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

Proceeding	91207808
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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PATTERSON ENTERPRISES d/b/a,)	
SUNCARE DISTRIBUTORS)	
)	
Opposer,)	Opposition No. 91207808
)	
v.	)	Serial No. 85/546,646
)	
DENISE R. SELK d/b/a)	Mark: HAFA ADAI
COCO-JO'S.)	
)	Filing Date: February 18, 2013
Applicant.)	

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Honorable Commissioner of Trademarks
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OPPOSER SUNCARE'S MOTION FOR SUMMARY JUDGMENT

Opposer, Patterson Enterprises d/b/a Suncare Distributors ("Suncare"), moves pursuant to Fed. R. Civ. P. 56 and Rule 2.127(b) of the Trademark Rules of Practice for summary judgment denying the application of Denis R. Selk d/b/a Coco-Jo's ("Coco-Jo's") to register the HAFA ADAI mark for chocolate confections; cookies.

Opposer also requests that, pursuant to Rule 2.127(d), 37 C.F.R. § 2.127(d), the Board suspend this proceeding pending determination of this Motion for Summary Judgment.

The facts and grounds for Opposer's Motion for Summary Judgment are set forth in the Memorandum of Law In Support Of Opposer's Motion For Summary Judgment submitted herein. This Motion is also based on the undisputed facts within the declarations and exhibits attached hereto.

MEMORANDUM OF LAW IN SUPPORT OF OPPOSER SUNCARE'S MOTION FOR SUMMARY JUDGMENT

Opposer, Patterson Enterprises d/b/a Suncare Distributors ("Suncare"), seeks summary judgment denying Denis R. Selk d/b/a Coco-Jo's ("Coco-Jo's") registration of the HAFA ADAI mark.

I. INTRODUCTION

Suncare is the rightful owner of the HAFA ADAI mark for chocolate confections and related products. Several weeks after Suncare's first use of the HAFA ADAI mark in commerce in connection with confections, Coco-Jo's filed an intent-to-use application to register the mark for directly competitive products. Coco-Jo's application is now serving as an obstacle to the registration of Suncare's mark. For these reasons, as set forth in greater detail below, Suncare respectfully requests that the Board grant Suncare summary judgment of priority and likelihood of confusion, thus, refusing Coco-Jo's application for registration of the HAFA ADAI mark.

II. STATEMENT OF FACTS

A. Suncare's HAF A ADA I Mark

Suncare is a wholesale and import company located in Guam that markets and sells confectionery and chocolate. Ex. A, William Ymesei Declaration (“Ymesei Decl.”), at ¶ 3. Among these products is a line of chocolates and confections offered under the HAF A ADA I mark. *Id.* at ¶ 6.

Suncare first acquired rights to the HAF A ADA I mark through its use of the mark with confections. *U.S. v. Steffens*, 100 U.S. 82, 92 (1879) (common law rights are established by use of the mark in commerce). Suncare has continuously used the HAF A ADA I mark in commerce in connection with the sale of chocolates and confections since February 1, 2012. Ex. A, Ymesei Decl., at ¶¶ 6, 9. Suncare’s confectionery products bearing the HAF A ADA I mark have been sold through various retailers in Guam. Ex. B, Email Exchange between Suncare and Senocean, Jan. 31, 2012-Feb. 2, 2012 (“Suncare Email Exchange”); Ex. A, Ymesei Decl., at ¶¶ 3, 6, 9, 13. These products are primarily sold to tourists visiting Guam. Ex. A, Ymesei Decl., at ¶ 13. Suncare prominently uses its HAF A ADA I mark on its product packaging and related promotional materials. *Id.* at ¶ 9. Due to the use, advertising, and promotion of this mark, consumers associate Suncare’s HAF A ADA I mark with its confectionery products.

On February 15, 2012, two weeks after first using the HAF A ADA I mark in commerce, Suncare filed an application to register the HAF A ADA I mark with the Guam Department of Revenue and Taxation. Ex. C, Guam Certificate of Registration; Ex. A, Ymesei Decl., at ¶ 7. Shortly thereafter on March 8, 2013, Suncare filed an use-based application to register the mark with the U.S. Patent and Trademark Office (“USPTO”) claiming a date of first use in commerce of February 1, 2012 as set forth in the sworn declaration submitted with the application. Ex. D,

Trademark Application Serial No. 85/563,577 (“Suncare’s Trademark Appl.”); Ex. A, Ymesei Decl., at ¶ 8. Suncare has continued to use the HAFA ADAI mark in commerce in connection with chocolate and confections since its February 1, 2012 first use date.

B. Coco-Jo’s HAFA ADAI Mark

Coco-Jo’s is a small family-owned company that sells cookies and chocolates. Like Suncare, Coco-Jo’s has its base operations in Guam and sells its confectionery products there.

Approximately two and a half weeks (17 days) after Suncare began using the HAFA ADAI mark and three days after Suncare filed an application to register the mark in Guam, Coco-Jo’s filed a federal intent-to-use application to register the identical HAFA ADAI mark for essentially identical products. Ex. E, Trademark Application Serial No. 85/546,646 (“Coco-Jo’s Trademark Appl.”).

Specifically, Coco-Jo’s filed the application to register the HAFA ADAI mark on February 18, 2012 and later-filed an Amendment to Allege Use on May 15, 2012 claiming a date of first use and first use in commerce of March 8, 2012. Ex. E, Coco-Jo’s Trademark App.; Ex. F, Answer to Opposition No. 91/207,808, Dec. 13, 2013 (“Coco-Jo’s Answer”), at ¶¶ 2, 5; Ex. G, Trademark Application Serial No. 85/546,646, Amendment to Allege Use, May 16, 2012 (“Coco-Jo’s Am. To Allege Use”). Coco-Jo’s confirms in later filed pleadings and discovery responses that it first used the HAFA ADAI mark on this March 8, 2012 date. Ex. F, Coco-Jo’s Answer; Ex. H, Coco-Jo’s Answers to Opposer’s First Set of Interrogatories (“Coco-Jo’s Interrogs. Answers”), at No. 12.

III. ARGUMENT

Suncare has superior rights to the HAFA ADAI mark based on its first use of the mark in commerce prior to Coco-Jo’s earliest priority date—the filing date of Coco-Jo’s intent-to-use

application. Based on the fact that the marks are identical and cover highly related, if not identical products, Coco-Jo's mark creates a likelihood of confusion with Suncare's mark. Thus, Coco-Jo's use of the mark is a violation of Suncare's common law rights in the United States. Accordingly, Suncare requests that the Board grant its motion for summary judgment.

A. The Summary Judgment Standard

Summary judgment is appropriate where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56; *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585-87 (1996). The opposing party's mere allegation of factual issues will not defeat a properly supported motion for summary judgment. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986); *BellSouth Telecomms., Inc. v. W.R. Grace & Co.*, 77 F.3d 603, 615 (2d Cir. 1996). Rather, to create a material issue for trial, there must be sufficient evidence in the record to support a verdict in the non-moving party's favor. *Tullo v. City of Mt. Vernon*, 237 F. Supp. 2d 493 (S.D.N.Y. 2002).

Summary judgment is appropriate here because there is no genuine issue as to any material fact concerning Suncare's prior rights to the Hafa ADAI mark and the likelihood of confusion between the parties' marks. Fed. R. Civ. P. 56; *Celotex Corp. v. Cartrett*, 477 U.S. 317 (1986); *BellSouth Corp. v. DataNational Corp.*, 60 F.3d 1565, 1569 (Fed. Cir. 1995); *Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 223 U.S.P.Q 909, 911 (T.T.A.B. 1984). As a result, the Board should rule as a matter of law that Coco-Jo's Hafa ADAI mark is not entitled to registration.

The purpose of summary judgment is to avoid unnecessary trial and to save the time and expense of litigation where there is no genuine issue of material fact that exists and where no evidence beyond the evidence submitted with respect to the summary judgment motion could reasonably change the outcome. *Pure Gold v. Syntax (U.S.A.) Inc.*, 739 F.2d 624, 222 U.S.P.Q. 741, 743 (Fed. Cir. 1984); *Nature's Way Prods., Inc. v. Nature's Herbs, Inc.*, 9 U.S.P.Q.2d 2077, 2080 (T.T.A.B. 1989).

Here, the pleadings and declarations submitted in this action provide abundant support for Suncare's claims of priority as a matter of law. Indeed, Applicant has failed to offer any evidence that it can predate Opposer's priority date, and in fact it cannot make such a showing. The declarations filed under oath in connection with Coco-Jo's application, along with its pleadings and discovery responses, clearly and irrefutably establish that the earliest date that Coco-Jo's possibly used the Hafa ADAI mark is after its application filing date, which is after Suncare first used the Hafa ADAI mark in commerce. Coco-Jo's only defense is that Suncare's registration and use of the Hafa ADAI mark is geographically deceptive, which is completely misplaced as set forth in greater detail below.

Applicant cannot sustain its burden of showing any genuine factual issue, and summary judgment should be granted in favor of Opposer with respect to priority and the likelihood of confusion. *See Celotex Corp. v. Cartrett*, 477 U.S. 317, 325 (1986) (holding that the movant may carry its burden by demonstrating the absence of evidence to support the non-movant's claims).

For summary judgment under Section 2(d), "opposer must establish that there is no genuine dispute that: (1) it has standing to maintain this proceeding; (2) it is the prior user of its pleaded mark; and (3) contemporaneous use of the parties' respective marks on their respective

services would be likely to cause confusion, mistake or to deceive consumers.” *Nat’l Academy of Recording Arts & Scis., Inc.*, Opposition No. 91196507, at 4 (T.T.A.B. 2012) (citing *Hornblower & Weeks, Inc. v. Hornblower & Weeks, Inc.*, 60 U.S.P.Q.2d 1733, 1735 (T.T.A.B. 2001)).

This matter is ripe for resolution on summary judgment because Opposer’s priority date is earlier than Applicant’s and the marks will easily be confused.

B. Suncare Has Standing

Standing to file an opposition exists for “[a]ny person who believes he would be damaged by the registration of a mark up on the principal register” 15 U.S.C. § 1063(a) (2006). “To establish standing in an opposition, an opposer must show that it has a ‘real interest’ in the outcome of the proceeding; that is, it has a direct and personal stake in the outcome of the opposition.” *Corporacion Habanos, S.A. v. Annacas, Inc.*, 88, U.S.P.Q.2d 1785, 1790 (T.T.A.B. 2008). Suncare has standing to oppose Coco-Jo’s application because Suncare will be damaged should Coco-Jo’s application for the HAFA ADAI mark mature into registration. Additionally, Suncare has been and will continue to be precluded from registering HAFA ADAI in connection with “chocolate confections” as a result of Coco-Jo’s application as reflected in the attached Office Action and Letters of Suspension. Ex. I, Suncare’s Trademark Appl., Office Action, June 27, 2012; Ex. J, Suncare’s Trademark Appl., Suspension Letter, Aug. 13, 2012.

