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

Proceeding	92050966
Party	Defendant Golden Vision Flower Inc.
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Attachments	Brief in Opposition.pdf (25 pages)(1233352 bytes) Exhibit A.pdf (2 pages)(38494 bytes) Exhibit B.pdf (8 pages)(285702 bytes) Exhibit C.pdf (7 pages)(255971 bytes) Exhibit D.pdf (2 pages)(46106 bytes) Exhibit E.pdf (40 pages)(2454380 bytes) Exhibit F.pdf (33 pages)(1942249 bytes)

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.
_____/

REGISTRANT'S BRIEF IN OPPOSITION TO PETITIONER'S
MOTION FOR LEAVE TO AMEND AND MOTION FOR SUMMARY JUDGMENT

Registrant, Golden Vision Flower, Inc., submits the following brief and the annexed declarations of Li-Ying Chuong, Shun-Chi Huang, Shih-Wen Huang, and Jeffrey S. Dawson.

Motion for Leave to Amend

Petitioner's Motion for Leave to Amend should be denied because it is untimely and futile. While leave to amend a pleading should be freely given it should equally be denied when the proposed amendment is untimely and/or futile. Amendments under T.B.M.P. §507 and F.R.C.P. 15 have been routinely denied when they are based on evidence that is not newly discovered and where amendment would serve no useful purpose. *See, Media Online, Inc. v. El Clasificado, Inc.,* 88 U.S.P.Q. 2d 1285 (TTAB 2008) and *Trek Bicycle Corp. v. StyleTrek Ltd.,* 64 U.S.P.Q. 2d 1540, 1541 (TTAB 2001).

Petitioner's first new basis for seeking cancellation is not newly discovered, has been within Petitioner's knowledge during the entire proceeding, and cannot serve as a basis for a finding of fraud. Petitioner's proposed first new claim alleges that Registrant

committed fraud when one of its owners signed its Statement of Use with the designation of President next to her name. Registrant does not deny that the signatory on the Statement of Use was not in fact the President of Registrant. However, Petitioner has been aware of all relevant facts it now seeks to assert since at least October 23, 2009. In response to Petitioner's First Set of Interrogatories Registrant identified its officers and directors. Petitioner has attached the interrogatories to its Motion. The Statement of Use was available to Petitioner even before this proceeding commenced. Similarly, the State of Florida filings listing the officers and directors of Registrant that Petitioner attaches to its Motion are public records that have been available to Petitioner for just as long. Only now, a minimum of eight months since the officers were specifically identified, does Petitioner seek leave to assert these new claims without even attempting to justify its delay.

The TTAB in *Media Online, Inc. v. El Clasificado, Inc.,* 88 U.S.P.Q. 2d 1285 (TTAB 2008), denied a request for leave to amend in a similar situation. In that case the petitioner sought leave to amend to assert new bases for cancellation over seven months after it should have been aware of such issues. The panel noted that the petitioner appeared to have simply consulted respondent's website and a dictionary in coming up with its new bases for cancellation. *Id.* at 1286. The panel also rejected the petitioner's claim of settlement negotiations as a basis for delay. *Id.* at 1287.

The panel ruled that amendment should not be allowed because it was untimely and it would be prejudicial to the rights of the adverse party. *Id.* at 1286. In reaching its conclusion they reasoned that "the timing of the motion for leave to amend is a major factor in determining whether respondent would be prejudiced by allowance of the proposed amendment and that a motion for leave to amend should be filed as soon as its grounds

become apparent." *Id.* Furthermore, "a long delay in filing a motion for leave to amend may render the amendment untimely." *Id.* The panel cited to T.B.M.P. §507.02 and the cases cited in its annotations which include *Trek Bicycle Corp. v. StyleTrek Ltd.,* 64 U.S.P.Q. 2d 1540, 1541 (TTAB 2001) (motion to amend opposition denied where it was filed eight months after filing the notice of opposition, with no explanation for delay, and appeared to be based on facts within opposer's knowledge at the time the opposition was filed.) Similarly, the identity of Respondent's officers in the instant case and the signature on the Statement of Use have been known to Petitioner for a least eight months. Petitioner has offered no explanation for its delay.

Petitioner has alleged that Respondent would not be prejudiced by the proposed amendment because Petitioner would not seek further discovery on the new issues. Such reasoning is clearly contrary to the Board's reasoning in the *Media Online* case. The Board imposed a duty on the petitioner to promptly identify all of its claims particularly when new claims were not the result of information gained through discovery. *Id.* at 1287. The prejudice to the respondent in that matter, as in the instant case, is that "allowing piecemeal prosecution would unfairly prejudice the respondent by increasing the time, effort and money that respondent would be required to expend to defend against petitioner's challenge to its registration." *Id.* Petitioner has amended its claims once and could easily have included this new basis, but failed to do so. Its argument of no prejudice based on its own decision not to seek additional discovery completely ignores that fact that Respondent might feel compelled to seek additional discovery from counsel who prepared the Statement of Use. This is particularly pertinent because Registrant's initial trademark application indicates that Mrs. Chuong signed as "Manager General," not President. That

application is part of the record pursuant to 37 C.F.R. §2.122(b). This matter has been pending for over one year, several extensions of the discovery period have occurred and Petitioner has had ample time to assert this new claim. It should not now be given additional leave to assert matters that will only serve to increase the time and expense incurred by Respondent.

Petitioner's Motion for Leave to Amend should also be denied as to all new bases because amendment would serve no useful purpose. Petitioner also seeks to assert that the Statement of Use was signed by a person not qualified to sign and that the Statement of Use evidences use by someone other than Registrant. As Respondent will demonstrate below in response to Petitioner's Motion for Summary Judgment, Petitioner cannot possibly prevail on its fraud claims. Petitioner acknowledges that it will not seek additional discovery as to its proposed new claims so it will not be able to introduce any additional evidence on these claims. The evidence cited by Petitioner falls far short of the standard set by *In re Bose*, 580 F. 3d 1240, 91 U.S.P.Q. 2d 1938 (Fed. Cir. 2009) and cannot form the basis for cancellation whether on summary judgment or at trial. Consequently, it would be futile and wasteful to allow such claims to be asserted at this late stage.

Deposition Testimony of Shun-Chi Huang and Li-Ying Chuong

At the depositions of Shun-Chi Huang and Li-Ying Chuong Registrant objected to the interpretations from English to Chinese and Chinese to English as erroneous. Registrant renews that objection and all other objections made. Pursuant to a prior order in this case, Registrant obtained the audio recordings of the depositions and had them translated. Those translations are attached to the Declaration of Jeffrey S. Dawson as Exhibits "E" and "F" and included as directed by the Order dated July 27, 2010. The

translations indicate disagreement on the majority of the translations from both depositions. Petitioner is not asserting that all mistakes are material to resolution of Petitioner's Motion, but they are noted to indicate the confusing nature of the depositions and the unreliability of the translations. Registrant will not waste the time and resources of the Board by pointing out immaterial disagreements in the translations. Nevertheless, the translations indicate profound inabilities of the interpreters used by Petitioner to accurately and concisely interpret the questions and answers. Those inabilities led to direct and concise questions from Petitioner's counsel being interpreted as disjointed, nonsensical and compound questions. Consequently, it deprived counsel for Registrant from being able to make objections to such questions.

Petitioner objects to the following questions and/or answers that are noted on the indicated lines of the translations as being inaccurate and material to Petitioner's Motion:

Li-Ying Chuong Translation

- Counsel asked whether Registrant had to file a document stating that Registrant had used its mark. The interpreter translated the question as whether Registrant had to file a first application document that meant it began using the mark. Counsel followed that up with a clarification that "you had to tell the Patent Office that you used the mark so you could proceed, right?" This was translated as, "he means that you have to tell me your management office...you would begin to use it, use it formally, right?" (Dawson Decl. Exhibit F 16:2-11).
- "Applicant has adopted and is using the mark in commerce in the United States on or in connection with each of the following." Translated as "it means that the applicant begins to use the trademark in the following areas." (Dawson Decl. Exhibit F 17:1-3).

- "Well, did the use of those tags on the next following pages on the dried flowers change in any way from June to December 2004?" Translated as "did this card experience any changes from June 1 to December 1." (Dawson Decl. Exhibit F 21:26-28).
- "When it says the current use, it's the day you signed it right? Translated as "did it mean the current mark began in use the day when you signed it?" (Dawson Decl. Exhibit F 22:18-19).
- The following comes from counsel questioning Mrs. Chuong about the verification on the Statement of Use. ""I believe applicant to be the owner of the mark sought to be registered." Translated as "I believe the mark of the boss was registered." "The mark is in use in commerce as described above." Translated as "the mark can be in use within the range that we discussed." (Dawson Decl. Exhibit F 23:31-34).
- "What period of time did Golden Vision Flowers sell cut flowers in connection with their mark" Translated as "during what period of time Golden Vision Flower began to sell these flowers with this tag?" (Dawson Decl. Exhibit F 25:24-27).
- Mrs. Chuong's answer referring to use by Registrant stated "they put the logo on the products and printed it on the tags." Translated as "they provided this and then print." (Dawson Decl. Exhibit F 27:15-17).
- Interestingly, the audio recording reveals that the interpreter was asking Registrant's corporate representative during a break how to translate something. She further states she wants to do a better job. (Dawson Decl. Exhibit F 28:30-33).

Shun-Chi Huang Translation

- "Tell me, as we sit here, what flowers or plants have you put in cartons that bear the mark of Plaintiff's Exhibit 30?" Translated as "tell me what flowers and plants you put into

your cartons and then use the mark after you pack them up?" (Dawson Decl. Exhibit E 20:50-53).

- "You testified that the mark of Plaintiff's Exhibit 30 was put on cartons, right?" Translated as a compound question "did you say earlier that Mark 30 was put into cartons, on the cartons, right?" (Dawson Decl. Exhibit E 22:3-6).
- "Seedlings" translated as "sprouts". (Dawson Decl. Exhibit E 22:25-26).
- "All ornamental plants" translated as "all the Wan Lays, the bamboo products." (Dawson Decl. Exhibit E 22:27-28).
- "Orchids and bamboo" translated as "orchids and ornamental plants." (Dawson Decl. Exhibit E 22:33-34).
- "Do you see where it says cut flowers?" translated as the compound question "did you see flower arrangement, cut flowers?" (Dawson Decl. Exhibit E 23:24-25).
- "Only in the carton is the mark?" Translated as "you mean only your cartons bear such marks, right?" (Dawson Decl. Exhibit E 25:23-24).
- "And turning to that signature he just referred to, her name is Li-Ying Chuong, right?" Translated as "let us go back to the signature problem we talked about a few minutes ago...we want to ask you about this problem." (Dawson Decl. Exhibit E 32:16-19). The translator indicates before questions are even asked by counsel that there is a problem with the signature.
- When questioning Mr. Huang about an advertisement marked as Exhibit 32D, counsel asked "that specific exhibit, when was it first used?" Translated as "when did you begin to use another one?" (Dawson Decl. Exhibit E 35:23-24)

Registrant acknowledges that translators can disagree. However, the translations

vary quite widely in most instances so the correctness is in question whether or not the translation obtained by Registrant is deemed to be the most correct. Nevertheless, for purposes of Petitioner's Motion for Summary Judgment its own transcripts are not sufficient to carry its burden.

Without knowing the remaining portions of the depositions that Petitioner will seek to use later in this proceeding it is impossible for Registrant to be able to specifically identify and address them. Furthermore, Registrant does not have sufficient space to set forth every translation that it claims is incorrect and concedes it is not necessary. Registrant requests that the depositions be stricken entirely, but at a minimum that the above-stated portions be stricken. Registrant would further request that this Board allow it to challenge other portions of the depositions upon which Petitioner relies later in this proceeding, if necessary.

Motion for Summary Judgment

Petitioner has failed to satisfy the standards set forth by *In re Bose*, 580 F. 3d 1240, 91 U.S.P.Q. 2d 1938 (Fed. Cir. 2009), and, in fact, has failed to establish any subjective intent to deceive. At most, Petitioner has shown that certain statements may have been inaccurate. However, it is required to demonstrate that there is no genuine issue of material fact that such alleged false statements were subjectively fraudulent. Furthermore, Petitioner is requesting that a new standard be adopted that will in essence reinstate a form of the gross negligence standard rejected by the *Bose* court.

While Respondent is aware that this Board is knowledgeable of the *Bose* decision and its standards, there are several salient pronouncements worth noting from that decision and others citing thereto. In addition to the summary judgment burden acknowledged by

Petitioner, it "bears a heavy burden of proof that requires it to prove fraud 'to the hilt' with clear and convincing evidence. There is no room for speculation, inference or surmise and any doubt must be resolved against it." *In re Bose,* 580 F. 3d at 1243. It is also well established that questions of intent are typically not suited for resolution by summary judgment. *DaimlerChrysler Corporation v. American Motors Corporation,* 94 U.S.P.Q. 2d 1086, 2010 WL 1146943, 5 (TTAB 2010).

In rejecting the standards of negligence and gross negligence, the *Bose* court held a "trademark is obtained fraudulently only if the applicant or registrant knowingly makes a false, material representation with the intent to deceive the PTO." *Id.* at 1245. "Subjective intent to deceive, however difficult it may be to prove, is an indispensable element in the analysis...and all evidence must still be clear and convincing. Inferences drawn from lesser evidence cannot satisfy the deceptive intent requirement." *Id.* The court also reasoned that, "when drawing an inference of intent the involved conduct must indicate sufficient culpability to require a finding of intent to deceive." *Id.* This language is quite compelling. The court was not simply stating that any inference drawn should reasonably support a finding of intent to deceive. Rather, the court stated that the conduct at issue "must" show sufficient culpability to "require" a finding of intent to deceive. If reasonable minds could differ on whether a finding of intent to deceive was required then there should be no such finding. Nothing that Petitioner has cited as support for its fraud arguments shows sufficient culpability to require the Board to find an intention to deceive.

As noted by the *Bose* court, the inquiry must focus on the registrant's subjective, honestly held, good faith belief when making its statement. *Id.* at 1244. "Merely making a false statement is not sufficient to cancel a mark. There is a material legal distinction

between a false representation and a fraudulent one, the latter involving an intent to deceive, whereas the former may be occasioned by a misunderstanding, inadvertence, a mere negligent omission, or the like." *Salu, Inc. v. The Original Skin Store,* 2010 WL 1444617, 3 (E.D. Cal. 2010). Consequently, "considerable room for honest mistake, inadvertence, erroneous conception of rights, and negligent omission must be given and any doubts must be resolved against the charging party." *Pilates, Inc. v. Current Concepts, Inc.,* 120 F. Supp. 2d 286, 313, 57 U.S.P.Q. 2d 1174 (S.D.N.Y. 2000).

Petitioner's request that a reckless disregard for the truth standard be held to satisfy the intent to deceive requirement would reintroduce a gross negligence standard. Registrant acknowledges that the *Bose* court did not resolve the question of whether a reckless disregard standard was sufficient. Registrant further notes that the Trademark Trial and Appeal Board stated that this was still an open question in *DaimlerChrysler Corporation v. American Motors Corporation,* 94 U.S.P.Q. 2d 1086, 2010 WL 1146943 (TTAB 2010). Respondent submits that such a standard would not be appropriate and is contrary to the *Bose* decision that rejected a gross negligence standard.

In its attempt to have this Board adopt a reckless disregard standard Petitioner has cited to cases of mail fraud, securities fraud, and RICO violations. Notably, Petitioner has not cited a single trademark case subsequent to the *Bose* decision that would support its theory. Petitioner's reliance on *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007), is misplaced at best. Petitioner cites to only part of a footnote for the statement that' "every Court of Appeals that has considered the issue has held that a plaintiff may meet the scienter requirement by showing that the defendant acted intentionally or recklessly." *Petitioner's Brief at 13.* In fact, the Supreme Court stated in its footnote that

the "question of whether and when recklessness satisfies the scienter requirement is not presented in this case." *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 319 n.3 (2007). The Court further commented that it had previously reserved on whether reckless behavior was sufficient for civil liability under Section 10(b) and Rule 10b-5, and that the circuits themselves differed on the degree of recklessness required. *Id.* Also notable is the fact that this case was a civil case for securities fraud that has a specific statute setting forth the elements of a fraud claim so it is inapplicable to the instant case. Similarly, Petitioner's reliance on its mail fraud cases is not appropriate. Those cases also interpret the specific language of statutes that are not at issue here and are based on precedential interpretations of those statutes as they related to the specific crimes charged.

Adopting the reckless disregard standard to satisfy the intent to deceive requirement would only serve to bring the "should have known" standard back to some degree. The *Bose* court specifically rejected both negligence and gross negligence standards for finding intent to deceive. The definition of gross negligence necessarily includes reckless disregard for the truth. Black's Law Dictionary defines gross negligence as an intentional failure to perform a duty in reckless disregard of the consequences, and further states that recklessness and gross negligence have no clear distinction and have tended to take on the same meaning. While decided in a patent inequitable conduct case, the court in *CMI, Inc. v. Intoximeters, Inc.*, 866 F. Supp. 342, 346 (W.D. Ky 1994), 33 U.S.P.Q. 2d 1117, held that "intent to deceive may be established by a showing of gross negligence, namely reckless disregard of the duty of candor." Consequently, there is an implied element of the "should have known" standard based on the accused party's disregard for discharging a duty that would have led to it knowing certain information was false. Even if such a

standard were appropriate, Petitioner has failed to demonstrate clearly and convincingly that any alleged false statements were made with the requisite recklessness to constitute intent to defraud the USPTO.

Li-Ying Chuong Properly Signed the Statement of Use

Petitioner's assertions that the Statement of Use was not properly executed by Li-Ying Chuong are either not material representations or are contradicted by the very evidence to which it cites. Such evidence is muddled at best and certainly far from clear and convincing in favor of Petitioner. If amendment to the petition is allowed, which Registrant argues it should not be, then summary judgment should be denied.

The erroneous designation of Li-Ying Chuong as President of Registrant is not a material representation. As delineated by Petitioner in its brief, Mrs. Chuong only needed to be a person with legal authority to bind the owner or a person with firsthand knowledge of the facts and actual or implied authority. Petitioner suggests that the Statement of Use without the designation of a corporate officer position would cause it to be rejected by the examiner. That is simply not the case. It did not cause Registrant's application to be rejected with Mrs. Chuong's designation as "Manager General" on the verification. Petitioner cannot even establish that the Statement of Use would have been rejected with no designation of a corporate office. In fact, the TMEP rules cited by Petitioner state that generally the USPTO will not question the authority of signatories and assumes that verifications have been validly signed. Petitioner is merely relying on speculation, in its favor, that the verification would have been rejected.

