is not in the fast-food business and does not use these marks as a source identifier for any real product. Even if Paramount were in the fast-food business, it could not register these marks, which would be blocked by McDonald's trademarks. In other words, Paramount doesn't own "McDowell's" or the Golden Arcs. If Paramount insists otherwise, we would like to understand why. We'd also like to understand why Paramount would decide to assert any such rights against JMC, out of the many others using these elements. A Google search for "McDowell's logo" shows dozens of sellers offering hundreds of items emblazoned with the McDowell's name and logo. Some of these sellers appear to have been at this for years.

Paramount asserts several other elements that are plainly not protectable. For example, Paramount appears to allege copyright infringement of the film title "Coming to America" and the menu items "Big Mick," "Meatless Mick," "Sexual Chocolate Cake Shake," and even seedless buns. Paramount cannot assert copyright for the name of a real move or a fake band or sandwich, or for a menu's reference to a seedless bun. Copyright protection "simply does not extend to words and short phrases, such as names, titles, and slogans." *Lorenzana v. S. Am. Restaurants Corp.*, 799 F.3d 31, 35 (1st Cir. 2015) (menu items); *Eastland Music Group, LLC v. Lionsgate Ent., Inc.*, 707 F.3d 869 (7th Cir. 2013) (movies). The first letter also claims copyright for Louis Andersen's name and an employee of the month award. As Paramount must know, Andersen's appearance in the films does not give it ownership of his name. *See Wendt v. Host Intern., Inc.*, 125 F.3d 806 (9th Cir. 1997). And, as JMC's April 2, 2021 letter explained, the "employee of the month" award is a ubiquitous feature of modern life and, more importantly, a standard expression that flows inescapably from a general idea, which makes it unprotectable.

Paramount makes much of JMC's efforts to accurately recreate McDowell's interior, but these do not make the pop-ups infringe. The general appearance of the inside of a fast-food restaurant—or, for that matter, a manager's office or a "dingy apartment"—are too general to be protected by copyright. *See Rodriguez v. Casa Salsa Rest.*, 260 F. Supp. 2d 413, 417 (D.P.R. 2003). If any part of McDowell's interior was protectable, McDonald's would own the rights. Moreover, they would right in trade dress, not copyright. *See* Lisa K. Krizman, *Trademark Protection for Restaurant Owners: Having Your Cake and Trademarking It, Too*, 99 Trademark Rep. 1004 (2009). Paramount could not claim trade dress protection for the same reasons it does not have relevant trademarks. *Two Pesos, Inc. v. Taco Cabana, Inc*., 505 U.S. 763 (1992). Even if it could, trade dress infringement would require Paramount to show that real customers are likely to confuse the pop-ups for the McDowell's in the film, which would be impossible here.

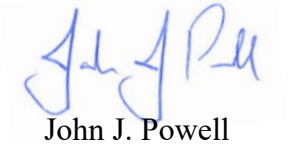
Shakey's Inc. v. Covalt, 704 F.2d 426 (9th Cir. 1983) (visual similarities and identical menu items are not enough).

We disagree with Paramount's suggestion that pop-ups bring nothing new, creative, humorous, or transformative, and thus cannot be parody. They do, for two reasons. First, JMC's work is, of course, quite different from Paramount's work. Paramount made films containing a few minutes of video showing some aspects of a fictional restaurant. JMC transformed those few minutes of film into an actual, operating restaurant, with customers and staff. The pop-ups reflect thousands of small creative decisions made along the way, as well as completely new elements. Second, JMC's selection of the source material creates new meaning here. McDowell's is not just a fictional restaurant, but a fictional restaurant imitating a real restaurant. By selecting McDowell's, JMC thus created something new — a real (temporary) restaurant that imitates a fictional restaurant that imitates a real restaurant. The humor and novelty of this is no doubt part of why guests seem to enjoy JMC's pop-ups so much.

Finally, Paramount too quickly dismisses fair use in general. Three of the four factors under Section 107 point to fair use. First, the pop-ups foster the market and value of Paramount's works by publicizing and promoting the films and encouraging fan engagement. Paramount's marketing data from last April will no doubt reflect a measurable benefit from the first pop-up in the Cherry Hill area. Second, the pop-ups use only a sliver of the films as a whole, and most of the elements they draw on are either secondary or irrelevant to the plot. Third, the film elements used in the pop-ups reflect no creative work by Paramount. That's the joke: The fictional McDowell's is just a rip-off of McDonald's. The joke works only because Paramount did not make any creative decisions about what McDowell's looks like or serves. The fourth factor is mixed, since JMC's use is partly commercial, but, as the Supreme Court has explained, JMC's partially commercial purpose creates no presumption that its use is unfair.

Again, while JMC will litigate if it has to, we would be very pleased to come to an agreement with Paramount that avoids the need to do so. I look forward to speaking with you about that as soon as possible.

Very truly yours,



John J. Powell

JJP:kml