

ESTTA Tracking number: **ESTTA671841**

Filing date: **05/12/2015**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Honolulu Beerworks LLC
Granted to Date of previous extension	05/16/2015
Address	328 Cooke Street Honolulu, HI 96813 UNITED STATES

Attorney information	Colin O. Miwa Cades Schutte LLP 1000 Bishop Street Suite 1200 Honolulu, HI 96813 UNITED STATES cmiwa@cades.com, bhairston@cades.com Phone:808-521-9200
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Applicant Information

Application No	86234361	Publication date	03/17/2015
Opposition Filing Date	05/12/2015	Opposition Period Ends	05/16/2015
Applicant	Lanikai Brewing Company, LLC 1105 Mokulua drive Kailua, HI 96734 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beer

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
The mark is primarily geographically deceptively misdescriptive	Trademark Act section 2(e)(3)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark	
Goods/Services	Beer and Restaurant Services

Attachments	Honolulu Beerworks.JPG Notice of Opposition; Exhibits A-D; Proof of Service.pdf(1349636 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Colin O. Miwa/
Name	Colin O. Miwa
Date	05/12/2015

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

In the matter of Trademark Application Serial No. 86/234,361
Filed on March 27, 2014
For the mark “LANIKAI BREWING COMPANY” and design
Published: March 17, 2015

HONOLULU BEERWORKS LLC,)	
)	
Opposer,)	
)	Opposition No.: _____
v.)	
)	
LANIKAI BREWING COMPANY, LLC,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer HONOLULU BEERWORKS LLC, a Hawaii limited liability company (“**Opposer**”), whose mailing address is 328 Cooke Street, Honolulu, Hawaii 96813, believes it



will be damaged by the registration of the mark shown in Application Serial No. 86/234,361 (the “**Application**”) filed by LANIKAI BREWING COMPANY LLC (“**Applicant**”), for “Beer” in International Class 32, and hereby respectfully submits the following for its opposition to the Application:

1. Opposer has widely and publicly used the mark  (“**Opposer’s Mark**”), in connection with beer and other related goods and services since at least as early as March 7, 2013.

2. Opposer has developed valuable trademark and service mark rights for Opposer's Mark in connection with beer brewed and sold at its restaurant, and with related goods and services.

3. Opposer has used, and Opposer holds various State of Hawaii trademark registrations for, Opposer's Mark in connection with beer and related goods and services, including (without limitation) the following: (a) Hawaii Trademark Registration No. 4142217

for the mark, , for "Beer" in Class 32, which issued on April 2, 2015; and (b) Hawaii

Trademark Registration No. 4115235 for the mark, , for "Restaurant services" in Class 43, which issued on March 12, 2013 (collectively, "**Opposer's Trademark Registrations**"). The above-identified goods and services of Opposer are collectively referred to herein as "**Opposer's Goods and Services.**"

4. On March 27, 2014, on information and belief, Applicant filed with the U.S. Patent and Trademark Office the Application to register the mark  ("**Applicant's Mark**").

5. The Application seeks registration of the mark, , for "Beer" in International Class 32 ("**Applicant's Goods**").

6. On information and belief, on or about January 15, 2015, an Examiner's Amendment was filed, which amended the Application to add a disclaimer of the words "BREWING COMPANY" in the applied-for mark, among other things.

7. The Application is not restricted as to channels of trade or purchasers.

8. Applicant's Goods and Opposer's Goods and Services are identical or closely related. As shown in the printout from Applicant's Facebook website at <http://www.facebook.com/lanikaibrewing>, a copy of which is attached hereto as Exhibit "A," Applicant advertises Applicant's Goods while it also offers for sale clothing goods, including t-shirts and hats, bearing Applicant's Mark.

9. Applicant's Mark is confusingly similar to Opposer's Mark in terms of appearance, as both include a circular design with horizontal bands, both containing geographic place names which are both located on the island of Oahu, State of Hawaii.

10. On information and belief, the goods covered by the Application are or will be offered to the same class of purchasers and users who purchase and use the goods and services in connection with which Opposer has used and is using Opposer's Mark.

11. The use and registration of Applicant's Mark, as indicated above, would result in confusion, mistake, and/or deception as to the source or origin of Applicant's Goods, leading consumers to believe that they are somehow affiliated with, or approved, sponsored, or licensed by Opposer.