Suncare has been selling confectionary products bearing the HAFA ADAI mark since February 1, 2012 and has made an investment to establish a reputation for offering products under this HAFA ADAI mark. Ex. A, Ymesei Decl., at ¶¶ 6, 9. Coco-Jo’s denied these statements only on the basis that Suncare does not own a trademark for HAFA ADAI and that the Guam registration was issued in error. Ex. F, Coco-Jo’s Answer, at ¶ 4. Because the marks

are identical and the goods are highly related, if not identical, Suncare's application will be refused if Coco-Jo's application matures into registration. For these reasons, Suncare clearly has standing here.

C. Suncare Has Priority Over Coco-Jo's Mark

Priority can be established by first use of a mark in commerce or by filing a trademark application first. Lanham Trademark Act § 2(d), 15 U.S.C. § 1052(d). Thus, an opposer can establish prior trademark rights by relying on common law or registered trademark rights. Common law rights are established by use of the mark in commerce. *U.S. v. Steffens*. 100 U.S. 82, 92 (1879). The "opposer must prove by preponderance of the evidence that its common law rights were acquired before any date upon which applicant may rely." *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1834 (T.T.A.B. 2013) (citing Trademark Act Section 2, 15 U.S.C. § 1052; *Hydro-Dynamics Inc. v. George Putnam & Company Inc.*, 811 F.2d 1470, 1 U.S.P.Q.2d 1772, 1773 (Fed. Cir. 1987)). Suncare's Hafa ADAI mark has priority over Coco-Jo's mark because Suncare first used the mark in commerce prior to the date Coco-Jo filed an intent-to-use application to register its Hafa ADAI mark and prior to its first use in commerce date. Ex. A, Ymesei Decl., at ¶ 6; Ex. E, Coco-Jo's Trademark Appl.

In early 2012, Suncare decided to adopt the Hafa ADAI mark for a line of its confectionery products. Beginning in January 2012, Suncare began working with its supplier to incorporate this mark on product packaging. Ex. A, Ymesei Decl., at ¶ 4; Ex. K, Qichun Liang (AKA Sophia Liang) Declaration ("Liang Decl."), at ¶ 3. Suncare continued to work with its supplier on minor modifications to the design in late January and into February. Ex. A, Ymesei Decl., at ¶ 5; Ex. B, Suncare Email Exchange; Ex. K, Liang Decl., at ¶¶ 3-5. Suncare chocolate and confection bearing the Hafa ADAI mark were first shipped to Guam on January 15, 2012.

Ex. K, Liang, Decl., at ¶ 4. Suncare then sold these products bearing the HAFA ADAI mark through retailers in Guam beginning on February 1, 2012. *Id.*; Ex. B, Suncare Email Exchange; Ex. A, Ymesei Decl., at ¶¶ 3, 6, 9, 13.

Shortly thereafter, Suncare filed an application to register the HAFA ADAI mark with the Guam Department of Revenue and Taxation on February 15, 2012. *See* Ex. C, Guam Trademark Certificate; Ex. A, Ymesei Decl., at ¶ 7. Several weeks later on March 8, 2012, Suncare filed a use-based application to register the same mark with the USPTO. Ex. D, Suncare's Trademark Appl.; Ex. A, Ymesei Decl., at ¶ 8. In its application, Suncare attested to its February 1, 2012 first use date. *Id.*

Coco-Jo's filed an application to register the HAFA ADAI mark with the USPTO on February 18, 2012. Ex. E, Coco-Jo's Answer. Then, on May 16, 2012, Coco-Jo's filed an Amendment of Allege Use stating that it first used the mark in commerce on March 8, 2012. Ex. G, Coco-Jo's Am. To Allege Use. Coco-Jo, thus, has an earlier federal application filing date. Suncare, however, used the HAFA ADAI mark in commerce prior to Coco-Jo's earlier filing date. *Compare* Ex. A, Ymesei Decl., at ¶ 6 and Ex. D, Suncare's Trademark Appl. *with* Ex. E, Coco-Jo's Trademark Appl. Coco-Jo cannot establish a "use in commerce" date prior to its filing date. Indeed, Coco-Jo's application filing, pleadings and discovery responses all confirm March 8, 2012 as its first use date. *See* Ex. G, Coco-Jo's Am. To Allege Use; Ex. F, Coco-Jo's Answer, at ¶¶ 2, 5; Ex. H, Coco-Jo's Interrogs. Answers No. 12.

"For trademarks, the 'use in commerce' requirement is met when the mark is (1) placed on the goods or container, or on documents associated with the goods if the nature of the goods make placement on the good or container impracticable; and (2) that good is then 'sold or

transported in commerce.” *Aycock Eng’g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1357 (Fed. Cir. 2009) (quoting 15 U.S.C. § 1127 (2006)).

Thus, in order to have prior rights, Coco-Jo’s would need to show that it used the mark in commerce prior to February 1, 2012, Suncare’s first use in commerce date. Coco-Jo’s cannot satisfy that requirement and, in fact, has repeatedly and unequivocally stated a later use in commerce date. *See* Ex. F, Coco-Jo’s Answer, at ¶¶ 2, 5; Ex. G, Coco-Jo’s Am. To Allege Use; Ex. H, Coco-Jo’s Interrogs. Answers, at No. 12.

In its answer, Coco-Jo asserts it first used the mark on March, 8, 2012. Ex. F, Coco-Jo’s Answer, at ¶¶ 2, 5; Ex. E, Coco-Jo’s Trademark Appl. In response to discovery requests, Applicant has made no contention and offered no evidence that it used its mark in commerce prior to February 18, 2012. *See also* Ex. H, Coco-Jo’s Interrogs. Answers, at No. 12. Therefore, February 18, 2012, Coco-Jo’s application filing date, is its constructive use date. Coco-Jo’s filing date is nearly three weeks after Suncare’s first use date.

Opposer Suncare’s first use date predates Applicant Coco-Jo’s priority date; therefore, Suncare has priority over Applicant’s as a matter of law. There are no genuine issues of material facts regarding Suncare’s priority, thus, Suncare is entitled to judgment as a matter of law.

D. The Parties’ Marks Are Likely To Be Confused

The pleadings and declarations submitted in this Action provide abundant support for Opposer’s claim of a likelihood of confusion between the marks as a matter of law. Lanham Trademark Act, § 2d, 15 U.S.C. § 1052(d). In analyzing whether a mark creates a likelihood of confusion, the following factors are considered: “the fame of [the] mark; the similarity of the goods, the channels of trade and purchasers; the conditions of sale; the similarity of the marks; and [applicant’s] intent.” *Midwestern Pet Foods, Inc. v. Societe Des Produits Nestle S.A.*, 685

F.3d 1046, 1052 (Fed. Cir. 2012) (citing *In re E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 1361 (C.C.P.A. 1973)). “[N]ot all the factors are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record.” *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1835 (T.T.A.B. 2013) (citing *Citigroup Inc. v. Capitol City Bank Grp.*, 637 F.3d 1344, 98 U.S.P.Q.2d 1253, 1260 (Fed. Cir. 2011)). However, two considerations are key in the likelihood of confusion analysis: (1) the similarities between the marks and (2) the similarities between the goods and/or services. *In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 1407 (Fed. Cir. 1997).

First, in addressing the similarity or dissimilarity of the marks, the marks are “viewed in their entirety in terms of appearance, sound, connotation and commercial impression.” *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1835 (T.T.A.B. 2013) (citing *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 U.S.P.Q.2d 1689 (Fed. Cir. 2005)). Here, the marks are identical, as they both consist entirely of the phrase “HAFA ADAI.” *See, e.g., Estrada v. Telefonos De Mexico, S.A.B. de C.V.*, 447 Fed. Appr’x 197, 202 (Fed. Cir. 2011) (finding that the marks “TELMEX” and “AUDITORIO TELMEX” were identical in analyzing the likelihood of confusion because the “AUDITORIO” portion of the mark was disclaimed).

“[W]e must also look at any commercial impressions or connotations created by the marks and, in doing so, we consider the marks in relation to the identified goods and services.” *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1835 (T.T.A.B. 2013). The term “Hafa Adai” is not used frequently by other third parties in the sale of different types of confections. *See, e.g., id.* (finding that “the record establishes convincingly that this term is used frequently by third parties in the names of various types of software products”); Ex. A, Ymesei

Decl., at ¶ 16. HAFA ADAI is highly arbitrary in connection with chocolate confections, warranting a high degree of protection.

Second, in comparing the goods and services, “we consider whether ‘the respective products are related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that they emanate from the same source.’” *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1837 (T.T.A.B. 2013) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 U.S.P.Q.2d 1713, 1722 (Fed. Cir. 2012)). Here, both marks are for the same or highly related goods—confections and chocolates. For the determination of this prong of the likelihood of confusion analysis, it must be “confined to the identification of goods set forth in the applications and pleaded registration, in addition to any prior common law rights established by opposer.” *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1830 (T.T.A.B. 2013) (citing *J & J Snack Foods Corp. v. McDonald’s Corp.*, 932 F.2d 1460 (Fed. Cir. 1991)). Suncare lists in its application for registration, “chocolate confections” in International Class 030. Ex. D, Suncare’s Trademark Appl. Coco-Jo’s lists “chocolate confections; cookies” in International Class 030. Ex. E, Coco-Jo’s Trademark Appl. Both Suncare and Coco-Jo’s have applied to register the identical mark for overlapping and highly related products in International Class 030. Given these similarities between the parties’ respective marks and goods, a strong likelihood of confusion exists.

Third, the relatedness of trade channels, classes of purchases and conditions or sales are analyzed. Here, neither party’s application contains any limitations in the description of goods and services. Thus, it is presumed that “they travel in the normal trade channels and are offered to the usual classes of purchasers for the respective goods and services.” *Embarcadero Techs. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1839 (T.T.A.B. 2013) (citing *Citigroup Inc.*, 637 F.3d

1356). Here, that means that both Suncare and Coco-Jo's products are sold to consumers looking to purchase confections, which in this case, are mainly tourists visiting Guam. Ex. A, Ymesei Decl., at ¶ 13.

