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

|                        |  |
|------------------------|--|
| Proceeding             | 91213744   |
| Party                  | Defendant<br>Pearl Enterprises, LLC  |
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| Submission             | Reply in Support of Motion   |
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| Signature              | /Christopher R. Kinkade/   |
| Date                   | 05/29/2014   |
| Attachments            | Reply in Support of Motion to Dismiss for Lack of Jurisdiction.PDF(130676 bytes )  |

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

YUKO FUJITA,

Opposer,

v.

PEARL ENTERPRISES, LLC,

Applicant.

Opposition No. 91213744

Mark: KINOKI

Serial No. 85941092

Published in *Official Gazette*:  
September 10, 2013

**APPLICANT'S REPLY IN SUPPORT OF  
MOTION TO DISMISS FOR LACK OF JURISDICTION**

Applicant Pearl Enterprises, LLC (“Applicant”), being mindful that reply submissions which are repetitive of the original motion are disfavored by the Board, respectfully submits this reply limited to succinctly addressing matters first raised by Opposer’s papers filed in response to the Motion to Dismiss.

**I. INTRODUCTION**

This motion was filed because the named individual Opposer appeared to be an undisclosed fictitious name for a Japanese corporation, Kenrico Ltd., and Opposer’s counsel did not comply with a request to supply a valid identity document confirming the existence, full name, and legal identity of the named individual Opposer, Yuko Fujita. Opposer’s response confirms that the true party in interest is in fact Kenrico Ltd. (by way of a backdated purported royalty-free trademark license) but, significantly, fails to supply any identity document such as a Passport or driver’s license or citizenship certificate to show the true and full legal name, gender, and identity of the claimed Opposer. Furthermore, it is supported only by a legally deficient declaration that the Board may, and should, decline to consider for failing to include a full signature and relying upon foreign language text without a certified translation.

**II. ARGUMENT—THE BOARD SHOULD NOT ACCEPT THE PURPORTED DECLARATION SUBMITTED IN OPPOSITION TO THE MOTION**

Opposer submitted a purported declaration in opposition to the motion which fails to include a proper signature as required by U.S. law and TTAB Rules. A copy of this unusual attempt at a signature on page 2 of the Declaration is shown here in color, as filed by Opposer:



Yuko Fujita  
1738-2 Kikugawa  
Shimada, Shizuoka 428-0037  
JAPAN

Since the Board can clearly see the deficiency and irregularity (appearing in slightly different versions on page 1 of the Declaration and on page 3 of Opposer’s confidential exhibit), it is necessary to only briefly describe the salient issues. The supposed signature of “Yuko Fujita” is comprised of two separate signature lines, one above the other with a space in between. The top line appears to be hand drawn, while the lower (and longer) signature line is typed. There is no signature in English on either line. Instead there is a red circular stamp which appears to contain Japanese stamped text. Adjacent to the stamp and above the top signature line, someone has hand printed (not signed) the word “Fujita” in English. No certified translation of the Japanese text of the stamp is provided. The name of the purported Opposer and the address of Kenrico Ltd. appear typed only below the second and lower signature line, which intersects the red circular stamp. The full hand-written signature of a “Yuko Fujita” is not found in any of the three places where this stamped Japanese text appears in Opposer’s submission. The confidential exhibit contains a second stamp of apparently another person with Japanese text which also has no translation.

In TTAB proceedings, a party who relies on foreign language in submitted documents must submit a certified translation. In the absence of such a translation the Board is authorized to refuse consideration of the documents presented. *See* TBMP § 104. Here the Japanese stamps of two persons have been submitted and, critically, are relied upon as essential to Opposer's opposition to the motion, without certified translations. Also, the declaration that Opposer relies upon does not have an actual full signature as required by TBMP § 106.02. It should, therefore, be treated as unsigned. *See also* 37 C.F.R. § 2.119(e). Accordingly the Board should reject the declaration submitted in opposition.

### **III. CONCLUSION**

Applicant respectfully requests that the Board grant Applicant's motion and dismiss this Opposition with prejudice.

Respectfully submitted,

/Christopher R. Kinkade/  
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*Attorneys for Applicant Pearl Enterprises, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of May, 2014, a true and correct copy of the foregoing Applicant's Motion to Dismiss for Lack of Jurisdiction has been served via email, per agreement, and first-class mail upon the following counsel of record for Opposer:

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