The most reasonable inference to be drawn is that counsel who registered the mark for Registrant simply made a mistake on the Statement of Use. Registrant's application

was filed with Mrs. Chuong's designation as "Manager General." Petitioner has introduced no evidence that Registrant directed its counsel to change that designation on the Statement of Use. The Declaration of Li-Ying Chuong establishes that while her Taiwanese lawyer translated the contents of the Statement of Use, he did not translate the term "President" next to her name. (Chuong Declaration ¶5). Mrs. Chuong does not speak or read English and signed the Statement of Use after discussing it with her lawyer. (Chuong Declaration ¶5).

Similarly, Petitioner has failed to establish any intent to deceive the USPTO by including the erroneous title next to Li-Ying Chuong's name. It has simply made the leap that because she was not the president then Registrant committed fraud. Nowhere has Petitioner pointed to any evidence that can remotely satisfy the standard set in *Bose*. Any failure to understand the title listed in English after her name could at most be categorized as simple negligence, but certainly not a reckless disregard for the truth that would amount to the requisite intent to defraud the USPTO.

Petitioner has also assumed that Mrs. Chuong did not have the legal authority to bind Registrant because she was not an officer. Such an assumption is incorrect and would only be relevant to the issue of implied authority. Petitioner had opportunities to ask whether Mrs. Chuong had actual legal authority to bind Registrant, but never did. It would have discovered that she had the actual authority of the Registrant's president to sign the Statement of Use. (S.C. Huang Declaration ¶7). Mrs. Chuong certainly had the authority to bind Registrant when she signed the verification on its trademark application. Notably, it is not signed as president, vice-president, secretary or treasurer. Petitioner's argument must fail because Mrs. Chuong had the actual authority of Registrant's president and thus legal

authority to bind Registrant. This is consistent with the practice of corporate staff who are not officers of a juristic entity signing verifications to the USPTO.

In *Accu Personnel, Inv. V. Accustaff, Inc.*, 38 U.S.P.Q. 2d 1443 (TTAB 1996), the TTAB held that even an erroneous entity designation of the owner of a mark was not sufficient to declare an application void ab initio. That case involved the merger of several regional enterprises where an application was filed under the wrong entity's name. Respondent concedes that the issue was not identical, but the reasoning of that case should apply here. The opposer in that matter sought to have the application declared void ab initio because the entity listed as the owner was not legally formed until after the application was filed. However, the TTAB found that the "proper person" had filed the application because it was to be the resulting commercial enterprise that was entitled to claim a bona fide intention to use the mark. *Id.* at 1445. The TTAB found the improper claim of ownership to be a curable, non-fatal defect. *Id.* More importantly, summary judgment was granted in favor of the applicant in that case even though it had not filed a cross-motion for summary judgment. *Id.* at 1446 (citing *Tonka Corp. v. Tonka Tools, Inc.*, 229 U.S.P.Q 857 (TTAB 1986) and *Crocker National Bank v. Canadian Imperial Bank of Commerce,* 223 U.S.P.Q. 909 (TTAB 1984)). Similarly, the owner of the mark in the instant case is the entity that filed the Statement of Use, it was properly verified, and Registrant requests that the Board grant it summary judgment on Petitioner's void ab initio theories.

Petitioner's own recitation of deposition testimony also shows that Li-Ying Chuong had firsthand knowledge of the goods that were being sold and offered for sale at the time she signed the verification. The deposition testimony taken by Petitioner and the declarations submitted with this response demonstrate that Mrs. Chuong had personal

knowledge of the goods sold or offered for sale by Registrant. Petitioner's Brief at pages 7 and 8 cites specific testimony showing that she had firsthand knowledge that certain items listed in the Statement of Use had been sold, but that she merely could not recall the specific dates of sale. Furthermore, Mrs. Chuong had the actual authority of Registrant's president to sign. As with its other theories, Petitioner has failed to establish clear and convincing evidence that Registrant committed fraud so its Motion must fail. Based on *Accu Personnel, Inc.* Registrant is also entitled to summary judgment in its favor and requests that the Board enter summary judgment for it.

Registrant's Mark Was Used by Registrant

While Petitioner claims that the evidence reveals that Registrant's mark was not used by Registrant it conspicuously devotes very little argument to that issue. It only vaguely points to some deposition pages of Li-Ying Chuong. That testimony does not approach the clear and convincing proof that Petitioner is required to produce. In fact, the deposition testimony of Shih-Wen Huang and Shun-Chi Huang submitted by Petitioner clearly and convincingly demonstrates that the mark was only used by Registrant.

The deposition transcript of Registrant's president upon which Petitioner relies shows that Registrant began using the mark in 2004. (S.C. Huang Tr. 29: 2-7). That same transcript also shows that Registrant has used the mark on its shipping cartons, advertising material, and care tags. (S.C. Huang Tr. 45: 6-8; 31: 25 – 33:24; 34: 1-15 and 58: 11-22, respectively). This is the clearest and most convincing evidence submitted by Petitioner, and it completely defeats its argument. The deposition testimony of Li-Ying Chuong upon which Petitioner relies demonstrates that Registrant ordered products from Chang Long Flowers in Taiwan for sale to Registrant's customers and instructed Chang Long Flowers to

include Registrant's care tag on the products. (Chuong Tr. 31 – 33 and 36: 4-8). In fact, Mrs. Chuong corrected Petitioner's counsel and stated that Registrant was selling products with the mark and not Chang Long. (Chuong Tr. 38: 8-15). The most that Petitioner could show, as stated in its Motion, is that the deposition testimony is contradictory. However, Petitioner cannot show that this is clear and convincing evidence that indicates sufficient culpability to require a finding of intent to deceive. In fact, it requires a finding of no intent to deceive and Registrant requests that the Board enter summary judgment in its favor on this issue.

Registrant's Mark Was Used on the Goods in its Statement of Use

As with Petitioner's other arguments, it has failed to demonstrate with clear and convincing proof that Registrant intended to defraud the USPTO in its identification of goods on its Statement of Use. The deposition testimony relied on by Petitioner shows no direct evidence of any intent to defraud. The inferences drawn from that testimony are far from strong enough to show sufficient culpability that would require this Board to find intent or even reckless disregard. Consequently, Petitioner's Motion should be denied and summary judgment should be entered in favor of Registrant.

The TTAB has considered similar cases since *Bose* and has found that the accused party had not committed fraud. In *DaimlerChrysler Corporation,* the TTAB addressed a motion for summary judgment wherein the petitioner alleged that the registrant committed fraud by making three separate representations to the PTO that it was using its mark in connection with structural parts for automobiles. *DaimlerChrysler Corporation,* 2010 WL 1146943 at 3. The petitioner relied on responses to a request for admissions where the respondent admitted that it never sold an automobile or structural parts therefor. The

respondent pointed to other responses to the request for admissions where it stated that it had made use of the mark on automobiles, that its statements were not false, and that it believed that it was using the mark for the identified goods. While noting that issues of intent were not typically suitable for summary judgment, the panel ruled that the petitioner had not carried its burden of establishing the absence of a genuine issue of material fact as to the respondent's intent to deceive. *Id.* at 5. The TTAB reasoned that the petitioner had not introduced any direct evidence of respondent's intent nor had it introduced indirect or circumstantial evidence that would lead to the inevitable conclusion of intent to deceive, or at least a reckless disregard for the truth. *Id.* However, the panel noted that reckless disregard has still not been established as a standard to satisfy intent to deceive. *Id.* at 6. As noted above, Registrant submits that a reckless disregard standard is not appropriate and, even if it were, Petitioner has not demonstrated clear and convincing evidence of it.

In *Enbridge, Inc. v. Excelerate Energy Limited Partnership,* 92 U.S.P.Q. 2d 1537, 2009 WL 3541047 (TTAB 2009), the TTAB addressed another nearly identical issue in an opposition case. The opposer in that case sought summary judgment based on fraud due to the applicant's claim of use of its mark for certain services. Applicant claimed in its application that it used its mark in connection with the "transmission of oil" and the "production of energy." 2009 WL 3541047 at 2. In its answer to the opposition the applicant admitted that it had not used the mark for the "transmission of oil." *Id.* at 3. Applicant's former CEO also stated during her discovery deposition that the applicant was not involved in the transportation of oil. *Id.* at 4. Similarly, the CEO stated during discovery and testimony depositions that applicant was not engaged in the "production of energy." *Id.* at 5. Despite these admissions and statements of the applicant itself the panel found that

the opposer had failed to establish that there was no genuine issue of material fact regarding intent to deceive the USPTO by claiming such use. *Id.* at 4, 6.

Petitioner's argument is nearly identical with the only distinction being the evidence upon which it relies is less clear. A closer examination of the transcripts relied on by Petitioner demonstrates that there can be no inferences drawn from clear and convincing evidence that show an intent to deceive. That testimony, along with the declarations submitted by Registrant, establish that Registrant had a good faith belief that its verification was true and correct.

Deposition of Shih-Wen Huang

The deposition testimony of Shih-Wen Huang relied on by Petitioner serves only to evidence her opinion about Registrant's business at a time when she was not consistently involved with it. As acknowledged in Petitioner's Brief (p. 4), Ms. Huang only assisted her father with the business informally and peripherally until 2007. Her deposition testimony reveals that her involvement was limited to sporadic assistance with trade shows, translation with customers for her father, and some financial matters. (S.W. Huang Tr. 11:13 – 12:5). Petitioner places emphasis on the opinion of Ms. Huang that Registrant had only grown and sold orchids and that she was not aware of the company selling all of the items listed on its specimen tag. In response to Petitioner's question about how the tag was used Ms. Huang stated that it was a picture of the tag taken in 2005 and "she wasn't even here yet." (S.W. Huang Tr. 77: 16-17). The testimony cited by Petitioner regarding Ms. Huang's lack of familiarity with Registrant offering or selling all of the items listed on the tag and on its Statement of Use is equally infirm. Ms. Huang's testimony clearly reveals that she was merely guessing as to Registrant's intention at a time when she was not with

the company. She stated that, "this is probably the product line that we liked to carry" and "I think in the beginning we was planning to have more products than orchids." (S.W. Huang Tr. 77: 13-21). Furthermore, Ms. Huang's Declaration establishes that she had no involvement in relation to the trademark registration, was not involved in sales of any of Registrant's products, and had no firsthand knowledge of all of the items offered for sale by Registrant prior to 2007. (S.W. Huang Decl. ¶¶ 3, 4). The testimony relied on by Petitioner does not come close to the unequivocal testimony submitted in *DaimlerChrysler* and *Enbridge* that the TTAB held to be insufficient evidence of intent to deceive.

Deposition of Li-Ying Chuong

Despite claiming that Li-Ying Chuong lacked knowledge about Registrant's business, Petitioner cites to her deposition testimony as support for its allegations that Registrant did not offer all items listed on its Statement of Use. As demonstrated above, Mrs. Chuong did have sufficient knowledge and her deposition testimony shows that Registrant was at least offering the contested products for sale at the relevant time.

Mrs. Chuong stated that everything in the Statement of Use was correct as far as she understood when she signed it. (Chuong Tr. 39: 8-14). She further stated that:

- Cut flowers was one of Registrant's lines of business at the beginning and then they did an evaluation to see if it was good or not and the market was different. (Chuong Tr. 40: 7-16).
- Registrant sold cut flowers with its mark on its shipping boxes and on its tags. (Chuong Tr. 41: 7-14).
- Registrant received dried flowers for sale under its mark, albeit once. Mrs. Chuong was not sure of the date, but believed it to be 2004. (Chuong Tr. 42:15-23).

- Registrant sold live flowers in 2004 and continues to do so. (Chuong Tr. 42:24 – 43: 13).
- Registrant was selling flower bulbs at the very beginning in either 2004 or 2005. (Chuong Tr. 43:18 – 44:1).
- Registrant tried selling everything at the very beginning. (Chuong Tr. 43:20-21).
- Registrant sold flower seeds starting in 2004. (Chuong Tr. 45:18-20).

Furthermore, the Declaration of Mrs. Chuong reinforces the fact that she believed the Statement of Use to be accurate and that she had no intention of defrauding the USPTO. (Chuong Decl. ¶ 6).

Deposition of Shun-Chi Huang

The deposition testimony of Registrant's president is similarly instructive as to Registrant's intention to be honest and forthright with the USPTO. Mr. Huang testified that:

- Registrant used its mark beginning in 2004. (S.C. Huang Tr. 29:2-17).
- Registrant used its mark on commercial pamphlets, ads in magazines, care tags on its plants, and on its shipping cartons. (S.C. Huang Tr. 32:1 – 35:24, 40:22 - 25, 58:19-22, and 61:4 – 62:5).
- Registrant used its mark in connection with dried flowers and live flowers, but doesn't produce dried flowers anymore. (S.C. Huang Tr. 43:18 – 24). It is important to note that the follow up question from Petitioner's counsel asks whether Registrant has "produced" dried flowers in connection with the mark. It does not ask whether Registrant has sold or offered dried flowers for sale in the United States. Consequently, Mr. Huang's answer is that Registrant did not "produce" them in the

United States. Mr. Huang's Declaration clarifies that Registrant also brokers the products listed on the Statement of Use that it does not grow itself. (S.C. Huang Decl. ¶ 4).

- Registrant used its mark in connection with orchids which are live flowers. (S.C. Huang Tr. 44:3-13)
- Registrant used its mark in connection with flower bulbs. It sold orchids in various states from bulbs to more mature orchids. (S.C. Huang Tr. 44:14 – 45:16). This is further explained in the deposition of Shih-Wen Huang wherein she stated that Registrant has various pricing for orchids because some customers want spikes, some want bulbs, and some want fully mature orchids. (S.W. Huang Tr. 30:4-11).
- Registrant has used the mark in connection with flower seeds and Mr. Huang explained that the mark had to be on the carton because it is impossible to put it on the seeds themselves. (S.C. Huang Tr. 45:17-22).
- Registrant has used the mark in connection with live flowering plants which are mature orchids. (S.C. Huang Tr. 46:2-10).
- Registrant has used the mark in connection with grass and grass seeds. This began around 2005. (S.C. Huang Tr. 46:21 – 47:6).
- Registrant used the mark in connection with fresh herbs and raw herbs. However, there was no market for them so Registrant did not produce much and, in fact, did not make any sales of those items. (S.C. Huang Tr. 47:20 – 48:11).

The deposition testimony clearly indicates that Registrant made sales, even if some were minimal, or at least offered for sale all of the items listed in the Statement of Use and

on its care tag specimen. Petitioner seeks cancellation based on an alleged lack of use of the mark on cut flowers, dried flowers, dried plants, and fresh and raw herbs. As it states, that is only five out of thirteen products. Mrs. Chuong testified that Registrant used the mark at the beginning on cut flowers and dried flowers, but the market was not good for them. Mr. Huang testified that there were not many customers for fresh herbs and raw herbs so not many were produced and they made no sales. Notably, Petitioner's question to Mr. Huang in his deposition only asked if Registrant had ever sold any fresh or raw herbs, not whether they offered them. Most importantly, Mrs. Choung testified that Registrant tried selling everything in the beginning. The commercial reality that there was no market for certain products does not require a finding that the Statement of Use was fraudulent.

Even under Petitioner's requested reckless disregard standard the testimony demonstrates that Registrant did not act in such a manner. The evidence relied upon in *DaimlerChrysler* and *Enbridge* was much clearer and direct on the issue of nonuse. At worst, it was equal to the evidence relied upon by Petitioner. In those cases it was not sufficient to find an intention to deceive and it is not sufficient in the instant case. Furthermore, in *DaimlerChrysler* the registrant had only one product category and it was alleged to be fraudulent. In the instant case, Petitioner is claiming that only five of thirteen categories are fraudulent. As noted by the TTAB in *DaimlerChrysler,* Registrant might not be able to maintain its registration as to all of the goods, but no evidence has been submitted to require cancellation for fraud and the abandonment issue has not been raised. *DaimlerChrysler* 2010 WL 1146943 at 5.

Petitioner Has Failed to Establish Fraud

As set forth in *DaimlerChrysler,* issues of intent are not well suited for resolution by summary judgment. Even if they were Petitioner has fallen far short of meeting its heavy burden of proving fraud 'to the hilt' with clear and convincing evidence. As demonstrated above, Petitioner submits that a reckless disregard standard should be rejected by the Board because it is included in gross negligence. Even if such a standard is applied Petitioner has not shown any such reckless conduct.

Petitioner has simply pointed to statements it believes are false and taken a leap over the difficulties of the language barrier, probable error or honest mistake, and negligence to arrive at reckless disregard. Noticeably lacking is an explanation from Petitioner as to how the alleged conduct was reckless. If a reckless disregard standard is allowed then it must be a category above gross negligence, but below actual intent. Accordingly, Petitioner is required to put forth clear and convincing evidence showing that Registrant's conduct in executing the Statement of Use had such a disregard for the truth that it nearly amounts to actual intent. The testimony clearly shows that Mrs. Chuong was a properly authorized signatory and that Registrant believed the Statement of Use to be accurate. Consequently, a reckless disregard for the truth cannot exist.

As stated in *Bose,* Petitioner is given no room for speculation, inference or surmise and any doubt must be resolved against it. Demonstrating Registrant's subjective intent to deceive is an indispensable element in the analysis, and all indirect evidence from which Petitioner attempts to show intent must still be clear and convincing. Inferences drawn from lesser evidence cannot satisfy the deceptive intent requirement. Petitioner relies heavily on inference, but those inferences are drawn on evidence that is far from clear and

convincing. *Bose* dictates that Registrant's conduct must indicate sufficient culpability to require a finding of intent to deceive. The evidence produced by Petitioner does not require such a finding. Furthermore, the indirect and circumstantial evidence relied on by Petitioner does not lead to the inevitable conclusion of either intent to deceive or reckless disregard for the truth as required by *DaimlerChrysler.* Given the considerable room for honest mistake, inadvertence, erroneous conception of rights, and negligent omission allowed to Registrant, Petitioner has failed to demonstrate that a finding of intent to deceive is required.

The facts of the instant case demonstrate that Registrant had to deal with a language barrier and believed that it was being honest and truthful with the USPTO when it submitted its Statement of Use. Registrant initially offered all items on the Statement of Use even if it made no sales of some after the fact. The items that were not produced by it were obtained or would be obtained from other sources, but would be sold under Registrant's mark. At worst, Registrant had a good faith belief that it had properly designated its goods on the Statement of Use even if its statements were not entirely accurate. Petitioner has failed to show by clear and convincing evidence that any alleged false statements were subjectively fraudulent and that there are no genuine issues of material fact regarding the alleged intent to deceive.

Conclusion

For the foregoing reasons, Registrant requests that Petitioner's Motion for Leave to Amend be denied, that its Motion for Summary Judgment be denied, and that summary judgment be entered in favor of Registrant on all issues raised by Petitioner.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail and electronic mail on August 23, 2010 to Tal Benschar, 488 Madison Avenue, New York, NY 10022.

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing is being filed with the Trademark Trial and Appeal Board through the ESTTA system on August 23, 2010.