In view of the above, there are no genuine issues of material facts regarding the similarity of the parties' marks or the products offered under these marks or the other likelihood of confusion factors, thus, Suncare is entitled to judgment as a matter of law regarding a likelihood of confusion between the marks.

E. Suncare's Mark Is Not Geographically Deceptive

Coco-Jo's defends Suncare's opposition by claiming that Suncare has no rights to the Hafa Adai mark because it is geographically deceptive. Ex. F, Coco-Jo's Answer, at ¶¶ 3, 10. Coco-Jo's assertion is based on the fact that Suncare products bearing the Hafa Adai mark are manufactured in China but sold in Guam under a phrase originating from the local language in Guam. This defense is completely without merit and is ripe for summary judgment.

The test for determining whether a mark is geographically deceptive under Section 2(a) is the same as determining whether a mark is primarily geographically deceptively misdescriptive under Section 2(e)(3). *In re California Innovations Inc.*, 329 F.3d 1334, 1337 (Fed. Cir. 2003). The elements of a claim under the Trademark Act Section 2(e)(3), and, thus, 2(a) are: (1) "the primary significance of the mark is a generally known geographic location"; (2) "the consuming public is likely to believe the place identified by the mark indicates the origin of the goods bearing the mark, when in fact the goods do not come from that place"; and (3) "the misrepresentation was a material factor" in a significant portion of the relevant consumers' decision to buy the goods or use the services. *Id.* at 1341; *see also In re Spirits Int'l, N.V.*, 563

F.3d 1347, 1350, 1353 (Fed. Cir. 2009); *In re Miracle Tuesday, LLC*, 695 F.3d 1339, 1343 (Fed. Cir. 2012).

First, “Hafa Adai” does not identify a generally known geographic location. Ex. A, Ymesei Decl., at ¶ 14. In fact, it does not identify a geographic location at all. Consequently, Coco-Jo’s cannot establish the first element necessary to show that the mark is geographically deceptive and for this reasons alone, the defense fails as a matter of law.

The translation of “Hafa Adai” from the local language of Guam into English is “hello.” Ex. F, Coco-Jo’s Answer, at ¶ 3; Ex. I, Suncare’s Trademark Appl., Office Action, June 27, 2012, at p. 7. Clearly, this is not sufficient to establish that HAFADA is a geographic location. The language of Guam is Chamorro. Chamorro is considered a unique language. Ex. A, Ymesei Decl., at ¶ 11. Unlike “Aloha,” the analogy given by Coco-Jo’s in its Answer to Suncare’s Opposition, “Hafa Adai” and the language of Chamorro are not well-known enough that typical consumers would translate HAFADA into English. *See* Ex. F, Coco-Jo’s Answer, at ¶ 3.

Cases applying the geographically deceptive doctrine involve a mark that clearly identifies a known geographic location. *See e.g., In re Spirits Int’l, N.V.*, 563 F.3d 1347 (Fed. Cir. 2009) (mark was “MOSKOVSKAYA,” which translates from Russian into English as “of or from Moscow”).

According to “the doctrine of foreign equivalents, foreign words from common languages are translated into English” *Id.* at 1351 (quoting *Palm By Imps. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F. 3d 1369, 1377 (Fed. Cir. 2005)). The language of Chamorro is not a common language. Ex. A at ¶ 11. Additionally, “the doctrine of foreign equivalents applies only in those situations where the ordinary American consumer would stop

and translate the mark into English.” *In re Spirits Int’l, N.V.*, 563 F.3d 1351 (referencing *Palm Bay*). Here, the ordinary American is unlikely to even know that “Hafa Adai” is a word in the language of Guam. Even if they did, an ordinary American, purchasing candy as a souvenir, would be unlikely to translate the HAFA ADAI mark on the packaging. *See id.* at 1352 (“There may be many non-English marks that will not be translated in context but instead accepted at face value by the ordinary American consumer, including those familiar with the literal meaning of the mark in the non-English language.”). The Board has previously noted that:

[T]here are foreign expressions that even those familiar with the language will not translate, accepting the term as it is, and situations arise in the marketplace which make it unfeasible or even unlikely that purchasers will translate the brand names or labels appearing on canned goods or other like products.

Id. (quoting *In re Tia Maria, Inc.*, 188 U.S.P.Q. 524, 525-26). Similarly, this situation is one in which purchasers are unlikely to translate marks on the Suncare confection packaging.

Moreover, the translations in *In re Spirit* specifically identified a location; the translation here into “hello” clearly does not. Coco-Jo’s cannot satisfy the first prong of the analysis because HAFA ADAI is not a geographic location or a geographic indicator. Ex. A, Ymesei Decl., at ¶ 14. Consequently, Coco-Jo’s argument fails. Even assuming *arguendo* that this first prong is satisfied, which clearly it is not, the argument also fails because Coco-Jo’s cannot satisfy the second prong of the analysis.

This second prong involves two issues: (1) “whether there is a goods/place association;” and (2) “whether or not applicant’s goods in fact come from the place named.” *Corporacion Habanos*, 88 U.S.P.Q.2d at 1791. First, Guam is not specifically associated with chocolate confections. Ex. A, Ymesei Decl., at ¶ 12. Even if HAFA ADAI were to identify a location, consumers are not likely to believe the phrase identifies the origin of the goods. For example,

even if HAFA ADAI did indicate Guam, consumers would not believe that the mark suggested that the confections were made in Guam. Guam is not known for confectionary. *Id.* Thus, consumers do not believe the products bearing the HAFA ADAI mark means that the confections were manufacturer in Guam.

Moreover, Coco-Jo's cannot show that any improper association consumers might make is important to their purchasing decision. Any geographic association is not particularly important to consumers' purchasing decision because Guam does not have a well-established reputation for producing special confectionary products. Ex. A, Ymesei Decl., at ¶ 12. Thus, consumers are not buying Suncare's confections bearing the HAFA ADAI mark because they believe the goods originate from Guam based on the use of the HAFA ADAI mark. *Id.* at ¶ 15.

Even though the mark "MOSKOVSKAYA" translated from Russian into English as "of or from Moscow" and was used on vodka (which Russia is known for) that had no connection to Moscow, the mark was granted registration. In remanding the case to the Board, the Federal Circuit explained that the proper analysis is whether a substantial portion of all relevant consumers (not just Russian speakers) is likely to be deceived. *In re Spirit*, 563 F.3d at 1357; Ex. L, Trademark Registration No. 4,301,542 "MOSKOVSKAYA". The facts here are not nearly as compelling as those in *In re Spirit*, yet, the "MOSKOVSKAYA" mark was still found not to be geographically deceptive. For all of these reasons, Coco-Jo's cannot establish that Suncare's HAFA ADAI mark is geographically deceptive.

IV. CONCLUSION

For all of the foregoing reasons, Suncare has established that there are no genuine issues of material facts regarding the validity of Suncare's mark, Suncare's priority over Coco-Jo's mark, or a likelihood of confusion between the parties respective marks. Consequently, Suncare

respectfully requests that the Board grant its motion for summary judgment and refuse registration of Coco-Jo's Application Serial No. 85/546,646.

Respectfully submitted,

PATTERSON ENTERPRISES d/b/a
SUNCARE DISTRIBUTORS

Dated: June 14, 2013

By: /s/ Thomas L. Holt
Thomas L. Holt
STEPTOE & JOHNSON LLP
115 South LaSalle Street
Suite 3100
Chicago, IL 60603
Telephone: (312) 577-1300
Facsimile: (312) 577-1370
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2013 I served a true and correct copy of the foregoing MEMORANDUM OF LAW IN SUPPORT OF OPPOSER'S MOTION FOR SUMMARY JUDGMENT by U.S. mail at the following address:

Ms. Denise R. Selk
Coco-Jo's
149 Chalan Guefan
Inarajan, GUAM 96915

/s/ Thomas L. Holt
One of the Attorneys for Opposer
Patterson Enterprises d/b/a
Suncare Distributors

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

PATTERSON ENTERPRISES d/b/a, SUNCARE DISTRIBUTORS)	
)	
Opposer,	)	Opposition No. 91207808
)	
v.	)	Serial No. 85/546,646
)	
DENISE R. SELK d/b/a COCO-JO'S.	)	Mark: HAFA ADAI
	)	Filing Date: February 18, 2013
Applicant.)	
)	

**EXHIBIT LIST TO MEMORANDUM OF LAW IN SUPPORT OF OPPOSER
SUNCARE'S MOTION FOR SUMMARY JUDGMENT**

Exhibit	Description
A	William Ymesei Declaration Under 37 C.F.R. § 2.20
B	Product packaging with HAFA ADAI
C	Patterson Enterprises Certificate of Registration of HAFA ADAI for Guam dated February 15, 2012
D	Suncare Trademark application filed March 8, 2012
E	Coco-Jo's Trademark application filed February 18, 2012
F	Coco-Jo's Answer filed December 13, 2012
G	Amendment to Allege Use dated May 16, 2012
H	Coco-Jo's Answers to Opposer's First set of Interrogatories, Interrogatory No. 12
I	Office Action issued to Patterson Enterprises on June 27, 2012
J	Suspension Letters to Patterson Enterprises on August 13, 2012 and October 18, 2012
K	Qichun Liang (AKA Sophia Liang) Declaration Under 37 C.F.R. § 2.20
L	Registration of Moskovskaya mark

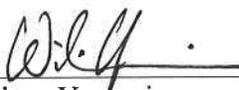
Exhibit A

4. In January of 2012 I approached our manufacturer about changing the package design for a line of Suncare's confectionery products. This change involved adding the HAFA ADAI mark to Suncare's chocolates and confections.
5. Over the next several weeks, I worked with Senocean Industrial Company, Ltd. ("Senocean"), reviewed samples Senocean prepared, and provided feedback. On about January 11, 2012, we decided on a design. I had Senocean produce our confectionery products with this design. The product was shipped to Guam on January 15, 2012.
6. On February 1, 2012 Suncare chocolates and confections bearing the mark "HAFA ADAI" were first sold in commerce by retailers in Guam.
7. On February 15, 2012, Suncare filed an application to register the "HAFA ADAI" mark with the Guam Department of Revenue and Taxation. The application was assigned Registration No. TPC-800-351-916 and issued on April 16, 2012. (*See* Ex. C)
8. Several weeks later on March 8, 2012, Suncare filed a use-based application to register the HAFA ADAI mark with the United States Patent and Trademark Office. The application was assigned serial no. 85/563,577. With this application, Suncare properly identified February 1, 2012 as its first use and first use in commerce date.
9. Suncare prominently uses the "HAFA ADAI" mark on product packaging and related promotional materials. Consumers associate Suncare's "HAFA ADAI" mark with Suncare's confectionery products.
10. Suncare's chocolates and confections are manufactured in China and sold in Guam.
11. The language of Guam is Chamorro. This language is unique to Guam.
12. Guam is not known for manufacturing confections. Guam does not have a reputation for producing special confectionery products.