12. There exists a likelihood of confusion between Opposer's Mark and Applicant's Mark, pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13. If Applicant is permitted to use and register Applicant's Mark for the goods specified in the Application, confusion in trade, resulting in irreparable damage and injury to Opposer, inevitably would result by reason of the similarity between Applicant's and Opposer's marks and the goods and services to be sold thereunder. Any defect, objection, or fault found with goods marketed under Applicant's Mark, would reflect on, and injure, the reputation Opposer has established and will establish for the goods and services sold under Opposer's Mark.

14. If Applicant is granted the registration herein opposed, Applicant would obtain a *prima facie* exclusive right to use the mark set forth in the Application. Such registration would become a source of damage and injury to Opposer through the generation of confusion, mistake, and/or deception, the dilution of Opposer's registered mark, and the diminution of Opposer's ability to control the quality of the goods and services sold thereunder.

15. Applicant's Mark, if used on or in connection with the goods listed in the Application, would likely dilute, and/or would actually dilute, the distinctiveness of Opposer's Mark.

16. There is no issue as to priority. As evidenced by Opposer's registrations identified above, Opposer has been using Opposer's Mark since at least as early as March 2013.

17. On information and belief, and as indicated in the Application, Applicant only began using its mark in commerce since March 2015.

18. In addition, Applicant's Mark is either primarily geographically descriptive of Applicant's Goods because "LANIKAI" is the geographic location where its goods are sold or offered for sale, and thus the mark is unregistrable under Section 2(e)(2) of the Lanham Act, 15 U.S.C. § 1052(e)(2), or it is primarily geographically deceptively misdescriptive and thus unregistrable under Section 2(e)(3) of the Lanham Act, 15 U.S.C. § 1052(e)(3).

19. As shown by the printout from Applicant's Facebook website attached hereto as Exhibit "A," Applicant refers to "Lanikai" as a geographic place.

20. As demonstrated by the printouts from: (a) *The Columbia Gazetteer of the World*, available at columbiagazetteer.org, a copy of which is attached hereto as Exhibit "B"; (b) kailuachamber.com, a copy of which is attached hereto as Exhibit "C"; and (c) kalaehale.com, a copy of which is attached hereto as Exhibit "D," "Lanikai" is a village or beach located on the island of Oahu, State of Hawaii.

WHEREFORE, Opposer prays that this Opposition be sustained, that the Application be refused, and that the mark applied for therein be refused registration.

DATED: Honolulu, Hawaii, May 12, 2015.

Respectfully submitted,

/Colin O. Miwa/

Martin E. Hsia, Reg. No. 32,471

Colin O. Miwa

CADES SCHUTTE

A Limited Liability Law Partnership LLLP

1000 Bishop Street, Suite 1200

Honolulu, HI 96813

Tel: (808) 521-9200

Attorneys for Opposer

HONOLULU BEERWORKS LLC

Email or Phone Password

Keep me logged in

[Forgot your password?](#)



Timeline About Photos Videos Likes

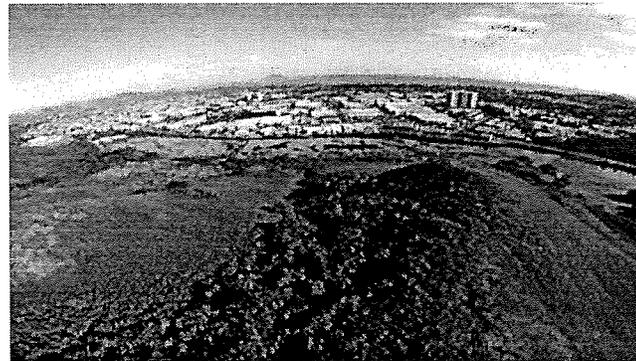


Lanikai Brewing Company with Brandon Cody and 6 others at Lanikai Beach 2 hrs ·

This epic drone video is just a taste of the Kickstarter campaign that we launched this morning. Visit the Kickstarter website and view the full video and campaign. Please help Lanikai Brewing Company by supporting our effort to build an awesome tasting room to enjoy our local craft beer!