Jeffrey S. Dawson
Fla. Bar No. 980366
P.O. Box 1111
Winter Haven, Florida 33882
863.293.9600 Telephone
jdawson@jdawsonlaw.com

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.
_____/

DECLARATION OF JEFFREY S. DAWSON

Jeffrey S. Dawson declares that:

1. I am counsel to Registrant in this proceeding.

2. In addition to the documents submitted by Petitioner in relation to its Motion for Leave to Amend and Motion for Summary Judgment, Registrant relies on the exhibits attached to this Exhibit A:

a) Exhibit B – Declaration of Shun-Chi Huang with translation;

b) Exhibit C – Declaration of Li-Ying Chuong with translation;

c) Exhibit D – Declaration of Shi-Wen Huang;

d) Exhibit E – Translation of Audio Recording of Deposition of Shun-Chi Huang; and,

e) Exhibit F – Translation of Audio Recording of Deposition of Li-Ying Chuang.

3. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury of that the foregoing is true and correct.

Executed on August 23, 2010

Jeffrey S. Dawson

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.

_____/

黃順記申明

黃順記申明:

1. 我是金色願景花卉公司（Golden Vision，Inc.）之總裁，為回應呈請人之要求修改取消與即決審理呈請之聯合動議，特提交本申明。

2. 金色願景花卉公司向批發商銷售蘭花，用於向客戶分銷。

3. 我也是臺灣長榮花卉農場（Everlasting Flower Farm）之東主。長榮花卉農場是金色願景花卉公司（Golden Vision Flower Inc.） 之主要供應商。金色願景花卉公司從長榮花卉農場進貨蘭花，並在佛羅里達之公司花房繼續栽培直至成熟上市。

4. 自公司之開始業務運作直至2007年初，金色願景花卉公司也銷售切花、乾燥花、乾燥植物、花籽、草與草籽、鮮草藥與生草藥，同時經銷其他種植戶之產品。與其他種植者關係之培植和維持由我實施，但並未在佛羅里達之運作中加以積極管理。這些產品之銷售不足以持續積極提升業務，因此公司自

Exhibit B

2007年後幾乎完全將銷售集中于蘭花。但是，金色願景花卉公司從未有過任何永久停止銷售這些產品之意圖。

5. 金色願景花卉公司都在其銷售之每一項產品上附著一個標籤直至2006年末。該標籤參見本申明附錄之證物"A"。金色願景花卉公司因批發商不希望將該標籤送至客戶而停用。

6. 在金屬色願景花卉公司停止在其銷售之產品專案上附著該標籤之時，即開始在其發運之包裝箱上顯示該有爭議之商標。此項工作之完成，乃是通過將顯示該商標之標籤附著在包裝箱上。

7. 作為金色願景花卉公司之總裁，我曾經授權我的太太莊麗英（音譯—譯者）代表本公司簽署聽證過程中頗具爭議之使用聲明。

8. 根據28 U.S.C.第1746條之規定，我秉承美利堅合眾國之偽證罪處罰法律在此申明，上述內容真實正確。

執行日期：2010年8月20日

S.C.

黃順記（音譯—譯者）
Shun-Chi Huang

GOLDEN VISION FLOWER INC.

* *Cut flowers*
* *dried flowers and live flowers*
* *Flower bulbs*
* *Flower seeds*
* *Live flowering plants*
* *Dried plants and live plants*
* *Grass and grass seeds*
* *Fresh herbs and raw herbs*
* *Live orchids*

Golden Vision Flower Inc.

2809 West Kelly Park Road, Apopka
FLORIDA 327125125

Exhibit A

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.

_____/

DECLARATION OF SHUN-CHI HUANG

Shun-Chi Huang declares that:

1. I am the President of Golden Vision Flower, Inc., and submit this declaration in response to Petitioner's Combined Motion for Leave to Amend the Petition for Cancellation and for Summary Judgment.

2. The major business of Golden Vision Flower, Inc. is the sale of orchids to wholesalers for resale to consumers.

3. I am also the owner of Everlasting Flower Farm in Taiwan. Everlasting Flower Farm is the main supplier of orchids to Golden Vision Flower, Inc. Golden Vision Flower, Inc. receives the orchids from Everlasting Flower Farm and continues to grow them in its greenhouse in Florida until they are ready for sale.

4. From the beginning of its business operations until early 2007 Golden Vision Flower, Inc. also offered cut flowers, dried flowers, dried plants, flower seeds, grass and grass seeds, and fresh and raw herbs, as a broker for

other growers. The relationship with the other growers was developed and maintained by me, and was not actively managed by the operations in Florida. Sales of these items was not sufficient to continue to actively promote so we have focused almost entirely on orchids since 2007. However, Golden Vision Flower, Inc. has never had any intention of permanently stopping the sale of those items.

5. Until late 2006 each item sold by Golden Vision Flower, Inc. had a tag attached to it. That tag is shown in Exhibit "A" attached to this declaration. Golden Vision stopped using the tag because the wholesalers did not want the tag to reach their customers.

6. When Golden Vision Flower, Inc. stopped attaching the tag to the items sold, it began displaying the contested trademark on its shipping boxes. This is accomplished by attaching a label that displays the trademark to the boxes.

7. As President of Golden Vision Flower, Inc., I authorized my wife, Li-Ying Chuong, to sign the Statement of Use at issue in this proceeding on behalf of the company.

7. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on August 20, 2010

_____

Shun-Chi Huang

Tampa Bay Translations
Unlock the Boundaries
1783 Maryland Ave NE St. Petersburg, Florida 33703

Tel: 1 (866) 677-3013
Fax Toll Free U.S. & Canada
1 (866) 711-8152
Web: www.tampabaytranslations.com
E-mail: translator@tampabaytranslations.com

Certificate of Accuracy

Translation Declaration

Re: Translation No. 1911D

Tampa Bay Translations, LLC a professional translation company, hereby certify that the above-mentioned document file No. 1911D has been translated by Yongdong Song, a qualified translator, whose qualifications are attached, and that, in our best judgment, the translated text truly reflects the content, meaning, and style of the original text and constitutes in every respect a correct and true translation of the original document.

This is to certify the correctness of the translation only. We do not guarantee that the original is a genuine document or that the statements contained in the original document are true.

Michael E. Douglas
Tampa Bay Translations, LLC
Date: August 19, 2010

STATE OF FLORIDA
COUNTY OF Pinellas
Sworn to (or affirmed) and subscribed before me this
19 day of August 2010
By Michael E. Douglas

__ PERSONALLY KNOWN TO ME
X PRODUCED AS IDENTIFICATION

Florida Driver License
Type of Identification

Cynthia L. Hohmann

CYNTHIA L. HOHMANN
Notary Public, State of Florida
Commission# DD708921
My Comm. expires Aug. 27, 2011

Pro. Yongdong Song

Current major translation service clients and project names:

MLS, U.S.	HR Magazine En>Ch translation/editing, 175,000 words, (since 2006)
Tampa Bay Trans. U.S.	Proposal for a Confucius Institute at PC, SC, U.S. (En/Zh translaiton, 10/04/2007)
MobileTech., U.S.	Spoken English to Chinese transation, about 160,000 words (since 2007)
MYL , Hong Kong	Beijing Yintai Center, property (Ch/En, 04/17/2006)

Major translation projects involved:

1. U.S. SHRM magazine article English-Chinese translation editing, about 175,000 Chinese characters
2. Spoken English to Chinese translation, about 160,000 words, MobileTechnologies, U.S.
3. Beijmg Yintai Center's FAQs, Chinese>English translation, about 8,000 Chinese characters
4. Chunghwa Picture Tubes, Inc. Notes to Financial Statement, Chinese>English translation, 16,140 Chinese characters

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Work history:

Present	Full-time translator in my retirement	
1997-2005	Professor of English, College of Foreign Languages, Sichuan University, Chengdu, China Freelance translator	
1996-1997	English instructor	Manhattan Professional College, New York City, U.S.A.
1995-1996	Full-time translator	Ma & Wang Law Office, New York City
1987-1992	English teacher Lecturer of Chengdu University of Science and Technology, Chengdu, China	

Freelance translator

1970-1987	English teacher Chengdu No. 11 Middle School, Chengdu, China
1968-1970	Full-time translator Chemical Engineering Institute, Guizhou, China

---

Education:

1992-1995	Master's degree from Louisiana State University at Monroe, LA Major: English reading; Minor: Psychology
1962-1968	Bachelor's degree from Sichuan University, Chengdu, China Major: English language and Literature
1960-1962	Light and Chemical Engineering College, Sichuan, China. Major: chemical engineering,

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Publications:

1992 Dictionary of World Film Stars, co-translation, published by Sichuan Literature and Arts Press, China;

1988 Dictionary of World History, co-translation, published by Commercial Press, China;

1987 Collins GEM Encyclopedia, co-translation, published by Shanxi Educational Press, China; and much other translation work in various subject fields

Since 1980s, much translation work has been done mostly in the language pair of English and Chinese and collected in the following journals:

Collection of Foreign Screw Machinery and
Mechanical Accessory of Foreign Ships and Vessels

Subject matters in translation:
general engineering; computer science and website localization, banking and finance, general business, marketing, human resources, law, politics and other social sciences.

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.

_____/

莊麗英申明

莊麗英申明:

1. 我是金色願景花卉公司（Golden Vision，Inc.）之董事，為回應呈請人之要求修改取消與即決審理呈請之聯合動議，特提交本申明。

2. 我自公司建立之日起一直管理金色願景公司之財務事務。本公司業務之絕大部分為在美國和加拿大銷售蘭花。

3. 自公司之開始業務運作直至2007年初，金色願景花卉公司也銷售切花、乾燥花、乾燥植物、花籽、草與草籽、鮮草藥與生草藥，同時經銷其他種植戶之產品。2004和2005年度，金色願景花卉公司確實曾經銷售過切花和乾燥花。這些產品之銷售不足以持續積極提升業務，因此公司自2007年後幾乎完全將銷售集中於蘭花。但是，金色願景花卉公司從未有過任何永久停止銷售這些產品之意圖。

Exhibit C

4. 受到呈請人質疑之使用聲明，在我簽署之時是真實和準確的。我本人知道列於使用聲明上之各項產品，在我簽署該文件之時曾經提供用於銷售。此外，我受金色願景花卉公司總裁之授權和指示，代表公司簽署該文件。

5. 因為我不會講英文或看英文，文件由我的律師為我翻譯。我的律師為我翻譯文件，我確認所列之各項產品曾經由金色願景花卉公司提供用於銷售。但是，我姓名下面之'總裁'一詞，並未向我翻譯。我只是遵循律師之指示行事，並在檢其餘部分向我翻譯和說明之後，在律師指明之檔部位簽名。

6. 根據律師對文件之翻譯和說明，我相信在我簽署使用聲明之時，乃是以真誠和信任之態度對待美國專利與商標局，並從未懷有任何欺騙或欺詐任何人以獲取商標註冊之意圖。

7. 根據28 U.S.C.第1746條之規定，我秉承美利堅合眾國之偽證罪處罰法律在此申明，上述內容真實正確。

執行日期：2010年8月20日

Li Ying Chuang

莊麗英（音譯—譯者）
Li-Ying Chuang

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.

_____/

DECLARATION OF LI-YING CHUONG

Li-Ying Chuong declares that:

1. I am a director of Golden Vision Flower, Inc., and submit this declaration in response to Petitioner's Combined Motion for Leave to Amend the Petition for Cancellation and for Summary Judgment.

2. I have been managing the financial affairs of Golden Vision Flower, Inc. since it was formed. The majority of the company's business is the sale of orchids in the United States and Canada.

3. From the beginning of its business operations until early 2007 Golden Vision Flower, Inc. also offered cut flowers, dried flowers, dried plants, flower seeds, grass and grass seeds, and fresh and raw herbs, as a broker for other growers. Golden Vision Flower, Inc. did make sales of cut flowers and dried flowers in 2004 and 2005. Sales of these items were not sufficient to continue to actively promote so we have focused almost entirely on orchids since

2007. However, Golden Vision Flower, Inc. has never had any intention of permanently stopping the sale of those items.

4. The Statement of Use that is challenged by Petitioner was true and accurate when it I signed it. I was personally aware that the items listed on the Statement of Use were being offered for sale by Golden Vision Flower, Inc. when I signed that document. Additionally, I was authorized and instructed by the President of Golden Vision Flower, Inc., to sign the document for the company.

5. It was translated to me by our lawyer in Taiwan because I do not speak or read English. My lawyer translated the document to me and I confirmed that the items listed were being offered for sale by Golden Vision Flower, Inc. However, the word "President" next to my name was not translated to me. I simply followed my lawyer's instructions and signed where he indicated after the rest of the document had been translated and explained.

6. Based on the translation of the document and the explanation of my lawyer, I believed that I was being honest and truthful with the U.S. Patent and Trademark Office when I signed the Statement of Use and never had any intent to deceive or defraud anyone to obtain the trademark registration.

7. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on August 20, 2010

_____

Li-Ying Chuong

Tampa Bay Translations
Unlock the Boundaries
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Certificate of Accuracy

Translation Declaration

Re: Translation No. 1911C

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Michael E. Douglas
Tampa Bay Translations, LLC
Date: August 19, 2010

STATE OF FLORIDA
COUNTY OF Pinellas
Sworn to (or affirmed) and subscribed before me this
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__ PERSONALLY KNOWN TO ME
X PRODUCED AS IDENTIFICATION

Florida Driver License
Type of Identification

CYNTHIA L. HOHMANN
Notary Public, State of Florida
Commission: DD709921
My comm. expires Aug. 27, 2011

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1987 Collins GEM Encyclopedia, co-translation, published by Shanxi Educational Press, China; and much other translation work in various subject fields

Since 1980s, much translation work has been done mostly in the language pair of English and Chinese and collected in the following journals:

Collection of Foreign Screw Machinery and
Mechanical Accessory of Foreign Ships and Vessels

Subject matters in translation:
general engineering; computer science and website localization, banking and finance, general business, marketing, human resources, law, politics and other social sciences.

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.

_____/

DECLARATION OF SHIH-WEN HUANG

Shih-Wen Huang declares that:

1. I am a member of SkyPro Trading and submit this declaration in response to Petitioner's Combined Motion for Leave to Amend the Petition for Cancellation and for Summary Judgment.

2. SkyPro Trading conducts the marketing activities for Golden Vision Flower, Inc. in the United States and Canada. SkyPro Trading was formed in 2007 and began working for Golden Vision Flower, Inc. at that time. Prior to that time I assisted my father, Shun-Chi Huang, informally and infrequently with portions of the business of Golden Vision Flower, Inc.

3. Prior to 2007 I did not have any involvement with the actual sales of products by Golden Vision Flower, Inc. so I had no firsthand knowledge regarding every product offered by the company.

Exhibit D

4. I was not involved in any way with the registration of the trademark that is at issue in this proceeding and have no firsthand knowledge of any of the matters related to it.

5. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury of that the foregoing is true and correct.

Executed on August 20, 2010

Shih-Wen Huang

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

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_____/

DEPOSITION OF SHUN-CHI HUANG
TRANSLATION OF AUDIO RECORDING
PROVIDED BY ESQUIRE DEPOSITION SERVICES

Exhibit E

Q -- Lawyer; I -- Interpreter; A -- Witness; R -- Court Reporter; (unless otherwise noted).

I. Yes.
R. (Swears in witness through translator.)
Thereupon, SHUN-CHI HUANG having been duly sworn or affirmed was examined and testified as follows:
I. Ah, you swear that the deposition you are making is true and nothing false.
A. Yeah.
I. (Translating): Yes.
Q. Good morning, Mr. Huang.
I. Hello, Mr. Huang.
A. Yes.
I. Yes.
Q. My name is Milton Springut, and I am the lawyer for what we call the opposer in this proceeding.
I. Ah, I today...I am the lawyer. I am...on behalf of the monitoring part ...process...process...legal process.
Q. We're here today to ask you questions with regard to the subject matter of this proceeding.
I. Ah, we today...we today...I am going to ask you some questions about today's legal procedures.
A. OK.
I. OK.
Q. I would like you to answer my questions completely and directly and to the best your recollection.
I. I hope that your answers to my questions will be complete and direct.
Q. I assume you received the briefing about the nature and the purpose of this proceeding?
I. I think...I know today...ah...Can you rephrase it? Can you repeat the question?
R. Just moment. (repeat the question)
I. Ah, I think...I know you probably have known some briefs, introduction regarding today's proceeding.
A. (In English): Yes.
I. Yes.
Q. Do you have any questions at this time?
I. Do you have any questions to ask at this time?
A. No.
I. No.
Q. One of the important things that you have to do here today is to verbalize your responses.
I. Ah,...very important...it is a very important thing that you have to answer all questions in oral expression.
A. Yes.
I. Yes.
Q. Because if you don't do that, the court reporter is going to have a very hard time taking down the shakes of your head or grunts on her machine.
I. If you do not reply in oral way, that court report...reporter will find it hard to record your ways of oral and nodding expressions.
A. I don't know. (coughing)
I. I don't understand your question.
Q. It's not a question.
I. It's not a question; this is not a question at all.
Q. So, will you give us verbal responses?
I. Can you answer questions orally?
A. Yes, I can.
I. Yes.
Q. OK. Do you understand English?
I. Do you understand English?
A. I don't know.
I. I don't understand.