13. Tourists travel from all over the country to visit Guam. Many tourists purchase Suncare chocolates as souvenirs.
14. "HAFA ADAI" is not associated with a geographic location and is not a geographic term.
15. Consumers do not believe that "HAFA ADAI" means that the Suncare confections were made in Guam. Consumers are not buying Suncare confections because they believe the goods are manufactured in Guam.
16. "HAFA ADAI" is not frequently used by other manufacturers with any type of confection product sold in Guam.

I, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declare that all statements made of my own knowledge are true, and all statements made on information and belief are believed to be true.

Dated: 05/29/13



William Ymesei
Suncare Distributors
Operations Manager

Exhibit B



dolphin

William Ymesei 0

Gmail

22 of about 93

CONPOSE

[Cyberonic Toothbrush - www.sonictoothbrush.com](#) - World's Fastest Electric Brush Lifetime Warranty & Free Brushes

Inbox

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Acquaintances



Who says I'm offline??

Search, chat, or SMS

671chatbot

Carter Dotson

en2ja

Guru

kuamtv

wave-xmpp

westy ymesei

Jason Salas

jasonsalas

notifixous



new box sample #29/30 (dophine & beach)

Inbox x

People (3)

Sophia [Redacted]

Jan 31

Sophia

Add to circles

[Redacted]

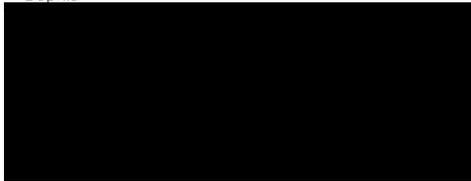
Dear Will,

Have you received improved new box Dophine and Beach put in the container?

Can you confirm to start?

2012-01-31

Sophia



Recent photos



Shi

Ads - Why these

Holabird Spc

Save Big & Sh Deals on Racq Apparel www.holabirds.com

Ship Slipway

2 dockyards in ship slipways f www.bse.net.a

Discount Sci

Get All Classrc Day Delivery. C www.Discount.com

Macy's Inter

Now Available i Order Easily O Macys.com

Hyundai | Ca

Guam's Author Ask about our

George Patterson georgeguam@yahoo.com

Feb 1

[Redacted]

s,

we are showing the new box to out customer, we will know tomorrow.

George Patterson

President

Suncare Distributors

1122 Route 16

Barrigada, Guam 96913

Tel: (671) 633-6646



dolphin

William Ymesei 0

Gmail

Navigation buttons: Move to Inbox, More

22 of about 93

COMPOSE

Inbox

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Acquaintances



Who says I'm offline??

Search, chat, or SMS

671chatbot

Carter Dotson

en2ja

Guru

kuamtv

wave-xmpp

westy ymesei

Jason Salas

jasonsafas

notifixous



发送时间 : 2012-02-03 17:12:14
收件人 : [Redacted]
抄送 : [Redacted]
主题 : Re: Re: new box sample #29/30 (dophine & beach)
S,

Cybersonic To

People (3)

Sophia

Add to circles

The dolphin is ok but the women are having a problem with the small bathing suit of the beach. Any suggestions on putting flowers to cover up the small suite?

George Patterson

President
Suncare Distributors
1122 Route 16
Barrigada, Guam 96913
Tel: (671) 633-6646
Fax: (671) 633-6656
Cell: (671) 787-0606
Email: george@suncareguam.com
Personal: georgeguam@yahoo.com
Web: <http://www.suncareguam.com/>

Recent photos



Shi

Ads - Why these

Holabird Spc

Save Big & Sh
Deals on Racq
Apparel
www.holabirds.com

Ship Slipway

2 dockyards in
ship slipways f
www.bse.net.a

Discount Sci

Get All Classr
Day Delivery. C
www.Discount.com

Macy's Inter

Now Available i
Order Easily O
Macy.com

Hyundai | Ca

Guam's Author
Ask about our

From: Sophia [Redacted]
To: George Patterson <georgeguam@yahoo.com>
Cc: will <will@suncareguam.com>; Edi Alvarez <edi@suncareguam.com>
Sent: Thursday, February 2, 2012 6:41 PM
Subject: Re: Re: new box sample #29/30 (dophine & beach)





dolphin

William Ymesei 0

Gmail

Move to Inbox More

27 of about 93

COMPOSE

Ship Slipway Australia - www.bse.net.au - 2 dockyards in Brisbane & Cairns ship slipways for repairs & refits.

Inbox

New Beach box

People (3)

Starred

Sophia

Jan 5

Sophia

Important

Send Mail

Add to circles

Sent Mail

Drafts

Circles

Friends

Family

Acquaintances



Who says I'm offline??

Search, chat, or SMS

Carter Dotson

en2ja

Guru

wave-xmpp

Jason Salas viewed nightly, se

Vincent Dela Cruz

wesly ymesei

671chatbot

jasonsalas

kuamtv



发件人 : William Ymesei
发送时间 : 2012-01-04 12:31:38
收件人 : Edi Alvarez'
抄送 : 'George Patterson'
主题 : RE: RE: Saipan order #20
Sophia,

We have two new designs for our 5oz chocolates. Please download the following design layouts and use to create the new boxes for Cluster/Milk Chocolate and Crunch/Milk Chocolate products.

- 1. New Cluster Design - <http://corp.suncareguam.com/Downloads/Cluster-Dolphin.zip>
- 2. New Krunch Design - <http://corp.suncareguam.com/Downloads/Krunch-Beach.zip>

Well receive this one and we can edit the file. But it's just a box lid. How about box bottom? Just a white bottom with necessary information? Pls advise so as we can finish the full box design with both lid and bottom./Sophia

Let me know if you have any issues with the files.

Thank you.

Will



Ads - Why these

Cybersonic World's Fastest Lifetime Warms www.sonictool

Holabird Spc Save Big & Share Deals on Racquet Apparel www.holabirdspc

Macy's Inter Now Available in Order Easily Online Macys.com

Government Deals on *Seize Activate Your Freedom Now! GovernmentAuction

More about... Cheap Cardboard Packaging Box Wedding Favor Gift Boxes Wholesale



dolphin

William Ymesei 0

Gmail

Move to Inbox More

26 of about 93

COMPOSE

Ship Slipway Australia - www.bse.net.au - 2 dockyards in Brisbane & Cairns ship slipways for repairs & refits.

Inbox

Re: RE: new boxes Inbox x

People (3)

Starred

Sophia

Jan 9

Sophia

Important

in William Ymesei's inbox

Add to circles

Sent Mail

Anything else?

Drafts

If all chocolate picture and fish pictures are in the OVAL is the special design? Shall we delete the oval?

Circles

2012-01-09

Recent photos

Friends

Sophia

Family

Acquaintances



Who says I'm offline?? :)

Search, chat, or SMS

Carter Dotson

en2ja

Guru

wave-xmpp

Jason Salas viewed nightly, se

Vincent Dela Cruz

westy ymesei

671chatbot

jasonsaldas

kuamtv



发件人 : William Ymesei
发送时间 : 2012-01-09 16:26:51
收件人 : [redacted]
抄送 : 'George Patterson'; 'Edi Alvarez'
主题 : RE: new boxes
Sophia,

I agree with you. Please change the cluster photo to your photos from Box #18.

Thank you,
Will

From: Sophia [mailto:[redacted]]
Sent: Monday, January 09, 2012 2:23 PM
To: William Ymesei
Cc: George Patterson; Edi Alvarez

Ads - Why these

Cybersonic
World's Fastest
Lifetime Warrant
www.sonictool

Macy's Inter
Now Available i
Order Easily O
Macys.com

Government
Deals on *Seiz
Activate Your #
Now!
GovernmentAu

6 Sigma Jet |
Custom Jet Kit
Scooter, Nitrou
6SigmaJetKit.c

100% Free C
Get All 3 Credi
America's #1 C



dolphin

William Ymesei 0

Gmail

Move to Inbox More

25 of about 93

COMPOSE

Ship Slipway Australia - www.bse.net.au - 2 dockyards in Brisbane & Cairns ship slipways for repairs & refits.

Inbox

Bx- 29 Dolphin revised Inbox x

Starred

Important

Sent Mail

Drafts

Circles

Friends

Family

Acquaintances



Who says I'm offline??

Search, chat, or SMS

Carter Dotson

en2ja

Guru

wave-xmpp

Jason Salas
viewed nightly, se

Vincent Dela Cruz

westy ymesei

671chatbot

jasonsals

kuamtv



Sophia [redacted]

Jan 9

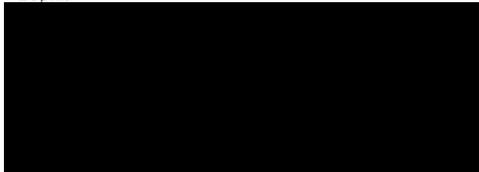
to William Ymesei

Will

See attachment and give me your comment soon! We change the chocolate picture. We give the code of Bx- #29 to the new Dolphin box

2012-01-09

Sophia



发件人: William Ymesei
发送时间: 2012-01-09 16:26:51
收件人: [redacted]
抄送: 'George Patterson'; 'Edi Alvarez'
主题: RE: new boxes
Sophia,

I agree with you. Please change the cluster photo to your photos from Box #18.

Thank you,
Will

From: Sophia [mailto:[redacted]]
Sent: Monday, January 09, 2012 2:23 PM
To: William Ymesei

People (3)

Sophia

Add to circles

Recent photos



Shr

Ads - Why these

CyberSonic
World's Fastest
Lifetime Warra
www.sonictool

Holabird Spc
Save Big & Sh
Deals on Race
Apparel
www.holabirds

6 Sigma Jet I
Custom Jet Kit
Scooter, Nitrou
6SigmaJetKit.c

Government
Deals on *Seiz
Activate Your /
Now!
GovernmentAu

Discount Sci
Get Kids Movir



dolphin

William Ymesei 0

Gmail

Move to Inbox More

23 of about 93

COMPOSE

Ship Slipway Australia - www.bse.net.au - 2 dockyards in Brisbane & Cairns ship slipways for repairs & refits.