BONUS: Each person that "shares" this post on their Facebook page will be entered into our weekly drawing for FREE swag (see our Rewards section). Winners announced on Facebook

<https://w...> See More



554 Views Like · Comment · Share · 25 1 23



Lanikai Brewing Company added 2 new photos — with Brandon Cody. 23 hrs · Edited ·

Sneak peak photos from our Kickstarter to launch tomorrow. Check out our Kickstarter campaign to pick up some epic swag and help us to build out this beautiful tasting room. Look for the link to be posted tomorrow...please share



PEOPLE

971 likes

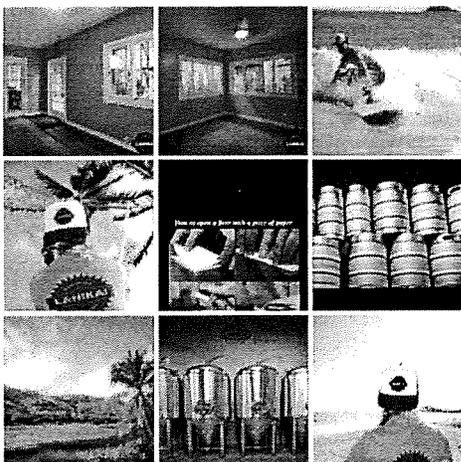
ABOUT



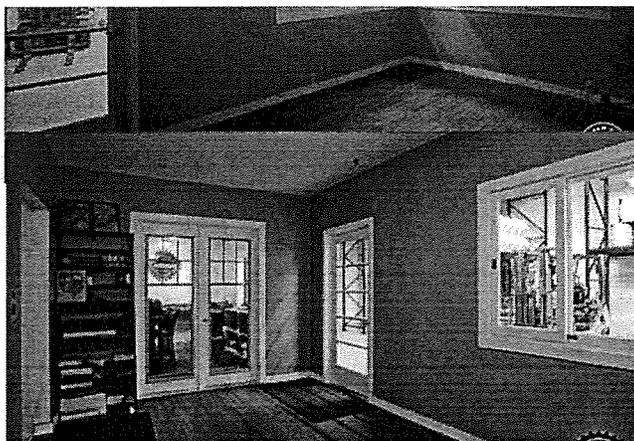
Lanikai, Hawaii

http://www.lanikaibrewing.com/

PHOTOS



VIDEOS



Like · Comment · 70 6 2



Lanikai Brewing Company with Brandon Cody at Kailua Beach- Kailua Beach Park
January 27 · ·

Slow and low, that is the tempo



Like · Comment · Share · 18 2



Lanikai Brewing Company with Brandon Cody
January 26 · ·

Hanging around Kailua

POSTS TO PAGE



Genelle Graman
January 13 at 10:05pm

Are you guys open yet or have anywhere to try some of your beers? ☐☐

Like · Comment · Share 1



Tamara Pinto

 December 16, 2014 at 10:11am
Aloha! Congrats on all your progress so far and the great write up b... See More

Like · Comment · Share 2 1

 **Carol Bannister Olsen**
November 21, 2014 at 1:35pm

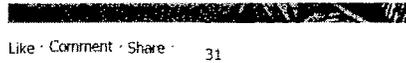
will you ship to Maui??

Like · Comment · Share 1

LIKED BY THIS PAGE

 **My Kailua**

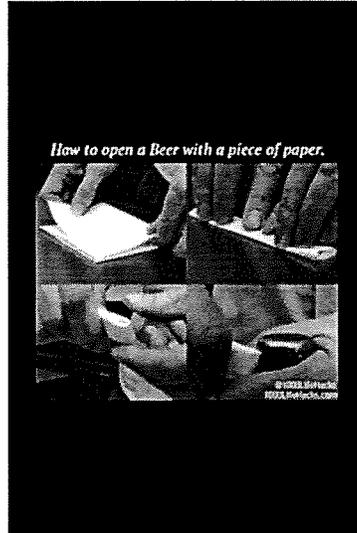
English (US) · Privacy · Terms · Cookies · Advertising · More
Facebook © 2015



Like · Comment · Share 31

 **Lanikai Brewing Company**
January 26 at 12:25pm

With our beers not far from hitting the shelf, here is a great way to open them with a piece of scrap paper!