1 Q. OK. If you don't understand my questions, I will be glad to repeat or rephrase them.
2 I. If you can't know understand what I say, my questions, you may request, I can repeat it.
3 A. Yes.
4 I. Yes.
5 Q. Similarly, if I don't understand your answers or they're incomplete, I'll ask you to explain.
6 I. Similarly, if I don't understand your answers, I may ask you to repeat it.
7 A. Yes.
8 I. I understand.
9 Q. Are you taking any medications?
10 I. Did you take any medications?
11 A. No.
12 I. No.
13 Q. Are you ... are you ... is there anything preventing you today from understanding my questions
14 and fully responding to them?
15 I. Is there anything that will prevent you from answering my questions today?
16 A. No.
17 I. No.
18 Q. OK.
19 Q. Let me have the reporter mark the Notice of Taking Depositions as Opposer's Deposition Exhibit
20 31.
21 (coughing, turning pages)
22 I. This is...ah...this is what he asks that...that court reporter...this...make a...make a 31...make a
23 record.
24 Q. This deposition is being taken pursuant to the notice of Exhibit 31. Are you appearing here today
25 pursuant to this Notice of Deposition?
26 I. The objective of your coming today is whether or not continue to make today's ...this
27 question...questions regarding this case, yes or not? Is your objective like this when you come
28 today?
29 A. Yes.
30 I. Yes.
31 Q. OK.
32 Mr. Dawson. Hey, Milton, I think this might be incomplete. I don't know if it's my copy ...
33 Mr. Springut. Off the record. (Off record.)
34 Q. Mr. Huang, what is your business address?
35 I. Ah, Mr. Huang, what is your address?
36 A. (coughing) In Taiwan or in the United States?
37 I. You mean the Taiwan or in the United States?
38 Q. Do you have more than one business address?
39 I. Do you have more than one commercial address? Address for business?
40 A. Address for business, it is Apopka. It's this...this Apopka.
41 I. It ... the address is Apopka. The address that's the business.
42 Q. Do you have more than one business address?
43 I. Do you have more than one address for business?
44 A. More than one?
45 I. Do you have more than one...two or more addresses for business?
46 A. Business...we just...use this...this address for business.
47 I. The ... this is ... we use this address.
48 Q. No. What is your business address?
49 I. What is your address for business? Address...an address for business.
50 A. Just this Apopka.
51 I. The Apopka -- this Apopka address.
52 Q. Do you have any other business addresses?
53 I. Do you have any other addresses for business?
54
55
56

A. No.
I. No.
Q. Where do you live?
I. Where do you live?
A. Just in Apopka.
I. It's in Apopka.
Q. I understand you live in Taiwan; is that correct?
I. I know you are living in Taiwan, is that correct?
A. Correct.
I. Yes.
Q. OK. What is your business ... what is your residence address in Taiwan?
I. What is your residence address in Taiwan?
A. Taiwan is just Tainan.
I. Taiwan is in Tainan City.
Q. What is your full business address?
I. What is your full address? Residence address?
A. Company address or residence address?
I. You mean the business ... business or residence?
Q. Residence.
I. Residence.
A. I live in Tainan. Yes...Tainan County, Guilin Township, Guirun Township...
I. Tainan Shen - Tainan County, Kun, K-U-N, Ran ... R-A ... Kun Ran –
SHIH-WEN HUANG: You don't know how to translate ...
I. (Without translating): No, I need you to tell me ... speak out louder.
I. (Translating): Kun Ra County ...
I. (Without translating): I'm sorry, Kun Ra town.
I. What else?
A. Datang village...Datang...village...Zhongzheng South Road, South Section 3, Lane 95, Number 95.
I. (Translating): Datong City, T-A-N ... Datong ... DA ... DAN ... Datong City, Chun, C-H-U-N, Chun Chen, C-H-E-N, South Road, Section 3, 95 ... Lane 95 and then Number 25.
A. Yeah.
Q. OK. And what is your business address in Taiwan?
I. What is your address for business in Taiwan?
A. Tainan village.
I. It's Thailand City。
A. Dongmen Road, East District, Dongmen Road.
I. East ... East District, Don Men, D-O-N, Men, M-E-N, R-O ... Road 20 ...
A. Number 5, Lane 205...
I. Lane 205 ... 209, Lane 209 and Number 5.
Q. How old are you?
I. How old are your this year?
A. I...this year?
I. This year?
Q. This year.
A. The year of 1954.
I. I was born in 1954.
Q. Where were you born?
I. Where were you born?
A. In Taiwan.
I. Taiwan.
Q. Are you married?
I. Are you married?

A. Yes.
I. Yes.
Q. What is the name of your wife?
I. What is your wife's name?
A. Zhuang Liying.
I. Li-Ying Y-A ... OK ... it's ... last name is C-H-U-N-G [sic], first name L-I Y-I-N-G.
Q. outside this room?
I. Is she the lady sitting outside?
A. Yes.
I. Yes.
Q. OK. Do you have any children?
I. Do you have any children?
A. Yes.
A. Yes.
Q. How many?
I. How many?
A. I have four daughters and one son, five children altogether.
I. Total of four children. Four girls, five ... one boy.
Q. What is the name of your business in Taiwan?
I. What is the name of your company in Taiwan?
A. Ah, that...Chang Lung...Chang Lung South Road Flower Shop.
I. Chang Lung, C-H-A-N-G, L-U-N-G, Flower Shop.
Q. Chang Lung Flower Shop?
I. (Without translating): Right.
Q. And did you start that business?
I. Did you start the...the business, right? This shop?
A. Yes.
I. Yes.
Q. When?
I. When?
A. Probably for 12 years.
I. About ... I have about 12 years.
Q. And what did you do before you started that business?
I. What did you do before you did that business 12 years?
A. Um, I did business of Toy.
I. I did some toy business.
Q. Prior to starting this business, did you have any experience working with flowers?
I. Did you have any experiences in running a florist store before you ran this florist shop?
A. No.
I. No.
Q. How did you gain experience in the flower business?
I. How did you gain the experiences in this florist store, how did you get your experiences?
A. I hired some professional technologies to come and assist me.
I. I find some specialty ... specialized experts. I hired some specialized experts and ... to run the business.
Q. What is the business of Chang Lung Flower Shop?
I. What business do you have in your, this Chang Lung Flower Shop?
A We do some business of cut flowers...um...that is...that what....cut flowers special for flower trees...also orchids.
I. Is has a ... it ... it has an old kit it's like a ...
A. Um...we grow orchids and we also have potted flowers and cut flowers.
I. it has a ... it is an entire orchid and also has a cutting ... cutting ... cutting ways of flowering.
A. Then, we do seedlings...flatting seedlings, whatever.

I. It also has a ... it also has a sprout, the flower sprout.
A. Then we have some vegetables, fruits...or their kinds.
I. And it also has some vegetables, fruit-related items.
A. Then we have Phalaenopsiss, Dendrobium orchid, Oncidium, Cuttleya orchids.
I. It has a ... it has a ... orchid has a butterflied orchid and a vegetable type orchid and Goparhia orchid (ph).
Q. OK. If I understand your answer ... and tell me if I am ... it's ... your in the business of growing orchids?
I. I want to ask you...ask...I want to know what words you are saying. Are you this business...florist shop,...are you saying and saying that orchids? Is your business this business? Growing orchids?
A. I grow and also sell orchids.
I. Growing orchid, sales and buying.
Q. Of orchids?
I. Orchids are all orchids, right, orchids?
A. We are also doing vegetables and fruits. Static type and also ornamental plants.
I. Orchids. But also some fruits and vegetable related items.
Q. Any flowers other than orchids?
I. Are there any flowers other than orchids?
A. We have some ornamental plants...like tomatoes, some vegetables and fruits, too. (coughing)
I. It has some other plant and also some tomatoes.
Q. But those are not flowers, right?
I. Those are not flowers, aren't they? You just mentioned ornamental plants.
A. Correct.
I. Correct.
Q. So, the only flowers that you sell are orchids; is that correct?
I. So, the only flower species you sell from your shop is orchids, is it correct?
A. Mainly orchids.
I. Mainly it's orchid.
Q. What other flowers do you sell?
I. Except orchids, there are other flower types, you...what do you sell?
A. UM, we also sell ornamental plants...like that decorations.
I. It's something like the flowers you decorate ... you use as decoration indoor, I sell that, too
Q. Are those live flowers?
I. Those...that you mentioned...that ornamental plants are live flowers?
A. Yes.
I. Yes.
Q. What type of flowers are those?
I. Can you talk about that type in details?
A. Um, if you need, we can provide...we are selling and there are too many types of flowers.
I. As only as the consumer ... meet the consumer ... there's a consumer demand we all sell.
Q. What other flowers besides orchids do you sell?
I. What else flowers are you selling except orchids? Say it...say it.
A. Um...like that...like that...like Flamingo flower...like that...
I. Um, it is something that has a special name, it's like a fire ... it was ... it was fire female dragon. That's the name ... that's the name of ... of the flower, fire female dragon.
Q. Any other flowers?
I. What else except those?
A. We also have some plants with green leaves...like what we call in Taiwan...? We call it in Taiwan ...?
I. It has something regard it's a leafs. The leafs ... the name called Lee, that kind of plant.
Q. Is that something else or is that a fire female dragon?
I. Other than those as Flamingo flower you mentioned just now, do you sell any other flowers?

A. Some of them are not flowers, but also plants with green leaves.
I. Some portions are not ... they are not flowers, they are green leafs plant.
Q. Live flowers?
I. Living flowers? Is it living flower...?
A. Yes.
I. Yes.
Q. What type of live flowers do you sell in addition to orchids and fire female dragons?
I. Except orchids and Flamingo flowers you mentioned just now, what kind of live flowers are you selling?
A. Talk about those...(Pause) because some of them are not grown by ourselves but we are selling them...we can buy in products and then sell them.
I. OK. Because some ... some products we don't grow. We don't produce. We just purchase and then resell it.
Q. What are those products?
I. You said that you are not growing...but you buy in and then resell them. What are those what type of flowers, what kind of?
A. Because of your season, different seasons, those flowers and ornamental plants may be quite different.
I. It's because every season ... different season has different type of flowers.
Q. What flowers do you produce other than orchids?
I. Other than orchids, what else do you grow...what else do you make?
A. We mainly grow orchids...they are those types of flowers I talked about just now. We also have tomatoes...ah...sweet bell peppers...we also grow those types.
I. It's ... mainly it's orchid, but other than ... I mentioned orchid, the fire female dragon, also some tomatoes, some sweet ... sweet squash.
Q. Anything else?
I. What else are there except those?
A. They are what we are growing mainly.
I. Mainly those we ... we ... we grow.
Q. Anything ... anything else?
Mr. Springut. Can you tell him it's important that he listens to the question and answers the question only.
I. It's very important that you listen carefully to that question, then you answer the part of question. Now the question is: are there others...others you are now growing?
Q. This process will go much faster if he does that. OK?
I. If this...this process may go faster, if you only answer the question.
Q. OK. Other than orchids and fire female dragons, what other plants do you produce?
I. Except orchids, except Flamingo flowers, are there any others you are now growing and making?
A. That's all.
I. The factory produces those mentioned ... mentioned, just those.
Q. OK. And you told us you've been in business for 12 years?
I. Just now you said that you have been doing this business for 12 years, is it correct?
A. Correct.
I. Correct.
Q. Was the business any different 12 years ago than what you just finished describing for us today?
I. What differences are there between business...this business 12 years ago and the situation the business you previous talked about? What differences are there between them? Is it somewhat different 12 years ago and now?
A. Only business size is bigger. At that time in Taiwan and then in the United States a few year ago, we were doing production base and also sales. That's it.
I. It's ... the difference is ... now is the business is larger and here we have a base of ... for ... base of production and we have ... we ... we sell – we sell the products.
Q. But 12 years ago you sold the same types of products?
I. 12 year ago, did you sell the same products, is it correct?

A. More or less different.
I. More or less different. More or less. There are some different more or less.
Q. How is it different?
I. What is the difference?
A. Because of different season and market, you have to make some adjustment.
I. It's because it's according to the different season and according to the market that we have to adjust for the season and market changes.
Q. Twelve years ago, what products did you sell?
I. 12 years ago, what products did you sell?
A. 12 years ago, main items were Oncidium, cut flowers. But now we do less Oncidium.
I. Twelve years ago we ... we sold called Win Chin ... Win Chin ... Win Chin orchid cutting flower ... that we sold this kind, but now this type Win Chin orchid cutting flower is getting less.
Q. But you still sold orchids 12 years ago, right?
I. So you sold orchids 12 years ago, is it correct?
A. Yes.
I. Yes.
Q. Did you produce any other flowers when you started the business to today other than what you've told us already?
I. Do you have today...you told me about these flower. What flowers did you ever sell or make?
A. I don't understand your question.
I. I don't understand your question.
Q. You told us today you said you produce orchids and fire female dragons. You told us 12 years ago you produced orchids. Have you produced anything else in this 12-year period?
I. You said just now you sold orchids...and you sold Flamingo flowers, then you said you sold Oncidium. Then did you ever sell any others during the period of 12 years?
A. Did you mean any others I sold except orchids?
I. The question is you mean only orchid or – or other than orchid?
Q. Yes, that's the question.
I. Yes, orchids...it is this question.
A. I just now said orchids...Oncidium, Cuttleya orchids and Dendrobium orchids.
I. Just earl ... mentioned earlier the Win Chin and Cattleya, and ShuFu orchid. Win Chin orchid, Catteleya orchids and ShuFu orchid.
Q. And so only orchids?
I. So only orchids?
A. At that time, mainly orchids.
I. During that time mainly it's orchid, correct.
Q. Anything else other than orchids did you produce?
I. What else did you do other than orchids?
A. You mean now or...
I. You mean now?
Q. At any time in the last 12 years.
I. In the past, 12 years ago...you...during 12 years.
A. There may be some ornamental plants.
I. Other than orchid it has something is a print related, print, some prints.
Q. What are prints?
R. Are you saying plant?
I. P-L-A-N-T.
R. OK.
Mr. Springut. Plants.
Q. What plants did you produce other than orchids?
I. Other than orchids, were there any other kinds of plants?
A. About plants...like that...that...in Taiwan, there were something like Pachira trees, money trees and the like.

I. OK. The indoor plant is like Wa-try ... Wa-try ... Wa-try plant, Gin shin plant (ph).
I. (Without translating): This is related to bamboos. I can tell it's a bamboos, bamboos plant.
R. Are you saying that or is he ...
I. I am saying that. I am saying that, because just if I say Wa-try plant, when ... that ... then you ... you don't know what's the plant. It's a bamboos. Those are bamboos. I say that.
Mr. Springut. OK.
Q. What period of time did you produce bamboo plants?
I. You just now... during the period, what time of the period did you sell Pachira trees? This just now...about this...
A. We did such business for about 5 or 6 years.
I. We have doing this for about five, six years.
Q. Going back from today?
I. In the past...from now on...5 or 6 years going back from today, is it correct?
A . Yes.
I . Yes.
Q. Anything else?
I. What else were there except this?
A. Generally our main items were like these.
I. Mainly are those, these items.
Q. Anything else?
I. Anything else?
A. Now except this the biggest items are something like vegetables and fruits, and vegetables and fruits are additional items.
I. Now, recently we added vegetables, fruits related.
Q. Talking about plants, any other plants?
I. Now we are talking about plants. Are there anything else except these?
A. Plants are vegetables and fruits we mentioned before, such as tomatoes, sweet bell peppers, also that...that...um, fruits.
I. The plant I mentioned earlier is something like tomatoes, vegetables, and sweet squash and some fruits also, some fruits.
Q. Fruits and vegetables?
I. So, vegetables and fruits, right?
A. Yes.
I. Correct.
Q. No other plants?
I. No others...no others, just vegetables and fruits, that's it?
A. Yes.
I. Correct.
Q. OK. Now, when you started the business 12 years ago, generally, who were you selling plants to?
I. When you started your business in flower shop 12 years ago, who did you sell your plants?
A . We sold (products) to all wholesalers or retail shops.
I. We sold to some wholesalers and some individual consumers.
Q. Located where?
I. Then where were your wholesalers located?
A. In places across Taiwan.
I. The entire Taiwan.
Q. When did you first start selling plants outside of Taiwan?
I. Probably when did you first sell those plants you talked about just now to regions outside Taiwan?
A. We started doing this about 10 years ago.
I. We started ten years ago that we sell – we sold outside of Taiwan ten years ago.
Q. So, about 2000?
I. So, at the time of 2000?

A. Probably so.
I. Approximately, yes.
Q. And generally in the year 2000, to whom did you sell outside of Taiwan?
I. In 2000, to who did you start your sales...exports outside Taiwan?
A. Some went to Japan, and some to the United States, too.
I. We sold to Japan area ... in the Japan area and also to the United States area.
Q. When did you first start selling to the United States?
I. When did you first started your sales...exports to the United States?
A. Um, I can't remember the correct time.
I. The exact time I don't remember.
Q. Approximately.
I. Approximately what time?
A. Approximately 10 years ago...that period of time.
I. About ten years ago, that period of time.
Q. And to what type of people did you sell to in the United States?
I. What types of people did you sell (products) in the United States?
A. Some men and some orchid growers.
I. I sold to that ... the ... who the person is doing the orchid business.
Q. Are those like wholesalers?
I. Are those who sell wholesales...that?
A. No, that orchid growers...that orchid grower...man.
I. OK. I sold to the person who ... who produce grow orchid.
Q. Growers?
I. To produce orchids, is it correct?
A. Yes.
I. Correct.
Q. And the company that was selling the orchids to the growers in the United States was Chang Lung Flower Shop, right?
(Whereupon the court reporter read back the last question.)
I. So to that the company sold ...to that of the United States...that who grows orchids...this...this man is a man of Chang Lung Flower Shop? Flowers, right?
I. (Translating): Correct. The early years, yes.
Q. How long did that continue that way?
I. You sold (products) to the United States like this...make most foreign exchange...how long did your exports last?
A. We are doing it up to now.
I. Continues still up to today.
Q. Today. And what plants have you sold to growers in the United States since approximately 2000?
I. Since you started to sell (products) to the United States in 2000, what type of plants are you?
A. Today there are orchids, and also ornamental plants or its kind. This...the bulk products are these.
I. Mainly are the orchids and then also one lady plant ... it's just ... it's ... it's bamboo, that kind of bamboo that area related.
Q. So, orchids and bamboo?
I. So, you refer to orchids and ornamental plants?
A. Correct.
I. Correct.
Q. Nothing else?
I. Nothing else?
A. Ah...probably it is like this, these (products). It is like this.
I. Mainly are this.
Q. Anything else?
I. Are there any others?

A. Something is different from this...something we sell in Taiwan, like materials...materials regarding growing plants, vegetables. Ah...sometimes our customers have demand, then we help them to look for them and also helped them to sell...sell...sell to outside.
I. Some are related like materials to grow the orchids and then we will ... we will help the – the consumer ... we will help the merchant to look for those ... that ... that ... that material that can grow the orchids.
Q. Any other plants besides orchids and bamboo?
I. Other than ornamental plants and orchids, do you have...have...do you have other exports...any others?
A. We once sold some that agriculture...that seeds, (coughing) that...that...fruits and vegetables...vegetable seeds but not too much.
I. We used to sell some vegetable fruit seeds but not a large quantity.
Q. Any other plants?
I. Are there other plants or its like?
A. No.
I. No.
Q. OK. And when you started the Chang Lung Flower Shop 12 years ago, what was your position in the company?
I. When you started that Chang Lung flower...flower...this...this flower shop 12 years ago, what professional title did you have...what professional title did you have...position that you is what position?
A. There are two parts in Chang Lung. The production of this farm...I am in charge of it. The person in charge of the part of the company for exports is my wife, Miss Zhuang. Ah...
I. Chang ... Chang Lung Flower Shops they are two parts, one is produce in the production, the farm – a farm production one is sell ... sells abroad. I am in charge of the farm's production division.
Q. And you've been the head since you started the company?
I. So you are in charge of this...this...production. You are the general manager since you started your business and your shop, is it correct?
A. Yes.
I. Yes.
Q. And who is in charge of the part of the business that sells?
I. Who else is in charge of exports?
A. Miss Zhuang.
I. Ms. Chuong, my wife.
Q. Who are the officers of this company?
I. Who are in the office of this...this..this company?
A. Office? Some staff member of production department except us. There are also some seats.
I. We have some ... some ... some employees they are in the production area. And also, is some – some is ... is a personnel, it's a staffs, they are staffs.
Q. OK. Move to strike as nonresponsive. Please listen to the question and answer the question that you're asked. Who are the officers of the company?
I. Please listen carefully, and then answer the question only. Who are in the office?
A. Do you refer to all those executives?
I. You mean your question is asking all administrative?
Q. Does he know what an officer is?
I. Do you know the meaning of office? Office.
A. Yes.
I. Yes.
Q. Who are the officers of the company?
I. Who are in the office? Who are sitting in the office?
A. Office is, of course, Miss Zhuang. Ah,...we have also a few staff members.
I. Officers, of course, is Ms. Chuong, me, and several other employees.
Q. What are your respective titles?