Inbox

revised #30 box (beach)

Inbox x

People (3)

Starred

Sophia

Feb 5

Sophia

Important

Add to circles

Sent Mail

Drafts

George,

Circles

Our designer use a skirt to cover, see attachment and if it's ok? Awaiting your feedback soon!

Recent photos

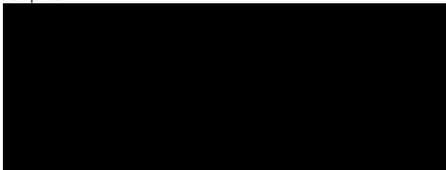


Friends

2012-02-05

Family

Sophia



Acquaintances



Who says I'm offline??

Search, chat, or SMS

Carter Dotson

en2ja

Guru

wave-xmpp

Jason Salas viewed nightly, se

Vincent Dela Cruz

westy ymesei

671chatbot

jasonsallas

kuamtv



发件人 : George Patterson
发送时间 : 2012-02-03 17:12:14
收件人 : [Redacted]
抄送 :
主题 : Re: Re: new box sample #29/30 (dophine & beach)
S,

The dolphin is ok but the women are having a problem with the small bathing suit of the beach. Any suggestions on putting flowers to cover up the small suite?

George Patterson
President
Suncare Distributors
1122 Route 16

Ads - Why these

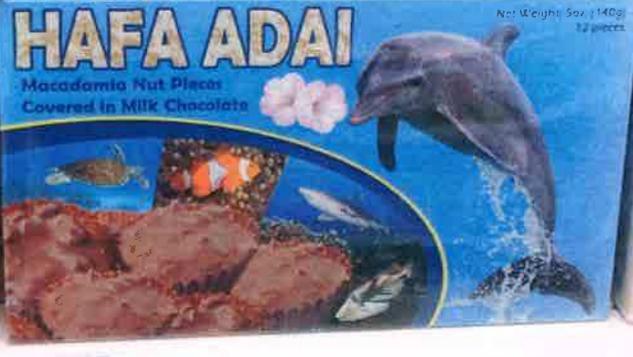
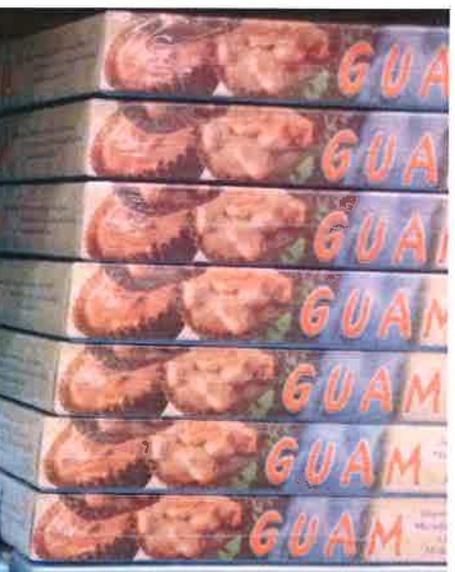
Cybersonic
World's Fastest
Lifetime Warrant
www.sonictool

Hyundai | Ca
Guam's Author
Ask about our
Hyundai's!
www.carsplusg

Holabird Spc
Save Big & Sh
Deals on Race
Apparel
www.holabirds

Discount Scl
Get All Classr
Day Delivery. C
www.Discount

Macy's Inter
Now Available i



2.99

2.99





HAFADA Mac Nut and Rice Crispies Covered in Milk Chocolate

HAFADA Mac Nut and Rice Crispies Covered in Milk Chocolate

HAFADA Mac Nut and Rice Crispies Covered in Milk Chocolate

HAFADA Mac Nut and Rice Crispies Covered in Milk Chocolate

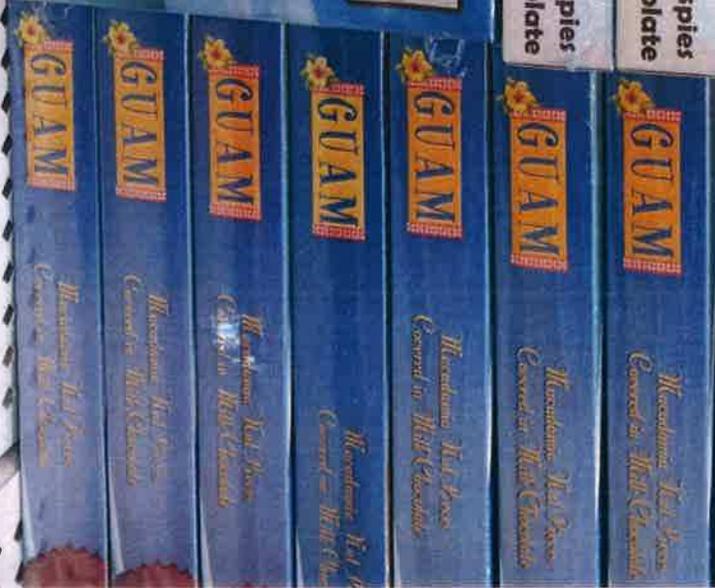
HAFADA Mac Nut and Rice Crispies Covered in Milk Chocolate

HAFADA

Mac Nut and Rice Crispies Covered in Milk Chocolate

12 pieces

Net Weight: 5oz. (140g)



GUAM Macadamia Nut Piez Covered in Milk Chocolate

2.99

2.99

Exhibit C



**Dipattamenton Kontribusion Adu'ana
Department of Revenue and Taxation**

**Gobetnon Guahan
Government of Guam**

GUAM REGISTRY OF TRADEMARK, PATENTS, AND COPYRIGHTS

CERTIFICATE OF REGISTRATION

April 16, 2012

This is to certify that

Patterson Enterprises

1422 Route 16
Barrigada, Guam 96913
USA

*registered the following Trademark on Guam pursuant to section 20401 to 20414,
Chapter 20, Title 5, Guam Code Annotated. This Trademark shall remain in force
until February 15, 2017 unless sooner terminated by law.*

GUAM Registration No: TPC-800-351-916

Date Registered: February 15, 2012

Date Received: February 15, 2012

For: Goods sold and Advertised in
International Class 30

REGISTERED MARK

HAFADA



John P. Camacho

JOHN P. CAMACHO
Director



Exhibit D

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85563577

Filing Date: 03/08/2012

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	HAFA ADAI
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	HAFA ADAI
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Patterson Enterprises
DBA/AKA/TA/FORMERLY	DBA Suncare Distributors
*STREET	1122 Route 16
*CITY	Barrigada
*COUNTRY	Guam
*ZIP/POSTAL CODE (Required for U.S. applicants only)	96913
PHONE	(671) 633-6646
FAX	(671) 633-6656

EMAIL ADDRESS	sales@suncareguam.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	http://www.suncareguam.com/
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Guam
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	030
*IDENTIFICATION	Chocolate confections
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 02/01/2012
FIRST USE IN COMMERCE DATE	At least as early as 02/01/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT11\855\635\85563577\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	HAFA ADAI in all capital letters stylized with border and flowers, turtle and plant designs with specified colors.
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	Patterson Enterprises
FIRM NAME	Patterson Enterprises
*STREET	1122 Route 16
*CITY	Barrigada
*COUNTRY	Guam
*ZIP/POSTAL CODE	

*ZIP/POSTAL CODE	96913
PHONE	(671) 633-6646
FAX	(671) 633-6656
*EMAIL ADDRESS	sales@suncareguam.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/William Ymesei/
* SIGNATORY'S NAME	William Ymesei
* SIGNATORY'S POSITION	Operations Manager
SIGNATORY'S PHONE NUMBER	(671) 633-6646
* DATE SIGNED	03/08/2012

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85563577

Filing Date: 03/08/2012

To the Commissioner for Trademarks:

MARK: HAFA ADAI (Standard Characters, see [mark](#))

The literal element of the mark consists of HAFA ADAI.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Patterson Enterprises, DBA Suncare Distributors, a corporation of Guam, having an address of

1122 Route 16
Barrigada 96913
Guam

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 030: Chocolate confections

In International Class 030, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 02/01/2012, and first used in commerce at least as early as 02/01/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) HAFA ADAI in all capital letters stylized with border and flowers, turtle and plant designs with specified colors..

[Specimen File 1](#)

For informational purposes only, applicant's website address is: <http://www.suncareguam.com/>

The applicant's current Correspondence Information:

Patterson Enterprises
Patterson Enterprises
1122 Route 16
Barrigada 96913, Guam

(671) 633-6646(phone)
(671) 633-6656(fax)
sales@suncareguam.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /William Ymesei/ Date Signed: 03/08/2012
Signatory's Name: William Ymesei
Signatory's Position: Operations Manager

RAM Sale Number: 9074
RAM Accounting Date: 03/08/2012

Serial Number: 85563577
Internet Transmission Date: Thu Mar 08 00:58:39 EST 2012
TEAS Stamp: USPTO/FTK-202.128.20.77-2012030800583959
3838-85563577-490b44f9bf782f926207e36697
aabefc-CC-9074-20120308001428255896

HAF A AD AI

HAFADAI

Exhibit E

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85546646

Filing Date: 02/18/2012

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	Hafa Adai
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Hafa Adai
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Denise R. Selk
DBA/AKA/TA/FORMERLY	DBA Coco-Jo's
*STREET	149 Chalan Guefan
*CITY	Inarajan
*COUNTRY	Guam
*ZIP/POSTAL CODE (Required for U.S. applicants only)	96915
PHONE	671-828-6444
FAX	671-828-7355

EMAIL ADDRESS	cocojos@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
*TYPE	SOLE PROPRIETORSHIP
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	Guam
NAME OF INDIVIDUAL & CITIZENSHIP	Denise R. Selk, US citizen
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	030
*IDENTIFICATION	Chocolate confections; Cookies
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	Denise R. Selk
FIRM NAME	Denise R. Selk
*STREET	149 Chalan Guefan
*CITY	Inarajan
*COUNTRY	Guam
*ZIP/POSTAL CODE	96915
PHONE	671-828-6444
FAX	671-828-7355
*EMAIL ADDRESS	cocojos@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	

NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/Denise R. Selk/
* SIGNATORY'S NAME	Denise R. Selk
* SIGNATORY'S POSITION	Sole Proprietor
SIGNATORY'S PHONE NUMBER	671-828-6444
* DATE SIGNED	02/18/2012

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85546646

Filing Date: 02/18/2012

To the Commissioner for Trademarks:

MARK: Hafa Adai (Standard Characters, see [mark](#))

The literal element of the mark consists of Hafa Adai.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Denise R. Selk, DBA Coco-Jo's, a sole proprietorship legally organized under the laws of Guam, comprising of Denise R. Selk, US citizen, having an address of