Like · Comment · Share 19

 **Lanikai Brewing Company with Chris Cook**
January 26 at 12:05am

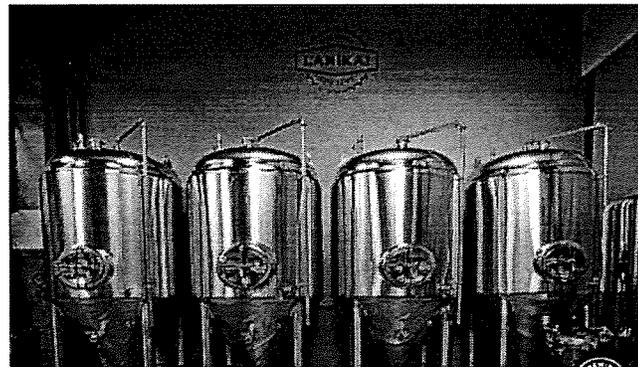
Kegs, kegs and more kegs



Like · Comment · Share 69 6

 **Lanikai Brewing Company** In Kailua, Honolulu County, Hawaii
January 25 · Edited

Stainless beauties





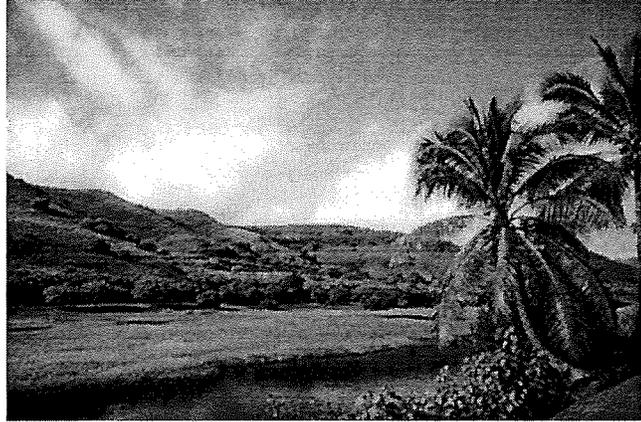
Like · Comment · Share · 34



Lanikai Brewing Company In Kailua, Honolulu County, Hawaii

January 25 · Edited ·

The Hamakua Marsh - our backyard



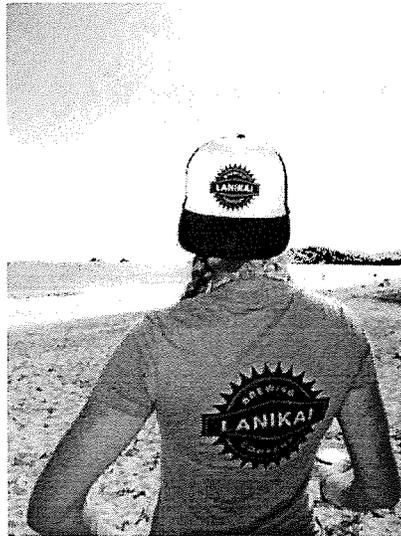
Like · Comment · Share · 32



Lanikai Brewing Company at Kailua Beach- Kalama Beach Park

January 24 at 9:53am ·

Help to support our Kickstarter campaign launching next week and this awesome trucker hat and women's v-neck shirt can be yours. Mahalo to the lovely Liz for supporting Lanikai Brewing Company!



Like · Comment · Share · 41 2



Lanikai Brewing Company with Malia Haumenschild at Lanikai Beach, Kailua, HI

January 22 at 4:05pm ·

Women's sexy v-neck shirt will be available as a reward on our Kickstarter campaign to be launched next week. Thanks to the lovely Malia for showing us some aloha!





Like · Comment · Share · 154 15



Lanikai Brewing Company with Chris Cook and 4 others at Lanikai Beach, Kailua, HI January 21 at 1:39pm ·

A little ~~teaser~~ video from the Kickstarter campaign we will be launching in 10 days. More to come soon....but for now enjoy the sights and sounds of the islands.



5,925 Views Like · Comment · Share · 91 12 55



Lanikai Brewing Company added 2 new photos — with Aimee Cody Thompson. January 14 at 1:43pm ·

Thanks for the Midwest love for Lanikai Brewing Company! Is that white stuff on the ground sand or what?