I. What is your professional title?
A. I am the chairman.
I. I am the chairman.
Q. His wife?
I. Then how about your wife?
A. As I mentioned just now, we have two parts. The other...other...the chairman of the company for exports is Miss Zhuang, but regarding the part of farm, it's me.
I. We just ... I just mentioned there are two parts. The export that ... that the ... the chief – the chairman ... the chief is in charge is Ms. Chuong, and then I ... belong to ... I'm in the farm production.
Q. Move to the strike as nonresponsive.
I. What you said just now did not...you did not answer my question.
Q. Please translate that. What is your wife's title in the company?
Mr. Dawson. Hang on a second. I want to put something on the ...
Mr. Springut. Wait, hold on ...
Mr. Dawson. ... these ... these questions from you, from what my corporate rep tells me, are not being properly translated and it's being impeded to the deponent, so ...
Mr. Springut. OK.
I. What professional title does you wife hold? What is your wife's professional title and position?
A. My wife? On the farm side, she is in charge of accounting.
I. My wife in ... in the farm production, this area she is in charge of accounting finance.
Q. Does she have a title?
I. Does she have a professional title? Professional title...name...her professional title?
A. No, she does not. She...we...um...she is in charge of...
I. She doesn't have professional title. She is in charge of the ...
Q. Are there any other members of his family that are officers of Chang Lung Flower Shop?
I. Are there any other people in your family who also work in this Chang Lung Flower Shop?
A. No.
I. No.
Q. OK. Are you familiar with a company called Golden Vision Flower?
I. Have you got...Are you familiar with a shop called Golden ... Golden Shop? Golden Vision. Do you know this shop, called Golden Vision, Golden ... Shop?
A. Actually, when we came to the US, we were... At that time, our company was set up through the application in the US. We just knew this, but didn't know anything else.
I. When I ... when I came to ... we came to America, I or we, came to America then we apply, then we just knew this ... this company.
Q. Do you have a position with Golden Vision Flower?
I. Do you have any position with this flower shop?
A. What? I am in charge of it. I am the investor.
I. I am the president. I am the investor of this company. I am in charge of this company.
Q. When you say you're in charge, do you have a title with this company?
I. You say you are in charge of this shop. Do you have any formal professional title?
A. In this company, I am... My professional title is CEO.
I. My official professional title in this company is CEO.
Q. Have you been the CEO since the company was formed?
I. Have you been CEO in this company since the establishment of the company?
A. Yes.
I. Yes.
Q. And were you the person that formed this company?
I. Are you ... Are you the person who set up this company?
A. Yes.
I. Yes.
Q. Who are the other officers of this company when you formed it?

I. When you set up the company, was anybody else also in this company? Except you?
A. At the start, just we... we both, my wife and I.
I. In the beginning, me and my wife.
A. Because we then used Chang Lung in Taiwan, used a ... a ... a case of cross-national investment for it.
I. In the beginning we used this ... the ... Chang Lung Flower Shop that the investment as a base we formed this company.
Q. What was your wife's title in the beginning?
I. What was your wife's professional title in this company at the very beginning?
A. She had just a status of a...an investor. That's it.
I. She is simply just an investor. The status is just an investor.
Q. Is she an officer of this company?
I. Did she also work in the company? Did she have a professional title? did...? Worked in the company? Did she work in the company?
A. No. It seems in Taiwan. For most of time, she was in Taiwan.
I. No. She spends most of time in Taiwan.
Q. Who are the officers of this company today?
I. Today, now... is there anyone else who works in the company, company? As members of the company?
A. Members of the company?
I. Officer?
I. Yes.
A. Because we came from Taiwan, we mainly ..., um, we have a language barrier.
I. The main way we came ... we came to the United States from Taiwan we have a language deficiency, so our mainly the purpose ... our ... we mainly doing production.
Q. Move to strike as nonresponsive. Who are the officers of this company today?
I. You didn't answer my question just now. My question is who are working in the company? Position. That means who are working?
A. We employed some Mexicans... to work here. That's it.
I. We only find some Mexicans work – work there.
Mr. Dawson. Can we go off the record for a second?
Mr. Springut. Sure.
(from background a discussion about 'worker' and 'officer' between the interpreter and the other lawyer)
Q. Today who is the president of the company?
I. Today who is the boss of this company? Oh.
A. I am.
I. Me, I am.
Q. Who is the vice president?
I. Who is the vice...vice president...vice chairman?
A. Nobody.
I. Nobody.
Q. Secretary?
I. Who is the secretary?
A. The secretary is ... originally was my ... my wife.
I. Secretary originally is ... is ... was my – is my wife.
Q. Is there anyone else at the company today who has a title like president, president, secretary, treasurer?
I. Today these people are working in the company. Are there, are there any people who have professional titles, for example, president, vice president, secretary, whatever. Are there any people who have these professional titles?
A. Now we have to use...use a title externally.
I. So, far it's only I has a professional title to work outside.
Q. Has that been true since the company was started?

I. Then this is ... this is true. What you said just now ... has it been like that sine the company was started?
A. Yes.
I. Yes.
Q. Who are the shareholders of the company?
I. Who are the shareholders of the company?
A. The shareholders are my wife and I, as well as these children, our children... five children.
I. Shareholders are me, the couple, and five children.
Q. And how much do you own?
I. You ... You ... how much share do you own?
A. I personally or ... or my whole family?
I. You only ask me how many shares do I hold or you ask the entire family how many do we hold?
Q. He.
I. You, just you.
A. I forgot how many sets I registered for. My whole family has 100 sets in all. We hold 100 percent shares.
I. I forgot how many percentage I own. But I just knew that 100 ... we ... our entire family owns 100 percent.
Q. So, he doesn't know who owns the specific amounts?
I. So you mean that you cannot say exactly how many shares every...every person holds?
A. I haven't remembered that much.
I. Correct. I didn't ... I ... I don't have this specific.
Q. Who has this information?
I. Who has this...this correct information?
A. I think the accountant should have it.
I. I can go to ask the ... the accounting department. The accountant, I can ask the accountant.
Q. What accountant would you ask?
I. Which...which accountant would you ask?
A. Accountant?
I. You mean the accountant?
Q. Uh-huh.
I. Yes.
A. I have been entrusting my daughter to...to... to contact the accountant here in the United States.
I. Um, I always ... that my daughter who contact with the accountant.
Q. Who is the accountant?
I. Who is the accountant?
A. I don't know. It's Amy who is doing this.
I. Accountant, I don't know. It is all Amy handles this.
Q. When you started Golden Vision Flowers, what were your responsibilities?
I. When you started Golden Vision Flowers, which areas were you responsible for?
A. From purchasing the land to some...some work in arranging production, I handle them myself.
I. Starting from the purchase the land, how to arrange, and then ... and to production, that – I manage ... I all ... I manage it.
Q. How many employees did you have when you started the company?
I. When you started the company, how many the...the members? How many employees did you have?
A. About 10.
I. About ten.
Q. And what did they do?
I. What did they do?
A. Employees? Um, I was managing things from the beginning of purchasing land and construction. I did it all.
I. Starting from grow ... manage the land and have ... plant greenhouse, everything we start from the scratch.

1 Q. Did they all report to you?
2 I. These members, oh, no...these employees must report to you. Is that right?
3 A. Yes.
4 I. Correct.
5 Q. Where were these employees located?
6 I. Where were these employees? Where were they located?
7 A. We just looked for them in the local area...in the US.
8 I. We found these employees in the local – local U.S. ... local area in the United States.
9 Q. And where do they work?
10 I. Where do they work?
11 A. Work? They work in the... this...this campus of Apopka.
12 I. It's in the Apopka, this factory area.
13 Q. Is that still the case today?
14 I. Are you today talking about this... this...this question... this case?
15 A. Yes.
16 I. Yes.
17 Q. And what are your responsibilities today in connection with Golden Vision Flower?
18 I. Today...by now... you and the Golden Vision Flower, your responsibility, what are you
19 responsible for? What is your responsibility?
20 A. I am responsible for the entire operation.
21 I. ... my responsibilities in the management that have ... the ... the management ... the entire
22 company's managements?
23 Q. Are you the person in charge today?
24 (Whereupon the court reporter read back the last question.)
25 I. Are you the person in charge today, right?
26 A. Yes.
27 I. Yes.
28 Q. And you understand that this proceeding that we're here on today involves the registered
29 trademark Golden Vision Flower and Design, right?
30 I. Do you know the purpose of this proceeding is related to the registered trademark of your...your
31 flower shop?
32 A. Yes.
33 I. Correct.
34 Q. And you understand that the case involves the registration of what we previously marked as
35 Plaintiff's Exhibit 30, which I'm going to show you?
36 I. You...regarding the registered trademark, I will show you...show you this, ...this 30...about
37 this...show you the Exhibit.
38 A. What's wrong with this?
39 I. What kind ... what kind of problem is this?
40 Q. What kind of what?
41 I. (Without translating): What kind of problem is this?
42 R. Problem.
43 I. (Without translating): Problem.
44 R. What kind of problem is this.
45 I. What's the matter, that's what he ... that ...
46 Q. You understand that that's the registration that the company has, correct?
47 I. You understand this...this...now, the situation about this registered company... the...is it correct?
48 The registered credentials, is it correct?
49 A. I am not clear... just...just that we entrusted...entrusted the attorney with registration of this
50 company. What's wrong?
51 I. This is we have hired attorney to register this company, so what ... what's the problem?
52 Q. Who hired the attorney?
53 I. Who entrusted the attorney?
54
55

A. Um, we came to the US from Taiwan to set up this company. We first registered for this company's name, and than asked somebody to design this...this logo. We just registered, that's it.
I. It's when we came to ... we came to United States from Taiwan. We ... first step we did the registration, and then the second step we go to the local to find someone, and the third we ... we did the registration.
Q. Who did the registration?
I. Who did the registration?
A. I made the decision, but my wife did the registration and some relevant trifles.
I. Decision is I made it, but how to do the registration my wife did it.
Q. Can you explain that, please?
I. Can you explain that...explain that?
A. Explain what?
I. Explain what?
Q. Explain your last answer.
I. Explain the question you last answered.
A. We just set up the company of Golden Vision in the US. We just asked somebody to design this logo.
I. In the beginning when we established this company then we go to find someone in the local.
A. Then we...um... at that time, we were in Taiwan and so we registered in the US through the attorney in Taiwan. That's it.
I. During that time we went through the attorney in Taiwan and then registered in the United States.
Q. What attorney in Taiwan?
I. What kind of attorney in Taiwan did you refer to?
A. About this, I'll ..., because I talked about this in details just now. My wife has been in charge of it, so she may know more relatively.
I. The details is my wife handle this, so she ... she knows better.
Q. What do you know?
I. What do you know?
A. You know, this...this design...I got involved in this design.
I. The design I participated.
A. The registration was not in our own country; of course...this...this needed my wife to hire an attorney to register. That's it.
I. And then this registration we don't ... we ... of course, we ... it's not ... we don't know, so my wife went to find attorney to do the registration.
Q. What attorney?
I. What kind of attorney?
A. In Taiwan... this... this lawyer's firm which can do the registration.
I. It's a ... it's a attorneys that they specialize in registration in Taiwan.
Q. What is the name of the attorney?
I. What is the name of the Tai ..., of the attorney?
A. My wife knows it better. I ... I am afraid I don't know much.
I. That my wife knows it better. I ... I'm not so familiar with it.
Q. Do you know or not know?
I. Do you know or don't know?
A. I don't know much.
I. I am not so familiar.
Q. Mr. Huang, we're ... we're not proceeding in this case because you are not responding to the questions.
I. Today we cannot proceed with that...that legal proceeding, because you, you didn't answer the question.
Q. What is the name of the attorney? Do you know?
I. Attorney...do you know the name of the attorney?

A. I don't know.
I. I don't know.
Q. But your wife knows, right?
I. But your wife knows, right?
A. Yes. There are any records to check.
I. Yes. This you ... you can find out. There's ... there's a case there you can find out.
Q. When did your company, Golden Vision Flower, first use the mark that is shown on Plaintiff's Exhibit 30?
I. When did your company, Golden Vision Flower, first use the...the...the Exhibit 30, when did it begin for use? When did you first use it?
A. When we registered and got our permit in Taiwan...we obtained the permit. Um, we then came to the US, because we first... first set up the company, then we registered...registered, about...I remember... it seemed in 2003 that we registered, then it seemed in 2004, we obtained, and the we began to use it.
I. In Taiwan when we received the permit then we ... we start to ... in ... we came to America ... we came to America in 2003 then we start to use it 2004.
Q. When in 2004?
I. When did you begin to use it in 2004?
A. I am... I am not sure for it, but it seemed in 2004 that we began to...began to formally use it in the US. In 2003, actually, we have not been here for long.
I. Specific time in 2004, I don't have a recollection, but I know it's in 2004 that formally we start to use. And in 2003 we don't spend a lot of time in the United States.
Q. Who would know when, exactly, your company started using the mark shown in Plaintiff's Exhibit 30?
I. Who could know exactly this...using this trademark on 20, this... this exhibit 30, used this trademark? Who could know the exact time you started to use it?
A. We didn't record the specific time.
I. We didn't record a time, a specific time.
A. At that time, because we just began in 2004 when we came to the US, we began to use this trademark. This is not...this is what we can be sure.
I. It's when we came to United States in 2004, we started to use this trademark this ... this I'm quite sure.
Q. Move to strike as nonresponsive. I'm going to ask the reporter to reread the question and for you to retranslate it.
(Whereupon the court reporter read back the last question.)
I. Who could know exactly, this 30...this exhibit, this...used this trademark and who could know exactly when you began to use this trademark?
A. Because at the very beginning, it was I who was working on that and so I knew best. But you mentioned the specific month and date...who could memorize...memorize the... the specific month and date, the correct time. we couldn't remember them.
I. It – it starting ... when it started in 2004. I am the one running ... I am the one in charge in running this matter, but how can I remember the specific month, the specific date? That was some time ago.
Q. So, there is no one else besides you who would know the answer to that question, correct?
I. So it means that besides you, no one else knows...who...the question, correct?
A. I know best because I was working on the matter then and I... I myself did it.
I. It is I understand the most. I know the most because I ... I ... I am in ... I am ... I managed entire process.
Q. What documents does the company have that would show when the mark of Plaintiff's Exhibit 30 was first used?
I. Have you got any exhibit...any document to prove, that is, your...your 30, this trademark. When did you begin to use it? Have you got any documents to prove that?

A. Documents? En...at that time, I, virtually, there was no document, because you are saying now, for example, our company was set up, the nature of the company. We couldn't prove the time, but the company documents were bound to be drawn up. When you used them internally and externally, you used them, then there were also some, some categories, some commercials, those materials were printed one by one.

I. There is no specific time. When you start it you have a ... it's in a ... you have to start to have envelope, you start with S and let ... and et cetera. It's gradually it ... it would show that there is no specific time to say that.

A. Externally, when you have time and virtually, it is like that you will see commercials and that time can be proved. Internally, we have no way of

I. It's only ... it ... it ... towards ... it only shows the time is when you have S outside and then that will show the time, but if you started inside, then there's no specific time.

Q. Mr. Huang, what documents do you have that show the first time the mark in Plaintiff's Exhibit 30 was used by your company?

I. Mr. Huang, do you have any documents to prove, that is, the first time the trademark was used? Any documents to prove it?

A. No, because at that time we thought very simply. After we got the permit, we began to use it.

I. No. In the beginning it was a very ... we ... it is a very simple process, when we received the registration permit then we start to use it.

Q. Could you explain what you just said?

I. Could you explain what you just said?

A. That it, we entrusted an attorney for the registration of this...this registration of this trademark. When he informed us that the registration was done, we began to... to use it, we began...began to use it.

I. Is it ... it's just when we hired attorney for the registration, and then the registration approved from attorney. Then the attorney told us that registration was approved. Then we start use it.

Q. How did you start to use it?

I. How did you start to use it?

A. (coughing) It was very simple to us that was the, um...at the beginning, we designed the letter paper, envelopes on which our trademark was started to be used.

I. It's when in the beginning we tried to help ... establish the letters, the company's letters, the company's envelope. Then it start to show up, that mark, the trademark.

Q. So, you use it on letters?

I. So, you used it on envelopes and letters, right?

A. On letter paper, envelopes and that trademark that would ship product, that...um... some sign cards, um... even some documents about the product and the information will be recorded.

I. It is from letter ... the company's letter, the company's envelope. And then the product local, and the document ... the communication of document it start to show up.

Q. Let me see if I understand, the mark that is shown in Plaintiff's Exhibit 30 before you, you use that on letters?

I. I wonder what you mean. It's on 30... this...this document... this mark, you use the mark on letter paper, right?

A. Yes.

I. Yes.

Q. And you use the mark on Plaintiff's Exhibit 30 on envelopes, correct?

I. And you also used the mark 30...this mark on envelopes, correct?

A. Yes.

I. Yes.

Q. What else?

I. What else?

A. There are some categories about commercials on which information will be recorded.

I. It also the pamphlets, the S, commercial pamphlet gradually we use that.

Q. Please explain what commercial pamphlets are.

I. Please explain what commercial categories are.
A. Commercial categories? We published commercials on the magazine of Orchid.
I. We have a commercial ... we have S in orchids ... orchids things.
R. I didn't get that, I'm sorry.
I. (Without translating): We have S advertisement in orchid magazine – magazine the name Orchids.
Q. So, commercial pamphlets means advertisements?
I. So you mean... um... advertisement? Ok. You mentioned just now... you said commercials, those commercials, um, the content and details of commercials, you mean that?
A. About content, the name and the logo of our company are on those commercials.
I. That commercial S has company's logo and the company's name.
Q. When you say "commercial pamphlets" are you talking about ads in magazines?
I. You said just now the commercial, the...the registration, the... you said just now, you said previously...there was a, a commercial... the registration, do you mean some details of the commercials on that magazine? Is it correct?
A. Yes.
I. Yes.
Q. OK. What else?
I. What else?
A. We also had some categories for consumers on which our logo appeared.
I. Also we were toward consumers pamphlet, it also shows up this logo ... logo.
Q. What are consumer pamphlets?
I. What do you mean by consumer categories?
A. We also had some books to be distributed to consumers, which talked about some of our categories and we showed them our flowers, whatever... the price, right? Gave them to consumers on which our logo was printed.
I. We have some materials that distribute to the consumers that the information it has the company's logo, the mark.
Q. Explain this consumer information.
I. Can you explain consumers' ..., the information you said just now... can you explain it?
A. Sometimes we would print some... some BN... BN, that is, that is, about commercials, this... this... materials, there were some special flowers, and then some materials of the company, also logo, these all would, would have, have, have this, this, this ...
I. It's every year we would have a ... we would print it, that ... the ... the materials , BN that has the flowers information and company's information to the consumers.
Q. And how is that distributed to the consumer?
I. That, that, how... how was that given to the consumer? How was that distributed to the consumer?
A. Most were going through trade shows... um, we would participate in many shows, some flower shows in the US, and then, many...consumers, many were given, given to them.
I. Majority of time is through the flower's ... flower's exhibit that the ... we distribute to the – to the consumers ... customers.
I. (Without translating): E ... just ... just like that.
R. Exhibit?
I. (Without translating): Exhibit.
Q. What is a flower exhibit?
I. (Without translating): Flower show. Flower show. There's a show – the flower show.
Q. You give it out at shows?
I. So you these, this... this material... at...at flower shows...?
A. Yes.
I. Yes.
Q. So, people come to the booth and you hand them the literature?