149 Chalan Guefan
Inarajan 96915
Guam

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 030: Chocolate confections; Cookies

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

Denise R. Selk
Denise R. Selk
149 Chalan Guefan
Inarajan 96915, Guam
671-828-6444(phone)
671-828-7355(fax)
cocojos@gmail.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Denise R. Selk/ Date Signed: 02/18/2012

Signatory's Name: Denise R. Selk

Signatory's Position: Sole Proprietor

RAM Sale Number: 7327

RAM Accounting Date: 02/21/2012

Serial Number: 85546646

Internet Transmission Date: Sat Feb 18 01:53:03 EST 2012

TEAS Stamp: USPTO/FTK-202.131.178.242-20120218015303

382163-85546646-490ec57e0499b5b0759ae4ae

56caf4778b-CC-7327-20120218013553558222

Hafa Adai

Exhibit F

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

PATTERSON ENTERPRISES d/b/a)	
SUNCARE DISTRIBUTORS,)	
	)	Opposition No. <u>91207808</u>
Opposer,)	
	)	Serial No. 85/546,646
v.)	
	)	Mark: HAFa ADAI
DENISE R. SELK d/b/a)	
COCO-JO's.	)	Filing Date: February 18, 2012
)	
Applicant.	)	ANSWER
)	

Coco-Jo's hereby answers the allegations made by Suncare as enumerated below:

1. Admit
2. Denied. Coco-Jo's saw no evidence of any other use of the Hafa Adai mark when Coco-Jo's began using the mark on March 8, 2012. Suncare is not known for quality products – Suncare is known for the importation and distribution of low cost, foreign-made products from China, and elsewhere, packaged to appear be of local origin to consumers.
3. Denied. The HAFa ADAI mark is inherently distinctive because “Hafa Adai” is a word in the original language of Guam meaning “Hello” and is commonly used today as a greeting in the same way “Aloha” is used in Hawaii. Suncare does not own a trademark for the HAFa ADAI mark. Suncare's deceptive trade practices do not promote goodwill.
4. Denied. Suncare does not own a trademark for the HAFa ADAI mark. Suncare did not have a mark to protect. The Guam Registration Certificate No. TPC-800-

351-916 was issued in error. The Guam Trademark Registry is limited, by law, to the registration of USPTO registered marks. (Section 20401~20414, Chapter 20, Title 5, Guam Code Annotated). When the erroneous certificate was issued, April 16, 2012, Suncare did not have a USPTO registration for the mark. Coco-Jo's filed for the mark on February 18, 2012, with USPTO.

5. Denied. Coco-Jo's adoption of the Hafa Adai trademark was on, or about, November 30, 2011. The Guam Trademark Registry does not issue trademarks. Coco-Jo's applied with the USPTO on February 18, 2012 and found no conflicting or competitive products in the International Classes 30 covering chocolate confections and cookies. Affirm. Coco-Jo's did start limited use of its Hafa Adai mark on, or about, March 8, 2012 as a market research project. Coco-Jo's saw no evidence of Suncare's use of Coco-Jo's Hafa Adai mark at that time. Coco-Jo's had already applied for the mark with USPTO and was not concerned with rumors of Suncare's desire to use the mark.

6. Denied. No bases in fact. Coco-Jo's believes that this story line was fabricated to support Suncare's attempt to hi-jack the mark. Coco-Jo's did not use the mark until it had successfully registered for the mark with USPTO. Suncare's attempt to register a USPTO mark, that it did not own, with the Guam Trademark Registry is not relevant.

7. Denied. No bases in fact. Suncare did not have a USPTO registered trademark, therefore had nothing to file with the Guam Trademark Registry. The law creating the Guam Trademark Registry does not provide for the registration of marks other than those registered by with USPTP. The Guam certificate issued to Suncare, contrary to the law, is invalid. The Guam Trademark Registry does not issue trademarks.

8. Denied. Suncare does not own a HAFA ADAI trademark. As first filer, Coco-Jo's had no reason to seek permission from Suncare.

9. Denied. Suncare does not own a HAFA ADAI trademark.

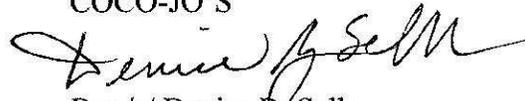
10. Denied. Suncare does not own a HAFA ADAI trademark. Suncare's sole reason for using this mark is to deceive consumers geographically by making their foreign-made products appear to be of local origin. The vast majority of these unsuspecting and trusting consumers are Japanese tourists looking for a Guam Product to take home as gifts.

11. Denied. Suncare does not own a HAFA ADAI trademark. The "unclean hands" are not Coco-Jo's. Coco-Jo's has had to curtail its planned usage of its Hafa Adai mark because the mark is being tainted by a flood of low priced, low quality, foreign-made products bearing the mark illegally by Suncare.

12. Denied. Suncare's opposition is without merit and Coco-Jo's has already been immeasurably damaged by Suncare's attempt to hi-jack its HAFA ADAI mark and the deceptive marketing practices employed by Suncare.

WHEREFORE, Coco-Jo's prays that justice be served and that this opposition be rejected and Coco-Jo's application be allowed proceed.

Respectfully submitted,
DENISE R. SELK d/b/a
COCO-JO'S



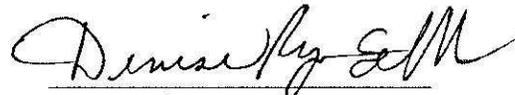
Dated: December 11, 2012

By: /s/ Denise R. Selk
Denise R. Selk, dba Coco-Jo's
P.O. Box 2676, Hagatna, Guam 96932
Telephone: (671) 828-6444
Facsimile: (671) 828-7355

CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2012(Guam time)/December 12, 2012(EST) I served a true and correct copy of the foregoing ANSWER to Opposer (Opposition number 91207808) by U.S. mail at the following address:

Thomas L. Holt
STEPTOE & JOHNSON LLP
115 South LaSalle Street
Suite 3100
Chicago, IL 60603
Telephone: (312) 577-1300
Facsimile: (312) 577-1370
Attorneys for Opposer
Patterson Enterprises d/b/a
Suncare Distributors



Ms. Denise R. Selk
Dba Coco-Jo's
Applicant
P.O. Box 2676
Hagatna, Guam 96932

Exhibit G

Trademark/Service Mark Amendment to Allege Use (15 U.S.C. Section 1051(c))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85546646
EXTENSION OF USE	NO
MARK SECTION	
MARK	HAFADA
OWNER SECTION	
NAME	Denise R. Selk
STREET	149 Chalan Guefan
CITY	Inarajan
ZIP/POSTAL CODE	96915
COUNTRY	Guam
PHONE	671-828-6444
FAX	671-828-7355
EMAIL	cocojos@gmail.com
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	030
CURRENT IDENTIFICATION	Chocolate confections; Cookies
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	03/08/2012
FIRST USE IN COMMERCE DATE	03/08/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT 11\855\466\85546646.xml2\ AAU0002.JPG
	\\TICRS\EXPORT11\IMAGEOUT 11\855\466\85546646.xml2\ AAU0003.JPG
	Photo of Point of Purchase Displays for chocolates and

SPECIMEN DESCRIPTION	cookies
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	1
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	100
TOTAL AMOUNT	100
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Denise R. Selk/
SIGNATORY'S NAME	Denise R.Selk
SIGNATORY'S POSITION	Sole Proprietor
DATE SIGNED	05/16/2012
SIGNATORY'S PHONE NUMBER	671-828-6444
FILING INFORMATION	
SUBMIT DATE	Tue May 15 22:48:37 EDT 2012
TEAS STAMP	USPTO/AAU-202.131.178.242 -20120515224837344278-855 46646-490b380944860d73da7 644bb97403958-CC-7507-201 20515212621088515

**Trademark/Service Mark Amendment to Allege Use
(15 U.S.C. Section 1051(c))**

To the Commissioner for Trademarks:

MARK: HAFA ADAI

SERIAL NUMBER: 85546646

The applicant, Denise R. Selk, having an address of
149 Chalan Guefan
Inarajan, 96915
Guam

is submitting the following allegation of use information:

For International Class 030:

Current identification: Chocolate confections; Cookies

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 03/08/2012, and first used in commerce at least as early as 03/08/2012, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Photo of Point of Purchase Displays for chocolates and cookies.

[Specimen File1](#)

[Specimen File2](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Denise R. Selk/ Date Signed: 05/16/2012

Signatory's Name: Denise R.Selk

Signatory's Position: Sole Proprietor

Signatory's Phone: 671-828-6444

RAM Sale Number: 7507

RAM Accounting Date: 05/16/2012

Serial Number: 85546646

Internet Transmission Date: Tue May 15 22:48:37 EDT 2012

TEAS Stamp: USPTO/AAU-202.131.178.242-20120515224837

344278-85546646-490b380944860d73da7644bb

97403958-CC-7507-20120515212621088515

HAWAIIAN HOST
HUGO
\$18.99
\$1.583 PER 1 OZ

RAFFAELLO
CONFETTERIA
\$6.99
\$0.628 PER 1 OZ

COCO JO'S
BEST CHOCOLATE
\$14.99
\$0.999 PER 1 OZ
Hafa Adai
Chocolates of Guam

TURTLES
TURTLES LAYO
\$5.19
\$0.811 PER 1 OZ



FERRERO
GIFT BOX
9

FERRERO ROCHER
HAZELNUT CHOC 48CT
\$15.99
\$0.758 PER 1 OZ

ALMOND
SUGAR FF
\$2.1
\$0.730 PER 1 OZ

Exhibit H

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

PATTERSON ENTERPRISES d/b/a SUNCARE DISTRIBUTORS,)	
Opposer,	)	Opposition No. 91207808
v.	)	Serial No. 85/546,646
DENISE R. SELK d/b/a COCO-JO's.	)	Mark: HAFA ADAI
Applicant.	)	Filing Date: February 18, 2012
)	

ANSWERS TO OPOSER'S FIRST SET OF INTERROGATORIES

Interrogatory No. 1: On or about November 30, 2011, during management discussions of growth options, it was decided that the Hafa Adai mark be incorporated into our marketing with the eventual goal of developing a new Guam-made brand.

Interrogatory No. 2: Products to include Guam-made cookies and chocolate candies to be distributed through the same channels as our Coco-Jo's branded products.

Interrogatory No. 3: (a) Locals and tourists (b)As with Coco-Jo's, consumers are looking for quality, Guam-made products.