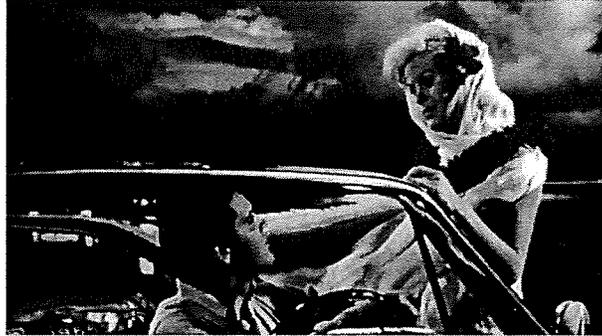


Like · Comment · 23 1



Lanikai Brewing Company shared I Love Kailua's video.
January 12 at 6:57pm ·

The King Elvis on a date in Lanikai.



4,221 Views

I Love Kailua!

ELVIS ON A DATE IN LANIKAI

Meant to post this yesterday on his birthday. Elvis taking his date home to Lanikai. This is from "Paradise Hawaiian Style".

Come on...

See More

Like · Comment · Share · 12



Lanikai Brewing Company changed their profile picture.
January 11 at 6:32pm ·

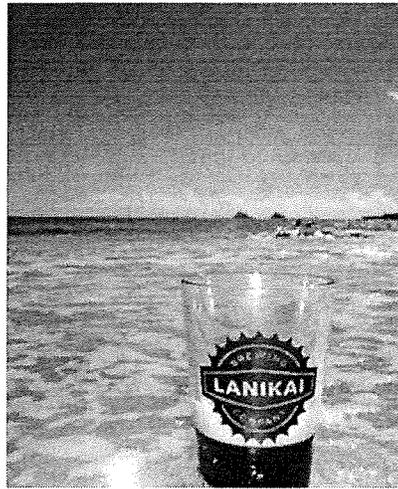


Like · Comment · Share · 13



Lanikai Brewing Company with Brandon Cody at Kailua Beach- Kalama Beach Park
January 11 at 6:27pm ·

Pairs well with shorebreak



Like · Comment · Share · 71 1 1



Lanikai Brewing Company with Malia Haumschild

January 5 at 6:08pm ·

Even Hula Dancers love great craft beer and the beach! Check out Hula Hula!

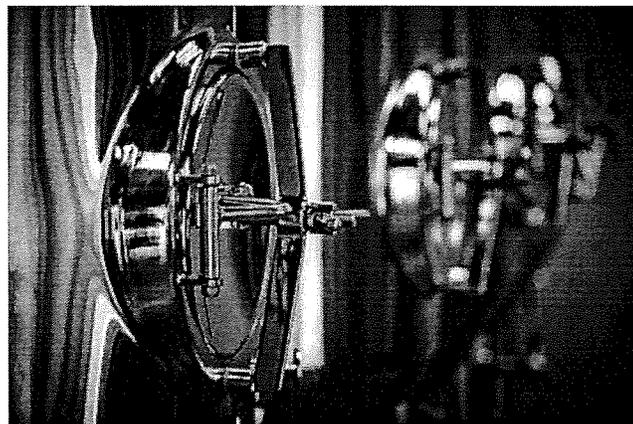


Like · Comment · Share · 127 11



Lanikai Brewing Company updated their cover photo.

January 4 at 9:35pm ·



Like · Comment · Share · 24





Lanikai Brewing Company

January 2 at 9:08am

Another stunning sunrise in Lanikai with just enough time for a quick surf before heading to the brewery!



Like · Comment · Share · 46



Lanikai Brewing Company

December 29, 2014

Final tweaks on our flagship Imperial IPA are better than expected! Fresh, local, Hawaii Craft Beer coming to shelves soon!



Like · Comment · Share · 119 5



Lanikai Brewing Company at Kailua Shorebreak s

December 25, 2014

Bodysurfing on Christmas

983 Views

Like · Comment · Share · 50 1

See More Stories



THE COLUMBIA GAZETTEER OF THE WORLD

Lanikai

ADD TO MY GAZ

TYPE OF PLACE village

LOCATION Hawaii, United States

Lanikai (LAH-nee-KEE), village, E Oahu, Honolulu county, Hawaii, on NE coast, 14 mi/23 km N of Honolulu, between Alala Point and Wailea. Mokolua Islands offshore are state seabird sanctuaries.