I. So, you mean people... those people went to your shop, the... the shop for trade show, then you distributed ...
A. Yes.
I. Yes.
Q. OK. How else do you use the mark shown in Plaintiff's Exhibit 30?
I. Besides, you said just now, besides the market and the above, was there any other way you used this... this mark?
A. Yes. Sometimes our product, the flower, on sale, we, this, on the flower, hang some cards, small cards, a, a, a, a, a card, we have this. On one hand, we print a brief introduction of our company, on the other hand, as a consumer, how to maintain and cultivate the orchid, some situations, we also use, use this.
I. When we export the ... or we sell ... we sell the prod ... we sell the flowers, we would hang in the small cart along with the merchandise, the small cart, hang alone with the merchandise that we would show this. And also that companies ... when the ... the companies introduction or ... or that describe how do you care for the flowers, that kind of information we will show that.
Q. And describe the small card.
I. Describe such a card when you did sales.
A. That card is an automatic card but we had a different shape for each phase, such as in our early stage, the card looked like an orchid, the shape of an orchid, However, this was a business act. The card might change every season, not such fixed but we always had the shape of an orchid for our card. This is our company's logo. This is our product which we sent to our sales department for sales.
I. It was... it was... it's... the card has a...it... it depends on the different season, and from...and we have this... the card sometimes such as we had the shape of orchid. And it was... it... when we sell the merchandise it has that and it different. It... it sometimes it's different, it has a different shape.
Mr. Spingut. Can I have that read back, please?
Reporter: Yes.
(Whereupon the court reporter read back the last answer.)
Q. And how is the card used?
I. How was that card used? It was used for....
A. It was put on our products and on our flowers for our customers.
I. It just ... that card attached goes along with that merchandise to the consumers.
Q. What merchandise are you talking about?
I. What products as you mentioned just now?
A. Such as a bunch of flowers, or one stem of flower, which we would have a card hanging along with.
I. Such as we have one single stem of orchid and we would have this card attached with ... goes with it, the stem of the flower.
Q. OK. Other than orchids, what other merchandise?
I. What else products other than orchids?
A. We used the card mostly for orchids.
I. We use that most in orchids.
Q. What else did you use it in?
I. What else did you use except orchids?
A. They might be our package; we would use it only for outbound sales.
I. Other situations only when we have like a cases that we wrap, wrap the cases and we would use that.
Q. Cases of what?
I. Case, what cases?
A. Carton.
I. The paper... paper... paper case, the paper case carton... cartons.
R. Cartons.
Q. Cartons. Cartons for what?

I. What for carton?
A. You need to put them into a case if you need packaging and shipping.
I. Because sometimes you want to transport and then you put... put merchandise inside the carton. And then you have to ...
Q. What merchandise do you put in the carton?
I. What products did you put into your cartons?
A. There would be lots of products sometimes. Sometimes you need to use cartons for long distance shipping.
I. Sometimes that's something you need for long distance transportation, you need to put into the carton.
Q. Mr. Huang, please answer the question. What merchandise?
I. Mr. Wong, please answer my questions. What products?
A. We had not only flowers, but also seedlings and ornamental bamboos...you have to use packaging and cartons.
I. Sometimes it's like... something like flowers, sprouts that you have to put into the carton and then for the transportation.
Q. What flowers?
I. What flowers?
A. Orchids.
I. Orchid most of time.
Q. Other than orchids, what flowers?
I. What else other than orchids?
A. Some types of ornamental bamboos which I mentioned just now. You need packaging for them.
I. Such as other... I mentioned earlier Wan Lay bamboo plant you need to put in the carton.
Mr. Springut. What?
I. (Without translating): The bamboo plants that you have to put in the cartons.
Q. Have you used the mark shown in Plaintiff's Exhibit 30 in connection with bamboo with plants?
I. Did you use Exhibit 30, such mark on that plant?
A. You may not use it if it is just a single stem of ornamental plant but you may find it if you use packaging. Of course you can't find it when they are unpacked.
I. If you... if only single bamboo then you are not... the one lay print, you are not going to see it, but of you put entire into the carton then you... they will have the mark.
Q. Move to strike. Translate that.
I. You did not answer my question.
Q. What flowers or plants have you used in these cartons that bear the mark of Plaintiff's Exhibit 30 other than orchids?
I. What else were put into the cartons except orchids and seedlings you mentioned just now? What else types did you use the trademark other than orchids?
A. You had to use it as long as you pack your products.
I. Whenever you need to sell and you need to package... you need to do packaging, then you would use that.
Q. Move to strike. Translate it.
I. You did not answer my question again.
Q. Mr. Huang, this is not proceeding because you are not answering the question. You are avoiding the question. Why are you avoiding the question?
I. Mr. Wong, we can't continue our proceeding. You always try to avoid answering my questions. Why do you always avoid answering my questions?
A. I don't know what you mean.
I. I don't understand your question.
Q. Tell me, as we sit here, what flowers or plants you have put in cartons that bear the mark of Plaintiff's Exhibit 30.
I. Tell me what flowers and plants you put into your cartons and then use the mark after you pack up them?

A. We pack all products and surely put into the cartons.
I. Everything that you need to package in then you would put in the carton.
Mr. Dawson. I'm going to object again that the translation from you to him is not getting through correctly...
I. No, I think...
Mr. Dawson. ...he's not being...
I. I think I'm...
Q. You have no basis to say that, so I...
Mr. Dawson. I have a client right here who speaks Mandarin
Mr. Springut. Well, OK. Unless you have a certified translator here then you have no basis.
Mr. Dawson. We'll challenge the translation.
Mr. Springut. You can challenge the translation. Meanwhile, I'm going to move to hold him in contempt of this for failure to respond to the questions...
Mr. Dawson. Feel free.
Mr. Springut. ...and then we're going to redo this at your cost.
Mr. Dawson. No, you're not. We're not bringing him back.
Mr. Springut. If he doesn't answer the questions, we're going to move to have him brought back.
Mr. Dawson. Fine. It's not going to happen. They're not going to ...
Mr. Springut. We'll see what the TTAB does.
Mr. Dawson. OK. Well ...
Mr. Springut. Because this is ...
Mr. Dawson. You terminate at your own peril.
Mr. Springut. I'm not terminating anything. This is becoming a hostile witness and he's being uncooperative.
Mr. Dawson. He's not being hostile. Your translation's not getting through correctly. You're impeding it to him.
Mr. Springut. This is ... I absolutely am.
Mr. Dawson. Well, you're wrong in doing that.
Mr. Springut. I don't think so.
Mr. Dawson. Well, you have no basis to know that. I've got someone...
Mr. Springut. Yes. I ... I ... Mr. Dawson. ... that's ...
Mr. Springut. ... I have a translator who is certified to do this, and as far as I can tell, Mr. Huang is not responding to the questions that ...
Mr. Dawson. You have no basis for knowing that, though. I've just someone else here who speaks Mandarin who is saying it's not being interpreted properly, so I do have a basis to say ...
I. I ...
Mr. Springut. I don't think so.
Mr. Dawson. ...challenge the translation ...
I. ... the big problem is the question ...
Mr. Springut. You have no basis at all.
Mr. Dawson. It's on the record whether I have a basis or not. It's not being translated properly.
Mr. Springut. You have no basis. You challenge it.
Mr. Dawson. OK.
Mr. Springut. ...
Q. Mr. Huang, are you taking this seriously?
Mr. Dawson. Object to the form. You're harassing the witness.
Q Translate.
I. Mr. Wong, did you take the things in it as something very serious?
Q. To us, it is very boring. We applied for this mark after we came to America and then we use it. It has been a long-time matter. We are the victim.
Mr. Dawson. Translate mine as well.

I. I...I...think this is a very... this is a nuisance that we apply for this trademark and we register it and we came to American use it and we are the victim. Why so?
Q. Now, let's go back to the questions. You testified that the mark of Plaintiff's Exhibit 30 was put on cartons, right?
I. Let's go back to the original question. Did you say earlier that Mark 30 was put into the cartons, on the cartons, right?
Q. Yes or no?
I. Yes or no?
A. Yeah.
I. Yes.
Q. OK. And in the cartons you put flowers or plants, correct?
I. Did you put seedlings in the carton, right?
A. Yeah.
I. Yes.
Q. What flowers and plants have you put in cartons that bear the mark of Plaintiff's Exhibit 30?
I. What flowers and plants did you put into the cartons and the carton had the mark with them?
A. All orchids, as I mentioned earlier.
I. I mentioned earlier it's all the orchids.
A. Everything...all products that our company produced.
I. All the company...all the... the products our company produce we will put in the carton.
Q. What products?
I. What products?
A. You, orchids.
I. Orchids
A. Seedlings.
I. Sprouts
A. All ornamental plants.
I. All the...all the Wan Lays, the bamboo products.
Q What else?
I. What...what else?
A. That's it.
I. That's all.
Q. Orchids and bamboo?
I. So, orchids and ornamental plants, yes or no?
A. Yeah.
I. Yes.
Q. OK. And the small cards that you told us about that bear the mark of Plaintiff's Exhibit 30, what type of products was it used on?
I. You mentioned the little card that bears the mark. Then on what products did you put the card?
A. On all types of products sometimes but not with each batch of products. We made tens of thousand of mark cards each year attached on our products that are going to our customers.
I. Um, every year we will produce $10,000 or so, more than 10,000 also of such cards, and we will attach to the products, each products.
Q. What products?
I. What products?
A. Probably we attach the mark card to our flowering plants.
I. Every product they will grow ... they will have blossom, have a flower that blossom, then we will attach it.
Q. What products?
I. What products?
A. It was orchids and flowering plants.
I. Something it's like orchids that will – will grow flowers.
Q. Anything else?
I. What else?

A. They were the type of orchids.
I. This is all the most all orchids.
Q. Anything else other than orchids?
I. What else type other than that orchids?
A. No.
I. Orchids.
(turning pages and other noise)
Q. Now, let me direct your attention to Plaintiff's Exhibit 30. Can you read anything on this exhibit?
I. Now I want you to note the 30, can you read it?
A. No.
I. No.
Q. OK. I'm going to ask the translator to read for the witness after the word "for" in the first column. Do you see that?
I. Uh-huh.
Mr. Springut. The protect listings. I want you to read one only at a time and then I'm going to ask him a question.
I. He is talking about this paragraph, live flowers and also flower seeds and seedlings.
Q. Do you see cut flowers?
I. Did you see that...called...um...OK, dried...?
Mr. Springut. Madam translator, please follow me.
I. OK.
Mr. Springut. Translate exactly what I say and nothing else.
I. OK.
Q. Do you see where it says "cut flowers"?
I. Did you see flower arrangement? Cut flowers?
A. Yeah.
I. Yes.
Q. Have you ever used the mark on this registration on Exhibit 30 in connection with or on cut flowers?
I. Did you ever use the mark on it and the mark was used on cut flowers?
A. um...we don't have here. We don't make too many cut flowers.
I. Here probably not because we don't produce cut flowers a lot, we don't have a lot.
Q. Yes ... yes or no?
I. Yes or no?
A. I don't know what you mean?
I. I don't know what ...
Q. Have you ever used the mark shown in Plaintiff's Exhibit 30 in connection with or on cut flowers? Yes or no?
I. Did you use the mark on cut flowers? Yes or no?
A. No.
I. No.
Q. OK. Same question with regard to dried flowers and live flowers.
I. The same question with dried and live flowers, did you use the mark on them?
Q. Yes ... yes or no?
I. Yes or no?
A. Yes.
I. Yes.
Q. OK. What dried flowers and live flowers have you used in connection with this mark?
I. On what dried or live flowers did you use the mark?
A. We are mainly making dried flowers, no live flowers at all now.
I. We ... we only produce live flowers. We don't produce dry flowers anymore.
Q. Have you ever produced dry flowers in connection with this mark?

I. Did you ever make dried flowers and use this mark on them, did you ever?
Q. Yes or no?
I. Yes or no?
A. Not in the United States.
I. In United States, no.
Q. How about in connection with live flowers? Yes or no?
I. About the mark and about live flowers, yes or no?
A. Yes.
I. Yes.
Q. What type of live flowers?
I. What types of live flowers?
A. Such as orchids, we are making and may also use the mark.
I. That I just mentioned that earlier. It was orchid that whatever ... the orchid we were using.
Q. Anything other than orchids?
I. Other than orchids, did you use it?
A. Generally, we would use it on the three types as I said earlier.
I. In general, that we use in the sprout, orchid, and the flower.
Q. That's it?
I. That's all?
I. Yes.
Q. OK. Flower bulbs?
I. What about flower seedlings?
A. Yes, we do.
I. Yes. We will use it.
Q. What type of flower bulbs?
I. What kind of flower seedlings?
A. That flower seedlings would be included in our products for sales. Mainly, in the process of orchid growing, from seedling treatment to flowering orchids, we can do business out of the whole process. They are products.
I. Start ... the orchid starting from the bulb and to the growing, the process, we will use it.
Q. How do you use this mark in connection with flower bulbs?
I. And then the seedlings, how did you use the mark?
A. Sometimes, we might pack them in a carton and our logo may show up.
I. When we use to ... the bulbs in ... into the carton, we package in carton, it will show up the – the mark.
Q. Can I have that read back, please?
Reporter. Yes.
(Whereupon the court reporter read back the last question.)
Q. Explain, please.
I. Can you explain it? Can you explain?
A. Because sometimes, we would print our company address and logo on the carton, therefore the mark may appear on it.
I. Whenever we pack the carton, the carton will show the company's name, address, and it will show up, this ... the mark.
Q. And what will be in the carton?
I. What is in the carton?
A. In the carton, we put...as I repeat again and again, may put flowers and seedlings on it...in it.
I. It will ... it will ... this is ... this is repeated the question. It will have flowers, the bulbs, the sprout inside the carton, and it will have mark.
A. It may constantly appear on our packaging materials.
I. In the packaging that it will ... it will easily will show up the mark.
Q. You sell flower bulbs?

I. Did you sell seedlings, yes or no?
A. Yeah.
I. Yes.
(silence)
Q. With regard to flower seeds, how do you use the mark of Plaintiff's Exhibit 30?
I. Then what about flower seeds, how did you handle flower seeds and use the mark?
A. (coughing) Seedlings and seeds, actually it is impossible to print the mark on them. Sometimes you may print our company's logo on your packaging paper or the outside of a carton, but not only on this product.
I. It's impossible you will put mark into the bulbs and the seeds, but whenever you put – you packaging the bulbs and seed into the carton, then it will show up the mark and the company's address.
Q. Can I have that read back?
(Whereupon the court reporter read back the last answer.)
Q. And when you talk about live, flowering plants, what does that refer to?
I. What did you mean by live flowers, and how did you use?
A. Here in the United States, live flowers share the same principles with seedlings though the products may be different in heights and sizes of cartons. You always need packaging if you have to ship them to your customer.
I. It is the difference between the live flower and the bulbs and seeds. It's only the difference is in height. And you ... all you orders flowers – live flowers and season bulbs you have to package it through the packaging, and you have to put inside of carton.
Q. Only in the carton is the mark?
I. So, you mean only your cartons bear such marks, right?
A. Yeah.
I. Yes.
Q. OK. Dried plants...how do you...
I. How about dried flowers?
A. We don't make dried flowers currently.
Q. How do you use the – how do you use the mark of that Exhibit 30 with dried plants?
I. Then how did you use the mark on your dried flowers, how you used it on your dried flowers?
A. As I mentioned just now, we are not making dried flowers now.
I. I just mentioned earlier that we don't produce dry flowers at this time.
Q. Have you ever produced dried plants in connection with the mark on Exhibit 30?
I. Did you ever make dried plants in the past and those plants were related with this?
A. (coughing) We are not doing it right now and we are thinking to develop in this direction. But currently we are not yet.
I. We don't produce the dry plants at this time, but in the near ... in the future we are considering that.
Q. OK. Next, grass and grass seeds, how do you use the mark in Exhibit 30 in connection with those items?
I. Then, next item we are going to talk about is grass and grass seeds. How do you use grass and grass seeds, how do you use the mark?
A. This goes with the packaging. There is no way having that...on it.
I. It is all the ... the logo ... mark has to show up in the carton. That is impossible to put in the grass and grass seeds.
Q. When did you first start using the mark on Exhibit 30 in connection with grass and grass seeds?
I. When did you use the mark for the first time, the mark in the situation when you are transporting grass and grass seeds?
A. In the store, it was a few years ago. I didn't remember it specifically.
I. It's few years ago. I don't specific to memorize that.
A. (coughing) but it seems that we began our operations since 2005.
I. But here we started around – around 2005 we start to manage that.