Interrogatory No. 4: Informal surveys have been conducted by Coco-Jo's Management (Denise Selk and Charles A. Selk). A survey of Japanese consumers was conducted by MOTIVA TRAINING & CONSULTING, Toshie Ito, owner. The surveys were conducted to determine the perceived quality of our own products and to determine if consumers were aware of Suncare's Hafa Adai products' origin in China and, knowing that, how it would affect their buying decisions.

Interrogatory No. 5: On February 18, 2012, Denise R. Selk did a search for the “Hafa Adai” mark for category 30 and found the mark to be available. She filed for the mark and her application was accepted.

Interrogatory No. 6: It was the registrant’s intention to manufacture and distribute Guam-made candy and confectionary products under the “Hafa Adai’ brand because of the local connotations the name infers.

Interrogatory No. 7: No goods were sold under the “Hafa Adai” , as a stand alone brand, by the applicant because the market was flooded with Suncare’s (the opposer) substandard Chinese-made products with the Hafa Adai brand. The applicant considered the mark to be **tainted** by the deceptively packaged, substandard quality goods.

Interrogatory No. 8: The applicant first became aware of Suncare’s (the opposer) illegal use of its mark on, or about, March 15, 2012 when the Chinese-made Hafa Adai products appeared on the store shelves.

Interrogatory No. 9: Every week thousands of Japanese tourists, and locals alike, are confused by the opposer’s use of the mark to disguise their Chinese-made products as a product of Guam.

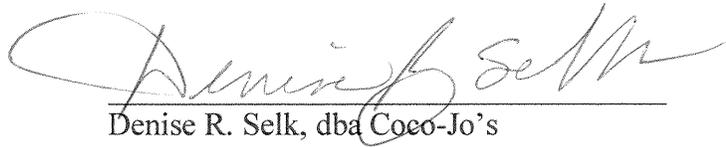
Interrogatory No. 10: (1) Suncare applied for registration with the Guam Trademark registry on February 15th but made no attempt to apply for the mark with USPTO until March 8, 2012. Guam law (sections 20401 to 20414, Chapter 20, Title 5, Guam Code Annotated), creating the Guam registry of USPTO trademarks, requires that applicants “show proof” of a USPTO registered Trademark as a qualification to file. Suncare did not submit any proof of a USPTO trademark for “Hafa Adai” with their application. (2) Suncare is using the mark for “Geographical Deception” which disqualifies them for the mark with USPTO.

Interrogatory No. 11: On, or about, November 30, 2012 is our collective recollection of this event.

Interrogatory No. 12: March 8, 2012 is the date the applicant started introducing the Hafa Adai mark to the public by placing stickers on some of our Coco-Jo's cookies and chocolates. Opposer verifies this date in the "Notice of Opposition".

Interrogatory No. 13: (1) Denise R. Selk (2) Charles A. Selk

Respectfully submitted,



Denise R. Selk, dba Coeo-Jo's

March 13, 2013

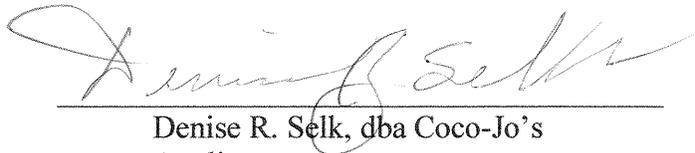
P.O. Box 2676
Hagatna, GU 96932

CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2013 (Guam time), I served a true and correct copy for the foregoing "APPLICANT'S ANSWER TO FIRST SET OF INTERROGATORIES" (Opposition number 91207808) by US mail at the following address:

Thomas L. Holt
STEPTOE & JOHNSON LLP
115 South LaSalle Street, Suite 3100
Chicago, IL 60603

Attorneys for Opposer

A handwritten signature in cursive script, appearing to read "Denise R. Selk", is written over a horizontal line.

Denise R. Selk, dba Coco-Jo's
Applicant
P.O. Box 2676
Hagatna, Guam 96932

Exhibit I

To: Patterson Enterprises (sales@suncareguam.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85563577 - HAFADA - N/A
Sent: 6/27/2012 7:15:31 AM
Sent As: ECOM109@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

APPLICATION SERIAL NO. 85563577

MARK: HAFADA

85563577

CORRESPONDENT ADDRESS:

PATTERSON ENTERPRISES
PATTERSON ENTERPRISES
1122 ROUTE 16
BARRIGADA, GU 96913

CLICK HERE TO RESPOND TO THIS LETTER:

http://www.uspto.gov/trademarks/teas/response_forms.jsp

APPLICANT: Patterson Enterprises

CORRESPONDENT'S REFERENCE/DOCKET

NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

sales@suncareguam.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 6/27/2012

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

LIKELIHOOD OF CONFUSION

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no similar registered mark that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

The filing date of pending Application Serial No. 85/546646 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

REQUIREMENTS

Upon receipt of applicant's response resolving the following requirements, action on this application will be suspended pending the disposition of Application Serial No. 85/546646. 37 C.F.R. §2.83(c); TMEP §§716.02(c), 1208.02(c).

TRANSLATION

Applicant must submit an English translation of the mark. 37 C.F.R. §2.32(a)(9); TMEP §809. See attached translation. The following translation statement is suggested:

The English translation of "HAFA ADAF" in the mark is "HELLO".

TMEP §809.03.

SPECIMEN REFUSED – A PICTURE/RENDERING OF MARK ONLY

The specimen is not acceptable because it is merely a rendering of the applied-for mark; it does not show the applied-for mark in actual use in commerce on the goods. *See* 37 C.F.R. §2.56(c); TMEP §904.04(a). Trademark Act Section 45 requires use of the mark "on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto." 15 U.S.C. §1127; *see* 37 C.F.R. §2.56(b)(1); TMEP §904.03.

An application based on Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each class of goods. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Therefore, applicant must submit the following:

- (1) A substitute specimen showing the mark in use in commerce for each class of goods specified in the application; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: "**The substitute specimen was in use in commerce at least as early as the filing date of the application.**" 37 C.F.R. §2.59(a); TMEP §904.05; *see* 37 C.F.R. §2.193(e)(1). If submitting a substitute specimen requires an amendment to the dates of use, applicant must also verify the

amended dates. 37 C.F.R. §2.71(c); TMEP §904.05.

Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, or displays associated with the actual goods at their point of sale. *See* TMEP §§904.03 *et seq.*

If applicant cannot satisfy the above requirements, applicant may amend the application from a use in commerce basis under Section 1(a) to an intent to use basis under Section 1(b), for which no specimen is required. *See* TMEP §806.03(c). However, if applicant amends the basis to Section 1(b), registration will not be granted until applicant later amends the application back to use in commerce by filing an acceptable allegation of use with a proper specimen. *See* 15 U.S.C. §1051(c), (d); 37 C.F.R. §§2.76, 2.88; TMEP §1103.

To amend to Section 1(b), applicant must submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**Applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods listed in the application as of the filing date of the application.**” 37 C.F.R. §2.34(a)(2); TMEP §806.01(b); *see* 15 U.S.C. §1051(b); 37 C.F.R. §§2.35(b)(1), 2.193(e)(1).

Pending receipt of a proper response, registration is refused because the specimen does not show the applied-for mark in use in commerce as a trademark. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Response Options for Specimen Refusal

Applicant may respond by using the Trademark Electronic Application System (TEAS) Response to Office Action Form to satisfy one of the following:

(1) **Submit a verified substitute specimen as follows:** (a) answer “yes” to the TEAS response form wizard question to “submit a new or substitute specimen;” (b) on the next page, attach a jpg or pdf file of the substitute specimen; (c) check the box next to the statement “The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application”; and (d) on the next page, applicant must personally sign or personally enter his/her electronic signature and date after the declaration at the end of the TEAS response form, and print or type the name of the signatory immediately below or adjacent to his/her signature or identify it elsewhere in the filing.; or

(2) **Amend the application to an intent to use filing basis under Trademark Act Section 1(b) as follows:** (a) answer “yes” to the TEAS response form wizard questions to “change filing basis” and for a “signed declaration,” respectively; (b) on the next page, uncheck the box for “Filing Basis Section 1(a);” (c) check the box for “Filing Basis Section 1(b);” and (d) on the next page, applicant must personally sign or personally enter his/her electronic signature and date after the declaration at the end of the TEAS response form, and print or type the name of the signatory immediately below or adjacent to his/her signature or identify it elsewhere in the filing.

See 37 C.F.R. §§2.34(a)(2), 2.59(a), 2.193(a), (c)-(d), (e)(1); TMEP §§611.01(c), 804.01(b).

If applicant experiences difficulty in submitting the verified substitute specimen or in changing the filing basis, please e-mail TEAS@uspto.gov for technical assistance regarding the TEAS response form.

\$50 ADDITIONAL FEE REQUIRED – APPLICATION REQUIREMENTS NOT MET

Applicant must submit an additional application processing fee of \$50 per class because the application as filed did not meet the TEAS Plus application filing requirements. *See* 37 C.F.R. §§2.6(a)(1)(iv), 2.22(a), (b); TMEP §§819.01 *et seq.*, 819.04. Specifically, applicant failed to meet the following application filing requirement: a translation of all non-English wording in the mark was not provided.

The additional fee is required even if applicant later corrects these application requirements.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney.

Please note: All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Wendy B. Goodman, Esq./
Trademark Attorney
Law Office 109
(571) 272-9276 (phone)
wendy.goodman@uspto.gov

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant

or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

Haetism
Haeun
Haeur
haeve
haeven
haever
haewon
hae yeon
Haeyn
Haezal
(haf)
"Haf"
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hafa adai

Hafada
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HAFE
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Hafeez
Hafell
hafen
hafenize
Hafer
Hafesho
Haff
haffa
haffabe
haffa blowie
haffafag
Haffahoe

thesaurus for hafa adai:

[chamorro](#) [quam](#) [hafaadai](#) [hello](#) [more...](#)

1. hafa adai

65 up, 27 down



Hafa Adai (pronounced HALF A DAY) is "Hello" in Chamorro, the native language of Guam and the islands of the Northern Marianas. It's basically used the same way as the word "Aloha" in the Hawaiian Islands.

Hafa adai and welcome to Guam, "where America's day begins".