Citations**MLA**

"Lanikai." *Columbia Gazetteer of the World Online*. 2014. Columbia University Press. 29 Jun. 2014.

<<http://www.columbiagazetteer.org/main/ViewPlace/76606>>

Chicago Manual of Style

Columbia Gazetteer of the World Online, s.v. "Lanikai,"

<http://www.columbiagazetteer.org/main/ViewPlace/76606> (accessed June 29, 2014).

- HOME
 - ABOUT KAILUA
 - BUSINESS DIRECTORY
 - THE CHAMBER
 - EVENTS
 - THINGS TO DO
 - WHERE TO STAY
- Services
 - Beaches
 - Water Sports
 - Hiking/Biking
 - Golf
 - Tours
 - Dining
 - Shopping
- Symphony in the Park!

BEACHES IN KAILUA



Kailua Beach

Kailua Beach been voted the Best Beach in America in several different surveys, with special attention to it's walking aspect. The 3 miles of beautiful fine,

soft white sand along this crescent shaped bay borders the clear turquoise waters which have a consistent year round temperature of about 75 degrees F (25 C). The steady off shore trade winds, water temperature and protective reef make this bay a popular arena for all sorts of water sports. Looking to the north from the beach, you will see the Mokapu Peninsula (pic of the base) which houses the Kaneohe Marine Corps Base. To the south are the world famous Mokulua Islands. A little less than half a mile out from the beach, is Flat Island which is a bird sanctuary and destination for swimmers and kyakers alike. Many shade trees line the sand and shade a large park with many picnic tables, a bike path and bathroom/shower facilities. Plenty of parking makes it easy to access the beach and park. Come for a walk or stay all day.



Directions

Lanikai Beach and Kailua Beach are not hard to find. From the Waikiki take H1 to the Pali Highway (61). Take the Pali over to the Windward side of Oahu. Stay on the Pali at Kamehameha Highway the Pali Highway turns into Kalaniana'ole Highway and take it to Kailua Rd. You will not need to make a turn onto Kailua Rd, just bear to the left where Kailua rd meets Kalaniana'ole Highway. At the triangle intersection of Kailua Road and Kuulei Road, bear to the right to stay on Kailua Road. At the second signal intersection, make a left turn to stay on Kailua Road. Go through the intersection of Kailua Rd and Kawailo Rd and you will be in the park. If this lot is full simply go back out to Kawailo Rd and follow it around the park. There are lots of places to park.



Lanikai Beach

Lanikai means "heavenly sea" in the Hawaiian language and when you see it you will know why it was given this name. It is a pristine beach and a

favorite of many Kailuans and visitors alike. Its mile long beach of fine white sand and surfless, turquoise water is perfect for a beach day with the kids and for enjoying the view of the world famous Mokulua Islands, about a mile off shore. The beach cove on one of the small islands and the surf between the two are big draws to kyakers and surfers.

Directions

Lanikai Beach is just past Kailua Beach. Take Kawailo Rd to Aalapapa Drive. Aalapapa and Mokulua make a large one way loop that encompass Lanikai. Aalapapa leads into Lanikai and Mokulua leads out. To get to Lanikai Beach find parking along Mokulua or one of its many side streets. There are many public access points to the beach.



Need to Know

Lanikai beach offers no public facilities such as restrooms, showers or water fountains although some of the beach accesses to have faucets and hoses provided by residents to wash your feet. It also does not have any handicap parking or ramps. If you are in need of such facilities Kailua Beach Park is a wiser choice.

The best part of Lanikai beach is before Onekea Dr. So try and find parking before this street. When parking in this neighbor hood try and keeping mind that this is a residential area. Please do not block people's driveways or trample their yards.

Never leave valuables in your car.