Q. What records do you have showing that you have sold grass or grass seeds in connection with the mark on Plaintiff's Exhibit 30?
I. Do you keep any records as proofs, that is, you did use this mark related with grass and grass seeds? Do you have any records?
A. I have no way to prove it.
I. I don't ... I am not able to have proof of that.
Q. Who have you sold grass and grass seeds to in connection with the mark on Plaintiff's Exhibit 30?
I. Then on this...you sell grass and grass seeds. Who did you sell them? About those things we talked about on the 30?
A. It was an event a long time ago. I don't have any memory. Probably the yield of that covered a very small part in production. We are now mainly producing orchids.
I. It's some time ... it's long time ago and the percentage of grass, grass seeds at the production is very low and we don't ... I don't remember.
Q. Can you produce any records showing you've ever sold any grass and grass seeds?
I. Do you keep any records to show that you once sold grass and grass seeds in the past, do you?
A. No.
I. No.
Q. What about fresh herbs and raw herbs.
I. About new that...that...herb, that herbs, I never heard of it, excuse me, that...about that...plant type...that...you sold that raw...excuse me, can I use the dictionary, I know the herb, but I just can't ...
I. About that...except that...there may be...about those...such as new that...I mean new or ...raw that...such as plants?
A. I don't understand what you mean.
I. I need the dictionary. Can I use the dictionary? Thank you.
(turning pages)
(coughing)
I. Fresh herbs and medical herbs and its kind...
A. There are lots of it there, but we don't ...now because we don't have customers and we are not doing it yet. Yeah, yeah.
I. Thank you.
I. (Translating): Even though it mentions this a lot, but there are not many customers, so we don't ... we don't produce a lot. We only that those .....
A. We had only a plan at that time and we don't do it even now.
I. During the time we have a plant, but we just ...we just don't produce.
Q. What does that mean?
I. What do you mean? You had a plan but did not do it. What do you mean?
A. You need a market and you need customers.
I. You ... you would ... you need a market, you need to have customers.
Q. So, you've never sold any fresh or raw herbs?
I. So you never sold this medical herbs etc. , right?
A. Never.
I. Correct.
Q. OK.
Q. Now, madam translator, could you read for him the top of the second column which says "first use 6/1/2004" and "commerce 12/1/2004" and translate that?
I. OK. (Complies.)
I. The time you first used this was June 1, 2004 and you first used it in the market Dec. 1, 2004.
A. I am not too sure about the time. (laughter).
I. (Translating): The specific time I'm not quite sure.
Q. When you say you're not quite sure, what does that mean?
I. What do you mean when you said "not too sure"?

A. Because of time, you have no way to remember it to well.
I. Because the time ... specific time I don't remember exactly, correctly.
Q. Who provided the information that's found in this trademark certificate on Exhibit 30?
I. Who assisted you with this 30, who helped you to do with the related mark on this 30? Who?
A. What do you refer to, design or application? Which type?
I. You mean the design? You mean the registration?
Q. Who provided the information about the dates that were just read to you?
I. As we talked about the time and date, but who did, who told you?
A. Who told me?
I. Who told me?
Q. Who provided the information that's found in this trademark certificate?
I. Who gave you the proof of the mark and who provided you with the news, who?
A. Some information is...my wife handled all these documents.
I. These documents were ... are ... were handled by my wife.
Q. Who provided the information that's found in this document?
I. Who provided the news on these documents, who provided the news?
A. Chuong Xiaoxian, my wife.
I. Ms. Chuong, my wife.
Q. OK. Now, you'll notice that there are two different dates. Do you know why the dates are different?
I. You know there are two different dates. And why are they different?
A. I don't know.
I. I don't know.
(turning pages, noise)
A. We are here just to apply for it...apply.
Mr.Dawson. No, no, no, no, no. There's no question pending, don't say anything. Can you translate that to him?
I. Don't answer questions. Don't speak at all.
(coughing, turning pages)
Mr. Dawson. Do you want to take a few minutes?
Mr. Springut. No.
Q. Mr. Huang, let me direct you to the design of the mark shown, for example, in Plaintiff's Exhibit 30.
I. Mr. Wong, now I am telling you, and make you talk about there. That is the 30, the issue about the trademark.
Q. Tell us how this design came about. Who created it?
I. Tell me the things about the mark. Who first did it and created it?
A. We designed it ourselves in Taiwan.
I. We designed this in Taiwan ourselves.
Q. And when you say "we" who are you referring to?
I. What do you refer to when you said 'we' just now?
A. Our staff in Taiwan. The staff of our company designed it.
I. It's one of the employees in our company that designed this.
Q. What is the name of that employee?
I. How is that staff member called?
A. A person called Xue Ziqiang. He said he left the company a few years ago.
I. Xue Ziqiang?
A. Yeah.
I. OK. It's ... the name is She, C - S-H ... S-H-E, the last name Tzi, T-Z-I, Chiang, C-H-I-A-N-G, but he or she already left the company.
Q. What records do you have that relate to the creation of this design?

I. Do you keep any records as proofs? That is, records of how you created the trademark.
A. No records. Because we have an artist who drew a few patterns. From them we chose one which everybody thought was better. We filed the pattern for application through a lawyer's firm. It was simple as this. That's it.
I. It is ... it is just the artist who designed several forms, and we chose one of it, and we send to the attorney for registration. And it's really ... it's just ... it's very pure. It's simple. It's a pure thing.
I. That's how he say it.
Q. Where are those records?
I. Where are that records?
A. We have provided that records to the lawyer's firm. You have to retrieve the records from them.
I. We provide this information to the attorney, and then you have to go to the attorney's office to...to search for that information.
Q. Where are the records showing the designs that were created?
I. Do you have any records to show the mark was created?
A. We don't keep the records.
I. I don't keep ... I don't have this record. I don't keep that.
Q. Have you searched for these records in your files?
I. Did you ever search for it from all you files?
A. Yes, I did. But we did not keep complete records.
I. I used to search for it, but this ... this employee did not leave any record.
Mr. Springut. Can you repeat the beginning of that?
Reporter. Of her answer?
Mr. Springut. Yeah.
(Whereupon the court reporter read back the last answer.)
Q. What do you mean "I used to search for it"?
I. Do you mean you did try to find it? What do you mean?
A. I have no way to find him, find his original design draft.
A. It means I couldn't find the original design, the record. I couldn't find it.
Q. When did you look for it?
I. When did you try to find it?
A. Recently.
I. Recently.
A. But it is because a long time passed.
I. Because it's ... it's ... it's some time ago, it's too long, a long time ago.
A. However, we can find this mister. Actually we can ask him to send us a letter as a proof.
I. But this person, She Tzi Chiang, we can find him. Maybe he can have a letter to prove that.
Q. And who decided to use that design in connection with this registration?
I. Who decided that design and then the design is related to this mark and to the current mark?
A. It's I who made the decision but it's Xue Ziqiang who made the design.
I. Decision, I made the decision, but the design is that Mr. She Tzi Chiang design.
Q. And when you made the decision, what was the next step in the process?
I. You made the decision at that time, and then...
Mr. Dawson. Object to the form. You can continue, but then after that translate my objection.
I. You made the decision at that time and then what did you do next?
A. I asked my wife to consult the lawyer's firm for application. That's it.
I. (Translating): The next step then I just ask my wife to go to the attorney to file for registration process.
Q. Are you familiar with a company called Everlasting Flower Farm?
I. Are you familiar with a company called Everlasting Farm...flower store? Everlasting Flower Farm?
A. (no sound)
I. No.
Q. Do you own any other companies in Taiwan?

I. (Without translating): Owe any company in Taiwan?
I. Do you own any companies in Taiwan?
A. In Taiwan?
I. ...own any companies in Taiwan?
Reporter. ...Own any companies in Taiwan.
I. Do you own any companies in Taiwan?
A. Yes, I do.
I. Yes.
Q. What companies do you own in Taiwan?
I. In Taiwan, what company do you own?
A. Chang Lung and the toy company as we mentioned earlier.
I. I mentioned earlier is Chang Lung Flower Shop and toy company.
Q. What is the name of the toy company?
I. What is the toy company called?
A. Jien Wei Toy company.
I. Jien Wen, J-I-E-N W-E-N toy company.
Q. Any other companies that you own in Taiwan?
I. Any other companies do you own except this one?
A. (no sound)
I. No.
Q. And you've never heard of the Everlasting Flower Farm?
I. Have you ever heard of Everlasting Flower...Flower greenhouse?
A. No.
I. No.
Q. OK. Was a trademark search ever undertaken with regard to the design shown in Plaintiff's Exhibit 30?
I. This mark talked about the 30 was used, wasn't it, and used otherwise?
A. I did not find any.
I. I did not find ... I did not find it. I did not know it.
Q. What didn't you know?
I. How do you know, how don't you know. You don't know, right?
A. We did find that someone was using the same mark as we did.
A. I did not find out any other company use the same logo as I.
Q. What did you do to come to that conclusion?
I. How did you have, how did you draw such a conclusion?
A. So far, I don't find anyone who is using it equally. We don't know.
I. So, far at this time we don't know anybody ever use this mark.
Q. Before you filed the application which issued as the registration of Exhibit 30, did you ever conduct any investigation or search to determine if anyone was using that mark?
I. When you made the final decision to use the 30 the registration, did you ever make any investigation about if someone once used this mark?
A. No, we did not. We entrusted the lawyer's firm to handle the investigation.
I. We did not conduct investigation ourself. We only that attorney office to handle this matter.
Q. Did the attorneys conduct an investigation or search?
I. Did the firm make any investigation and...?
A. We don't know how they did it, but they reported 'no problem'. Then we began our application procedure.
I. How did the attorney did the investigation or search we don't know, but the attorneys response back is there's no problem, so we applied.
Q. What did the attorneys do to determine there was no problem?
I. What process did the lawyer make and come to a conclusion, saying 'there is no problem.'
A. We don't know.
I. This we don't know.

A. All these we authorized them to handle.
I. We just hired attorney to handle this matter.
Q. Did the attorneys provide you with an opinion as to whether the mark shown in Exhibit 30 was available for use?
I. Did the lawyer provide his own opinion about whether the Mark 30 can be used?
A. Of course he helped us with the application only when he thought it available for use.
I. Of course, it should be available to use, that's why the attorney will help ... will do the registration for us.
Q. Did you receive an opinion from the attorneys that the mark was available for use?
I. Did you get any opinions from the lawyer about whether the mark was available for use?
A. It is just because the lawyer told us the mark was available for use before we used it formally.
I. Of course, that attorney told us it's available to use, that's why we use it officially.
Q. How did the attorney tell you it was available for use?
I. How did the lawyer tell you that the mark was available for use?
A. We went to register and then get the permit for use.
I. From the time we register, and then we received the permit.
Q. Before your company filed an application to register the mark, did the attorneys give you an opinion that the mark was available for use?
I. When you went to apply for the mark, prior to it, did the lawyer tell you that the mark was available for use?
A. No, we began our use after we applied and got the permit.
I. We applied and we receive the permit and then we use it.
Q. Before you applied, did the attorney provide you with an opinion of whether the mark was available?
I. Before you filed your application, did the lawyer talk about his own opinions related to whether the mark was usable?
A. (coughing) Registration and investigation, we entrusted our lawyer with all these. We don't know the process. Previously it was our lawyer who handled all these.
I. This process of research investigation is the ... is through the attorneys ... through attorney's office. We ... how the process goes, we don't know.
Q. Did you ever receive an opinion from the attorneys before you filed the application to register the mark of Exhibit 30 that the mark was available?
I. Before you filed the application, prior to, did you lawyer tell you that the mark can be used?
A. It is certain that the lawyer first made an investigation before he decided to help us with an application?
I. Supposedly the attorney should do some investigation. Then the attorney will do the registration for us.
Q. Mr. Huang, please answer the question.
I. Mr. Wong, please answer my question.
Q. Did you get an opinion from the attorney before the application was filed?
I. Did your lawyer tell you his own opinions before you sent out your application for a registration?
A. I don't remember it.
I. I don't remember.
Q. Did you check your file to see if you have such an opinion?
I. Did you check your past files which could show your lawyer's opinions?
A. Opinions? He would not tell us his opinion easily. In Taiwan, probably we gave him draft and then he went to handle it. That's it.
I. As far as opinion goes, they will not give us randomly. It's just we submit our draft, and then they will handle the matter.
Q. Mr. Huang, did you get an opinion before you filed the application? Yes or no?
I. Mr. Wong, yes or no? The lawyer did not tell you his opinions before you sent out your application?
A. The lawyer told us that this should be OK. Then we could entrust the lawyer with our registration process.

1 I. The attorney's opinion that it supposed to be OK. Then we were able to file for application.
2 Q. Was that opinion in writing?
3 I. Did that opinion show in written form?
4 A. No.
5 I. No.
6 Q. How was it ... how was it provided to you?
7 I. How was that opinion provided to you, in what way?
8 A. Only, usually we entrusted our lawyer with the matter. That's it.
9 I. It is only the suggestion that we hand in this to the attorney office and then let them handle it.
10 Q. How was the opinion provided to you?
11 I. How was that lawyer's opinion provided to you?
12 A. Just now we were stressing that our board of...entrusted him with our application for a
13 registration. Nothing more...then we were waiting his arrival and he said,' huh, registration is
14 done'. That's all.
15 I. It is ... it's only that we get this golden ... golden ... this to the attorney that he handle it. And then
16 the result is, yes, it's OK, we got the permit.
17 Q. Did the attorney ever produce to you an opinion before you filed the application of the registration
18 of Exhibit 30 that the mark was OK to be used?
19 Mr. Dawson. Object to the form.
20 I. Did your lawyer tell you his opinion about the availability of this mark before you applied for such
21 #30 mark, did you?
22 A. He needn't tell us anything. We don't remember the news.
23 I. The attorney ... the attorney doesn't need to tell us. And also, we don't remember anyway.
24 Q. Let me show you what has been previously marked as Petitioner's Exhibit.
25 I. Now let me show you the appeal related to 29.
26 (whispering)
27 Q. Have you ever seen Plaintiff's Exhibit 29?
28 I. Did you ever see this defendant, oh, not defendant, 29 of this one who charged you? This reads
29 the one who charges you. Do you know him?
30 A. I don't know him.
31 I. I don't know.
32 A. I don't even know him.
33 I. I don't even know him.
34 Q. Have you looked at the entire document?
35 I. Did you ever see the files about the whole case?
36 A. No.
37 I. No.
38 Q. Would you do that please?
39 I. OK. This is about...
40 Q. No, no. Just tell him to go through the entire document. That's all.
41 I. You read the whole file in general through to the end.
42 A. I can't understand English.
43 I. I can't read English.
44 Q. That's OK. Just go through the document.
45 I. He said that there is one....
46 Q. Don't translate anything else that I don't say.
47 I. OK.
48 I. You read it. Now let me give you this to read.
49 (Showing document)
50 Q. Is there any reason he's not doing this himself?
51 I. (Without translating): Uh, yes. OK.
52 I. You look over this file yourself. You do it yourself. They let you go through the document. You
53 should look it over.
54
55
56

A. I can't understand it. I read that English...
I. (Translating): I can't read English so it doesn't make sense.
Q. Tell him to just look at each page.
I. They ask you to go through each page.
Q. Tell me if he's ever seen any of it before.
A. Tell me you once saw them.
(coughing) (turning pages)
A. This company does not have such a trademark and how could this happen?
I. Is this... company has such logo, how could this happen?
Q. Does he recognize any of the pages?
I. Did you recognize any pages or anything?
A. The only thing I recognized is the name of my wife.
I. The only thing I can see is that's my wife's signature.
A. I don't know the content.
I. The content, I don't know.
Q. And turning to that signature he just referred to,
I. Let us go back to the signature problem we talked about a few minutes ago. About the part where your wife signed. We want to ask you about this problem. The part your wife signed.
Q. her name is Li-Ying Chuong, right?
I. Her...your wife's name is Lee Yingchuong, right?
A. Yeah.
I. Correct.
Q. She is the president of the company?
I. She is chairman of the board, right?
A. Yes, in charge of exports.
I. Yes, export.
Q. Now, turning to the next to last and last pages of the Exhibit 29,
I. Let us go back to the next page and the last page.
Q. Does he recognize that tag?
I. Can you recognize the attached tag?
A. Yeah.
I. Yes.
Q. What does he recognize about it?
I. What you recognized is...?
A. It is our company's logo.
I. This is my company's logo.
Q. And is he familiar with anything else on the tag?
I. Other than the mark, did you get familiar with anything? Did you recognize anything else?
A. I don't see its meaning.
I. I don't understand what you mean.
Q. Is there anything else that looks familiar to him on the tag?
I. Except the part familiar to you on the tag, which parts are familiar to you?
A. Something attached to the tag, nothing more.
I. I don't understand what it means. This is ... this is the tag that usually attach to the flower.
A. What is the problem?
I. Um, what's the problem?
Q. And turning to the last page, is that a better picture of the tag?
I. Then turn to the last page. Did you see the tag on the last page more clearly?
A. Yeah.
I. Yes.
Q. Who designed this tag?
I. Who designed the tag?
A. Design? I can't remember every detail clearly.
I. Design that I ... how could I remember every detailed part of it?

1 Q. Does that mean you don't know who?
2 I. Do you mean you don't know who designed this tag?
3 A. Because sometimes there may be lots of documents and not everyone would go through me.
4 Sometimes our divisions would handle design matter.
5 I. It's a lot of ... a lot of ... the writings that the company's writings not every part of it goes through
6 me, so they would just design ... they would just design and that's it.
7 Q. Who is "they"?
8 I. Who are they?
9 A. The staff in our company.
10 I. The employees of the company.
11 Q. Which employees?
12 I. Which staff member?
13 A. Usually our operation department handles this. They are doing it.
14 I. Typically, are the sales department.
15 Q. Who are the employees in the sales department?
16 I. Who are those in your operation department? Which people?
17 A. Because it happened in which year. Sometimes we have employee flow and so it depends on
18 which year.
19 I. Each year it varies yearly, so it depends on which year are you referring to.
20 Q. Let's start in 2003.
21 I. Let's start from 2003.
22 A. We did not start our business in the United States in 2003.
23 I. In 2003 the company in U.S. not ... hasn't started yet.
24 Q. How about 2004?
25 I. What about 2004?
26 A. In 2003 and 2004, it was probably Xue Ziqing who treated the matter more than others, Xue
27 Ziqiang we talked about just now.
28 I. In 2003 and 2004, the most of the time who handle is Mr. She Tzi Chiang that mentioned earlier.
29 Q. How about 2005?
30 I. What about 2005?
31 A. In 2005, the situation varied. Sometime Xiao Yinze did it more than others.
32 I. It ... it ... in 2005 it just depends, it probably is Shaiao Yan Je that handles the most.
33 I. (Translating): Shaiao is S-H-A-I-A-O, last name Y-A-N, Je, J-E.
34 Q. And where is he located?
35 I. Where does he live, Xiao Yinze?
36 A. In Taiwan.
37 I. In Taiwan.
38 Q. How about 2006?
39 I. What about 2006 ?
40 A. Probably in 2005 and 2006, he did more than others.
41 I. In 2005 and 2006, all the Shaiao who handled that.
42 (turnining pages)
43 Q. OK.
44 Q. Let me ask the reporter to mark a collection of documents as Petitioner's Exhibits 32A, B, C, D, E,
45 F, G, respectively.
46 Reporter. Did you say a composite exhibit or did you want 32A, 32B, 32C ...
47 Q. Yes.
48 (coughing) (turning pages)
49 (Plaintiff's Exhibits 32A, 32B, 32C, 32D, 32E, 32F, 32G were marked for identification.)
50 Q. OK. Mr. Huang, let me show you what we've marked as 32A. Can you tell me what that is?
51 I. Mr. Wong, let me show you this 32A. Can you tell me what this is?
52 A. This is just one of our posters.
53
54
55
56