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[greeting](#) [aloha](#) [hafadai](#) [hafaadai](#)

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2. Hafa Adai

15 up, 3 down



This salutation or greeting is similar to "Aloha" in Hawaii. Just as Hawaiians are well known for saying "Aloha!" so are the natives of Guam just as well known for saying "Hafa Adai!" The greeting "Hafa Adai!" is literally translated into English as "What Friend" or "What Partner" But, because the literal translation loses meaning, the best or most close meaning is "How are you, Friend?" Or, "What's up Friend?" or "Hello!" A greeting you would say to someone you consider a friend. In Guam, the Chamorro greeting is a very friendly way of welcoming people. It's Polite, and Friendly. If you see a Guam Bumper sticker in the USA it will most likely say "HAFADA" on it. The correct pronunciation of Hafa Adai is just like

Language Professors Hate Him



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Haffahoe
Haffaigh
Haffenreffer
Haffenwrecker
Haffet
haffi
haffie

"Half a Day".

A Chamorro girl sees a cute Island Boy (Chamorro Boy) walking past her and she smiles kindly and says "Hafa Adai" and he nods and says "Hafa Adai" back.

As they pass each other they both smile. Two strangers greeting each other as friends. :) That's the Chamorro way.

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3. Hafa Adai

20 up, 13 down



It means: Hello, how are you (in chamoro).

Hafa Adai dude. Why don't you make me some spam.

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4. Hafa Adai

19 up, 13 down



Does not mean "hello"
Means "What's up?"

When you're speaking to somebody, and they don't hear you, they'll say, "Hafa?"

Which leads someone, even if they don't speak the language, to know that it means "What's up?"

Pronounced "Hoffa Day"

Man arrives at party
"Hafa Adai!"

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by [m00sik](#) Mar 21, 2009 [share this](#) [add a video](#)

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DESIGN MARK

Serial Number

85546646

Status

NON-FINAL ACTION - MAILED

Word Mark

HAFU ADAI

Standard Character Mark

Yes

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Denise R. Selk DBA Coco-Jo's SOLE PROPRIETORSHIP GUAM 149 Chalan
Guefan Inarajan GUAM 96915

Goods/Services

Class Status -- PARTIALLY PAID. IC 030. US 046. G & S: Chocolate
confections; Cookies. First Use: 2012/03/08. First Use In Commerce:
2012/03/08.

Filing Date

2012/02/18

Examining Attorney

MCCAULEY, BRENDAN

Hafa Adai

To: Patterson Enterprises (sales@suncareguam.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85563577 - HAFA ADAI - N/A
Sent: 6/27/2012 7:15:33 AM
Sent As: ECOM109@USPTO.GOV
Attachments:

IMPORTANT NOTICE REGARDING YOUR TRADEMARK APPLICATION

Your trademark application (Serial No. 85563577) has been reviewed. The examining attorney assigned by the United States Patent and Trademark Office (“USPTO”) has written a letter (an “Office Action”) on **6/27/2012 to which you must respond. Please follow these steps:**

1. Read the Office letter by clicking on this [link](#) **OR** go to <http://tportal.uspto.gov/external/portal/tow> and enter your serial number to [access](#) the Office letter.

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

2. Respond within 6 months, calculated from **6/27/2012** (*or sooner if specified in the Office letter*), using the Trademark Electronic Application System [Response to Office Action form](#). If you have difficulty using the USPTO website, contact TDR@uspto.gov.

3. Contact the examining attorney who reviewed your application with any questions about the content of the office letter:

/Wendy B. Goodman, Esq./
Trademark Attorney
Law Office 109
(571) 272-9276 (phone)
wendy.goodman@uspto.gov

WARNING

Failure to file any required response by the applicable deadline will result in the [ABANDONMENT](#) of your application.

Do NOT hit “Reply” to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, please use the Trademark Electronic Application System [Response to Office Action form](#).

Exhibit J

To: Patterson Enterprises (sales@suncareguam.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85563577 - HAFA ADAI - N/A
Sent: 8/13/2012 10:28:14 PM
Sent As: ECOM109@USPTO.GOV
Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

APPLICATION SERIAL NO. 85563577

MARK: HAFA ADAI

85563577

CORRESPONDENT ADDRESS:
PATTERSON ENTERPRISES
PATTERSON ENTERPRISES
1122 ROUTE 16
BARRIGADA, GU 96913

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: Patterson Enterprises

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:
sales@suncareguam.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 8/13/2012

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See 37 C.F.R. §2.67; TMEP §§716 et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See TMEP §716.04.*

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

LIKELIHOOD OF CONFUSION

The effective filing date of the pending application identified below precedes the filing date of applicant's

application. If the mark in the referenced application registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application was sent previously.

- Application Serial No(s). 85/546646

TRANSLATION STATEMENT

Applicant's translation statement is accepted and noted in the record.

SUBSTITUTE SPECIMEN

The substitute specimen is accepted and noted in the record.

/Wendy B. Goodman, Esq./
Trademark Attorney
Law Office 109
(571) 272-9276 (phone)
wendy.goodman@uspto.gov

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: Patterson Enterprises (sales@suncareguam.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85563577 - HAFA ADAI - N/A
Sent: 8/13/2012 10:28:16 PM
Sent As: ECOM109@USPTO.GOV
Attachments:

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

**USPTO LETTER (AN OFFICE ACTION) HAS ISSUED ON 8/13/2012 FOR
SERIAL NO. 85563577**

Please follow the instructions below:

TO READ OFFICE LETTER: Click on this [link](#) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to [access](#) the Office letter

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

HELP: For *technical* assistance in accessing the Office correspondence, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office letter.

To: Patterson Enterprises (sales@suncareguam.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85563577 - HAFA ADAI - N/A
Sent: 10/18/2012 11:46:18 AM
Sent As: ECOM109@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85563577

MARK: HAFA ADAI

85563577

CORRESPONDENT ADDRESS:
PATTERSON ENTERPRISES
PATTERSON ENTERPRISES
1122 ROUTE 16
BARRIGADA, GU 96913

GENERAL TRADEMARK INFORMATION
<http://www.uspto.gov/trademarks/index.jsp>

APPLICANT: Patterson Enterprises

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:
sales@suncareguam.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 10/18/2012

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See 37 C.F.R. §2.67; TMEP §§716 et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See TMEP §716.04.*

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the

“Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

The effective filing date of the pending application(s) identified below precedes the filing date of applicant’s application. If the mark in the referenced application(s) registers, applicant’s mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) is attached.

- Application Serial No(s). 85/546646

FILING BASIS AMENDMENT/CERTIFICATE OF FOREIGN REGISTRATION

Applicant requested an amendment to the filing basis, to Section 44(e), and submitted a certificate of foreign registration from Guam. This amendment is not acceptable. Guam is not a foreign country, but rather a territory of the United States. Furthermore, Guam is not a signatory to the Paris Convention.

/Wendy B. Goodman, Esq./
Trademark Attorney
Law Office 109
(571) 272-9276 (phone)
wendy.goodman@uspto.gov

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: Patterson Enterprises (sales@suncareguam.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85563577 - HAFA ADAI - N/A
Sent: 10/18/2012 11:46:19 AM
Sent As: ECOM109@USPTO.GOV
Attachments:

IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION

USPTO LETTER (AN OFFICE ACTION) HAS ISSUED ON **10/18/2012**
FOR
SERIAL NO. 85563577

Please follow the instructions below:

TO READ OFFICE LETTER: Click on this [link](#) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to [access](#) the Office letter

PLEASE NOTE: The Office letter may not be immediately available but will be viewable within 24 hours of this e-mail notification.

HELP: For *technical* assistance in accessing the Office correspondence, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office letter.

Exhibit K

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

PATTERNSON ENTERPRISES d/b/a, SUNCARE DISTRIBUTORS)	
)	
Opposer,	)	Opposition No. 91207808
)	
v.	)	Serial No. 85/546,646
)	
DENISE R. SELF d/b/a COCO-JO'S.	)	Mark: HAFA ADAI
)	
Applicant.	)	Filing Date: February 18, 2013
)	
)	

QICHUN LIANG (AKA SOPHIA LIANG) DECLARATION UNDER 37 C.F.R. § 2.20

I, Qichun Liang AKA Sophia Liang, declare and state the following:

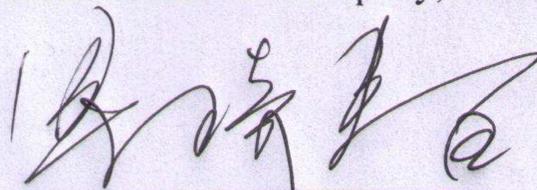
1. All the statements set forth in this Declaration are within my personal knowledge. If called as a witness in the above-captioned administrative proceeding, I could, and would, competently testify to the facts set forth in the following statements.
2. I am the President of Senocean Industrial Company, Ltd. ("Senocean"). I have been doing business with Suncare for over 15 years. I am generally in charge of Chocolate business with Suncare Distributors for more than 4 years. I correspond with Suncare's Distributors in this regard. I am involved in product packaging design and development.
3. In January of 2012 I was approached by Will Ymesei of Suncare Distributors. He requested a change in the packaging of Suncare confections and chocolates. The change in packaging involved adding "HAFA ADAI" to Suncare's chocolates and confections.
4. Suncare chocolates and confections bearing the mark "HAFA ADAI" were first shipped to Guam on January 15, 2012.

5. From at least January 31, 2012 through February 2, 2012, I corresponded with Will Ymesei, Suncare's Operations Manager, and George Patterson, Suncare's President, regarding the newly shipped product packaging bearing the mark "HAFA ADAI." These discussions involved comments and feedback on Suncare's products bearing the mark "HAFA ADAI." As a result, slight changes in the packaging design were made but the products continued bearing the mark "HAFA ADAI."

I, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declare that all statements made of my own knowledge are true, and all statements made on information and belief are believed to be true.

Dated: May 10, 2013_

Senocean Industrial Company, Ltd.



Qichun Liang (AKA Sophia Liang)



Exhibit L

United States of America

United States Patent and Trademark Office

MOSKOVSKAYA

Reg. No. 4,301,542

Registered Mar. 12, 2013

Int. Cl.: 33

TRADEMARK

PRINCIPAL REGISTER

SPIRITS INTERNATIONAL B.V. (NETHERLANDS PRIVATE LIMITED LIABILITY COMPANY)
7 RUE NICOLAS BOVÉ
LUXEMBOURG, LUXEMBOURG L1253

FOR: VODKA, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 0-0-1938; IN COMMERCE 7-15-2012.

THE ENGLISH TRANSLATION OF "MOSKOVSKAYA" IS OF OR FROM MOSCOW.

SN 74-382,759, FILED 4-22-1993.

GEOFFREY FOSDICK, EXAMINING ATTORNEY



Sean Street Lee

Acting Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.