EXHIBIT C

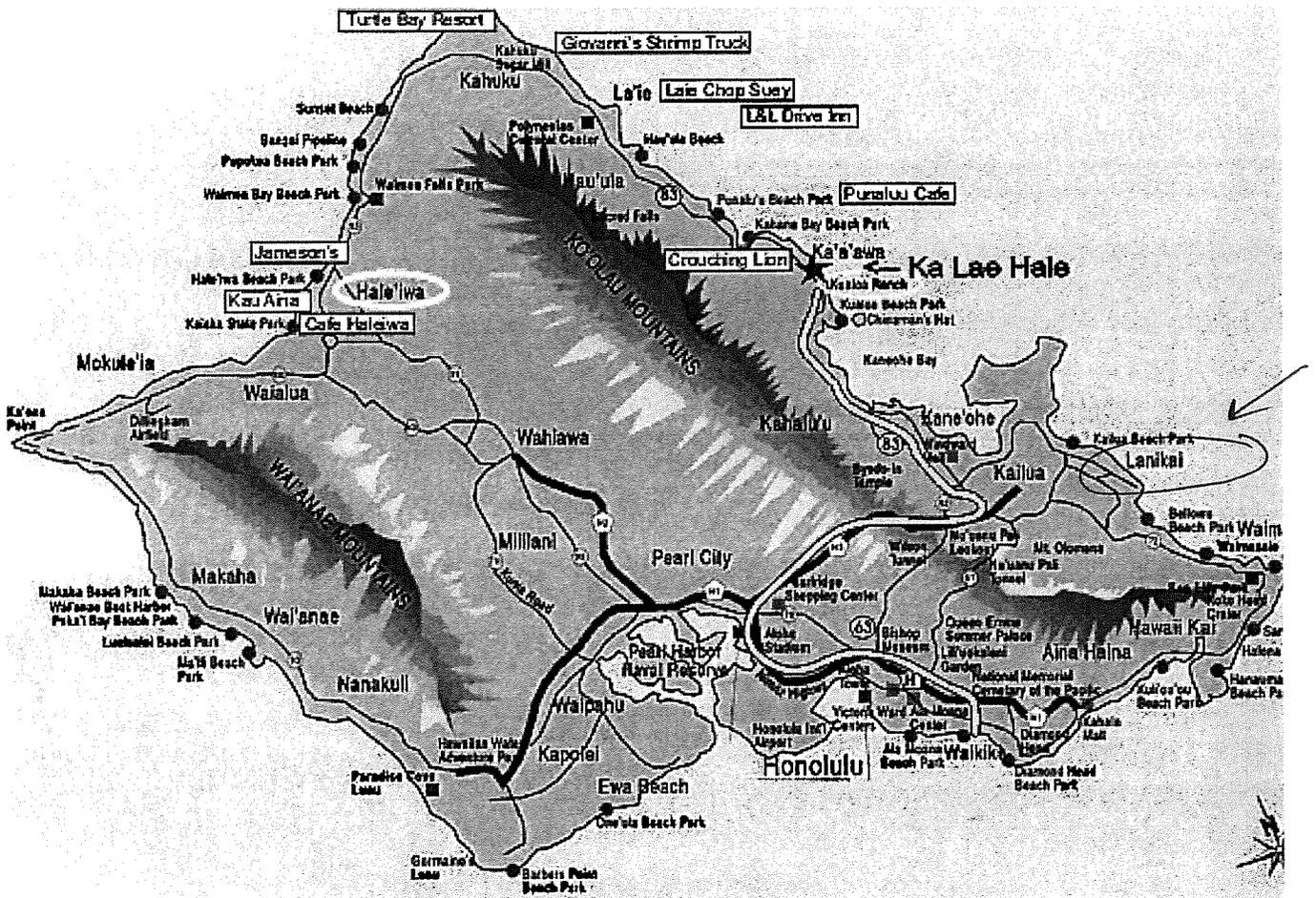


EXHIBIT D

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)	
Opposer,)	
)	Opposition No.: _____
v.)	
)	
LANIKAI BREWING COMPANY, LLC,)	
)	
Applicant.)	
_____)	

PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of OPPOSER'S NOTICE OF
OPPOSITION was mailed by U.S. First Class mail this 12th day of May 2015 to:

Leighton Chong, Esq.
IP & Patent Attorney
133 Kaai Street
Honolulu, HI 96821

DATED: Honolulu, Hawaii, May 12, 2015.

Respectfully submitted,

/Colin O. Miwa/
Martin E. Hsia, Reg. No. 32,471
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Attorneys for Opposer
HONOLULU BEERWORKS LLC