1 I. It is our poster.
2 Q. And when was this poster designed?
3 I. When was this poster designed?
4 A. I can't remember it.
5 I. I don't remember.
6 Q. Who would know the answer to that question in your company?
7 I. Who in your company can answer this question?
8 A. This was handled sometimes by our operation department as we mentioned before. Sometimes,
9 our operation department carried out some promotional events upon the demand of markets, or in
10 accordance with whoever produced more than others. We had many, many such activities, and I
11 can't remember each of them.
12 I. It's ... there are a lot ... sometimes it's just the sales department when they want to boost the
13 sales and they ... they ... they did this. It's too many and I don't remember.
14 Q. How is this document used?
15 I. How is this...this document used?
16 A. You mean this? In general, we distributed the documents like this to stores or customers through
17 trade shows.
18 I. It is ... this is often through the shows. And we just distribute to some the shops that then use it.
19 Q. These are handouts?
20 I. Did you hand out them in person?
21 A. We did in both ways. Previously they were put by our booth and customers can pick up if they
22 want.
23 I. Both ways. Sometimes hand ... hand distributed, and sometimes put the piles in the shows in the
24 area the shows that they can pick up.
25 A. All these are related to the plant strains of our flowers.
26 I. It's, of course ... it's related to during the time that we had those flowers in the shop.
27 Q. And you don't know when that was?
28 I. Did you know when this happened?
29 A. At that time there were some changes every year. I can't remember.
30 I. It is because it changes yearly. We can ... we don't remember that.
31 Q. Let me next show you what's been marked as Petitioner's 32B.
32 I. Let me show you 32B. How was this used?
33 A. Used?
34 Q. Can you tell us how that's used? Is that the same as what you just told us with regard to 32A?
35 I. Was that used the same way as the previous one used?
36 A. Yeah.
37 I. Yes.
38 Q. And do you know when this exhibit was first used by your company?
39 I. Do you know when this was first used by your company?
40 (noise)
41 A. I can't remember it. Because, we sold these flowers a long time ago. They are not very new.
42 I. I don't remember because it's long time ago. Those flowers are old flowers, not a new flowers.
43 Q. Let me show you what we've marked as Petitioner's 32C. Is that the same type of exhibit as the
44 prior two?
45 I. Let me show you 32C. Is it the same as or different from the previous one?
46 A. This should be much older than others.
47 I. Is it relatively older?
48 A. It is older than this one.
49 I. This is ... this should be much older time.
50 Q. So, it's the same type of exhibit?
51 I. Is it the same with this?
52 A. They should be all the same.
53 I. The purpose of use is about the same.
54 Q. OK. And do you know when this was first used?
55
56

I. Do you know when that was first used, that first one?
A. You mean this one?
I. You mean that one ... that ...
Q. 32C.
I. This one.
A. It should be surely three or four years ago.
I. Probably about three, four years, it should be.
(coughing)
Q. That's your guess?
I. That's your guess, right?
A. Yeah.
I. Yes.
Q. Let me show you what we have marked as Petitioner's 32D. Similar type of exhibit?
I. This is 32D for your reviewing, is it the same way?
A. If flowers are different, their designs are different. That's it.
I. It's only ... it's only a variation of design. It's the flowers are different.
A. This is a background view of one of our greenhouse.
I. The background is the one of our greenhouse.
Q. When was this first used?
I. When was that first used?
A. If here, we seemed to begin our use in ads since 2004.
I. When we came here we started to use for advertisement is in 2004.
Q. That specific exhibit, when was it first used?
I. When did you begin to use another one?
A. ... should be first used in 2004, earlier than this. This one began its use successively since 2005 and 2006.
I. This is ... this is supposed in 2005, 2006 gradually.
A. Because the first few versions impressed me but later ones did not impress me so deep.
I. The first few prints I have some memory, but later I don't have memory.
Q. So you don't know?
I. So you don't know?
A. Because we have a big volume and many types of prints every year. I have no way to remember every one.
I. Because every year they are all types of prints, a lot of a huge quantities every year. I don't ... I can't ... I ... it's impossible I can remember.
Q. And let me show you together Petitioner's Exhibit 32E, F, and G. Can you tell us what these are?
I. Now let me show you 32E, also 32F, 32G. Tell me, what is this?
A. This was possible at that time. I remember at that time we made designs...we had many different patterns. Probably prior to this final design, this shows the way we arranged the patterns...it is a process, that's it.
I. It was that these are prior to final design. These are the drafts that we were trying as part of our drafts.
A. Other than this arrangement, we had many types of arrangements. We were constantly making arrangements...we were making and making...until we came here and then we finalized our version.
I. Other than this, there are all other many kinds. We arrange ... arrange and later we finalized this.
Q. And who designed those exhibits?
I. Who designed those?
A. This design was made by our Xue Ziqiang we talked about earlier.
I. It is this design whereby I mentioned earlier She Tzi Chiang who designed that.
Q. The end.
(turning pages)

1 A. At that time, the imaging and...
2 I. Don't speak.
3 Q. OK.
4 Mr. Springut. OK. I don't think I have anything further for you. Thank you.
5 I. I don't have any more questions, thank you.
6 Mr. Dawson. We are certainly reserving our right to challenge the translation as well.
7 Mr. Springut. I'll order.
8 Mr. Dawson. Copy.
9
10 Translator's Note:
11 The two names of 'Chang Long Flower Shop / Flower Farm' and 'Everlasting Flower Farm' are both
12 mentioned in the audio file by either the witness or the interpreter. In fact, they are both correct because
13 'Chang Long Flower Farm' is the translation of the name by pronunciation while 'Everlasting Flower Farm'
14 is the translation of the name by meaning.

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Certificate of Accuracy

Translation Declaration

Re: Translation No. 1911B

Tampa Bay Translations, LLC a professional translation company, hereby certify that the above-mentioned document file No. 1911B has been translated by Yongdong Song, a qualified translator, whose qualifications are attached, and that, in our best judgment, the translated text truly reflects the content, meaning, and style of the original text and constitutes in every respect a correct and true translation of the original document.

This is to certify the correctness of the translation only. We do not guarantee that the original is a genuine document or that the statements contained in the original document are true.

Michael E. Douglas
Tampa Bay Translations, LLC
Date: August 19, 2010

STATE OF FLORIDA
COUNTY OF Pinellas
Sworn to (or affirmed) and subscribed before me this
19 day of August 2010
By Michael E. Douglas

__ PERSONALLY KNOWN TO ME
X PRODUCED AS IDENTIFICATION

Florida Driver License
Type of Identification

CYNTHIA L. HOHMANN
Notary Public, State of Florida
Commission# DD708921
My comm. expires Aug. 27, 2011

Pro. Yongdong Song

Current major translation service clients and project names:

MLS, U.S.	HR Magazine En>Ch translation/editing, 175,000 words, (since 2006)
Tampa Bay Trans. U.S.	Proposal for a Confucius Institute at PC, SC, U.S. (En/Zh translaiton, 10/04/2007)
MobileTech., U.S.	Spoken English to Chinese transation, about 160,000 words (since 2007)
MYL , Hong Kong	Beijing Yintai Center, property (Ch/En, 04/17/2006)

Major translation projects involved:

1. U.S. SHRM magazine article English-Chinese translation editing, about 175,000 Chinese characters
2. Spoken English to Chinese translation, about 160,000 words, MobileTechnologies, U.S.
3. Beijmg Yintai Center's FAQs, Chinese>English translation, about 8,000 Chinese characters
4. Chunghwa Picture Tubes, Inc. Notes to Financial Statement, Chinese>English translation, 16,140 Chinese characters

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Work history:

Present	Full-time translator in my retirement	
1997-2005	Professor of English, College of Foreign Languages, Sichuan University, Chengdu, China Freelance translator	
1996-1997	English instructor	Manhattan Professional College, New York City, U.S.A.
1995-1996	Full-time translator	Ma & Wang Law Office, New York City
1987-1992	English teacher Lecturer of Chengdu University of Science and Technology, Chengdu, China	

Freelance translator

1970-1987	English teacher Chengdu No. 11 Middle School, Chengdu, China
1968-1970	Full-time translator Chemical Engineering Institute, Guizhou, China

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Education:

1992-1995	Master's degree from Louisiana State University at Monroe, LA Major: English reading; Minor: Psychology
1962-1968	Bachelor's degree from Sichuan University, Chengdu, China Major: English language and Literature
1960-1962	Light and Chemical Engineering College, Sichuan, China. Major: chemical engineering,

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Publications:

1992 Dictionary of World Film Stars, co-translation, published by Sichuan Literature and Arts Press, China;

1988 Dictionary of World History, co-translation, published by Commercial Press, China;

1987 Collins GEM Encyclopedia, co-translation, published by Shanxi Educational Press, China; and much other translation work in various subject fields

Since 1980s, much translation work has been done mostly in the language pair of English and Chinese and collected in the following journals:

Collection of Foreign Screw Machinery and
Mechanical Accessory of Foreign Ships and Vessels

Subject matters in translation:
general engineering; computer science and website localization, banking and finance, general business, marketing, human resources, law, politics and other social sciences.

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

Atlas Flowers, Inc., d/b/a Golden Flowers,

Petitioner,

v. Cancellation No. 92050966

Golden Vision Flower, Inc.

Registrant.
_____/

DEPOSITION OF LI-YING CHUONG
TRANSLATION OF AUDIO RECORDING
PROVIDED BY ESQUIRE DEPOSITION SERVICES

Exhibit F

Q -- Lawyer; I -- Interpreter; A -- Witness; R -- Court Reporter; (unless otherwise noted).

A. Because I can't speak English, can't speak English. I can't speak English. (laughter) OK.

(Coughing and laughing)
Really?
What do you think?
You know, I can juggle something.
No. Thank you.
Special rules.
So I need you

I. OK.
Q. Good afternoon Mrs. Chuong.
I. Good afternoon.
A. How are you?
Q. My name is Milton Springhut, and I am the lawyer for the other party in this proceeding.
I. His name is Milton Springhut, he is the lawyer of the other party.
A. Um.
Q. And I'm going to ask you a bunch of questions with regard to the subject matter of this proceeding.
I. Ah, I would ask you lots of questions.
A. Ah, don't ask too many because I came here by plane yesterday, and I am too tired. (laughing)
I. Not too many question, I just arrived last night. I am very tired.
Q. No more than your husband.
I. I won't ask more questions as I did with your husband. Too tired.
I. Very tired.
Q. OK. We'll try to make this as short and fast and sweet as possible.
I. Yeah, we will make a short session, ha.
A. Thanks.
I. Thank you.
Q. And to help do that, it's important that you answer my questions directly and to the best of your recollection.
I. Ah, what is most important is that you answer my questions directly.
Q. And I assume you've received a briefing about the nature of the purpose of this proceeding this afternoon?
I. I know you know that they have given you some briefs, including the proceeding this afternoon.
A. Ah, yeah.
I. Yes.
Q Have any questions at this time?
I. Have you any questions to ask?
A. Thank you for coming to listen to my explanation.
I. Thank you very much for listening to me to explain.
Q. No problem.
I. No problem.
Q. Now, very important that on behalf of the court reporter that you verbalize your responses.
I. This is for the sake of the court reporter, so you have to verbalize your words when you answer questions.
A. That's fine.
I. Yes.
Q. Because if you nod your head or shake it or whatever, she's going to have a very hard time putting it on that little machine.
I. It is hard for her to type out what you say if you just nod or shake your head.
A. OK.

1 I. Yes.
2 Q. OK. If you don't understand my questions, I'll be glad to repeat or rephrase them.
3 I. If you can't understand me, I can repeat it.
4 A. Fine.
5 I. Yes.
6 Q. And if I don't understand your answers or they're incomplete, I'm going to ask you to explain.
7 I. Um, then I can't understand you, you would repeat your answer.
8 A. Fine.
9 Q. And let me show you what we've marked as Petitioner's Exhibit 31.
10 I. Um, now let me show you a document, it is the appendix 31.
11 Q. And ask if you are appearing here today pursuant to that notice.
12 I. Um, today did you receive your notice ahead of time?
13 A. Did I get the notice? You mean this one?
14 I. You mean this one?
15 Q. Yes.
16 A. Because my family lived in Taiwan.
17 I. I was in Taiwan previously.
18 A. This is my families, it belongs to my family.
19 I. That belongs to my family.
20 Q. OK. Where in Taiwan do you live?
21 I. Um, where do you live?
22 A. In Tainan, Taiwan.
23 I. Tainan.
24 Q. What is the street address?
25 I. What is your specific address?
26 A. Specific address? Can you translate it? Liberty Road.
27 I. Do you know how to translate this? Free Road ... Liberty Road, sorry.
28 A. Do you translate the specific address, do you?
29 I. Do I have to say it?
30 A. Number 5, Lane 209.
31 I. Second Road, 209 Xiang, X-I-A-N-G.
32 Q. OK. And are you employed by a company?
33 I. Um, are you an employee?
34 A. I am the boss.
35 I. I am the boss.
36 Q. Of what company?
37 A. Taiwan, it is in Taiwan.
38 I. In the company in Taiwan.
39 I. Are you the boss of what company?
40 A. Um, Flower Flower company.
41 I. Flower Flower Flower company.
42 A. Um, correct, correct.
43 Q. What's the name of the company?
44 I. Um, what is the name of the company?
45 A. The company's name?
46 I. Company name?
47 A. I am going to speak English.
48 I. I can speak in English. I get to say the company name in English,
49 A. Chang Long Farm, Chang Long Farm.
50 I. Chang Long Long Chang.
51 Q. Sounds like Chang Long Flower Shop?
52 A. Farm, we were doing farming, farming.
53 I. I guess...
54 A. We produced flowers, bell pepper, whatever, also fruits.
55
56

I. A farm for everything for flowers, fruits, and other stuff.
Q. What's the formal name of the company?
I. What is the name of the company?
A. Chang Long Farm.
I. Chang Long Farm. (Without translating) I will spell it, C-H-A-N-G L-O-N-Farm.
Q. Farm?
I. Farm?
Q. It's a flower shop. OK. Close enough. And what is the address of the company?
I. What is the address of that company? Address of Chang Long Farm?
I. The previous address, Liberty Road, Second Road, 209 Xiang Number 5.
Q. OK. And what is your position with this company?
I. Um, what is your position in the company?
A. My position in the company? Um, I am the assistant to the chairman. He is the chairman. I am the boss.
I. Assistant...assistant of the president.
A. Yes.
Q. And who is the president?
I. Then who is the president?
A. My husband is.
Q. Him (indicating). Or her.
I. My husband.
Q. (laughing) OK. And how long have you had that position?
I. How long have you been the assistant?
A. For a long time, it should be over ten years.
I. Over ten years?
Q. OK.
I. Over ten years.
Q. And what do you do at the company?
I. What are you doing in the company, at the company?
A. Some executive work, such as trademark matter. As long as the boss made his decision, I would help him with the matter.
I. Daily operations including the trademark after the boss made the decision and I'll execute.
Q. And what is the business of the Chang Long Farm company?
I. Um, what business is Chang Long Farm doing?
A. (We are growing) flowers, fruits, vegetable, etc.
I. Flowers, fruits, and vegetables.
Q. And what do you do with flowers, fruits, and vegetables?
I. Um, how are you growing such flowers, fruits, vegetable, etc?
A. I am not doing it. I just help him with some documents, not with the farming work.
I. I do the bookkeeping.
Q. What does the company do?
I. How are you running the company running?
A. Running? We are doing sales, international and domestic, everything.
I. To sale... sell overseas and domestic.
Q. That means you grow the flowers, the fruits, and vegetables in Taiwan; is that correct?
I. That means you are producing those flowers, fruits, right in Taiwan?
A. Correct.
I. Yes.
Q. And how long have you been selling flowers?
I. Um, how long have you been selling flowers?
A. For over ten years. It's the same, though.

I. Over ten years.
A. Correct.
Q. What type of flowers has the company sold?
I. What flowers do you sell?
A. What flowers? They are orchids, also general grass, orchids, money trees, whatever, many types.
I. That got me. I'm sorry.
A. Many types, so you can't explain that type, ha.
I. All kinds of flowers. (Smiling)
Q. Could you be more specific?
I. Um, I apologize; I am not familiar with the name of the flowers. I'm sorry. Orchids.
Q. Orchids?
A. That's orchid, right.
I. Yes. Money trees.
Q. Anything else?
I. What else?
A. Um...also...I sell everything, many types of flowers, everything. Actually we are doing business with the nature of trade. We are growing some and then simply sell them on wholesales or retails.
I. Um, all different kinds of flowers.
Q. What are all the different kinds of flowers other than orchids?
I. Then other than orchids, he wants to know the names of other flowers.
A. We have the flowers' names on our orders. There we find them. Others, including mostly orchids, and then butterfly orchids, Cattleya orchids, orchids of such kind...
I. Different kinds of orchestras [sic], that's the major flower. If I have order for other flowers, I will do that, too.
Q. Great. What are the other flowers you've sold other than orchids?
I. He wants to know what other flowers you are selling other than orchids.
A. Just orchids, I am growing orchids. We are selling only when we receive such orders from people.
I. Orchestra. I plant orchestra.
Q. I plant?
I. I plant ...
A. I grow orchids, but others...
R. Can I just ask the interpreter a question?
Q. Go ahead.
R. I want to make sure you're saying orchestra and not orchids.
I. Orchids. I'm sorry.
R. Are you saying orchids?
I. Orchids.
R. OK. It's not a type of plant, you're saying orchids, plural? OK.
Q. And print.
I. OK. Sorry about that.
R. No, that's OK. Just from the previous deposition I want to make sure we're all on the same page. OK.
Q. OK. What was the last answer? (Smiling and giggling)
I. Orchids.
R. Do you want to know what the question or the answer was?
Q. The Answer. Answer.
R. Yes, just one second. Different orchids. That is the major flower. If I order other flowers, I will do that too. Question, next was what are the other flowers?
Q. What are the ... aside from orchids, what other flower do you grow and sell?
I. What else flowers other than orchids do you grow?
A. I am doing...in other area, we are just doing trade. When we have orders from others, then I go to handle it, otherwise I am going to grow orchids.

I. Only orchids. For other flowers, if somebody orders a plant, if no orders just orchids.
Q. OK. What ... what, what have people ordered?
I. Then what flowers do people order?
A. Everything, including cultivated orchids, butterfly orchids. They are all orchids but bear different names.
I. Hard to say, just different kinds of orchids.
Q. OK. Other than orchids, can you identify any other type plants you've grown or sold?
I. Um, what else flowers do you grow or sell?
A. Let me tell you, just orchids. There are many types of orchids like butterfly orchids, Cattleya orchids but we are growing only butterfly orchids, and others come from other growers.
I. Just orchids, or pretty much I do butterfly orchids.
Q. Can you identify any plant other than orchids that you've grown and sold?
I. Are there other flowers except orchids?
A. Flowers other than orchids? We company...?
I. Myself, besides orchestra, what other flowers I plant? She was repeating the question.
R. She's asking you the question.
Q Yes. What's the answer?
A. What does he mean? I can't quite understand.
I. I don't really understand.(smiling)
Q. In addition to orchids...
I. What other flowers except orchids?
A. What I am growing is only orchids.
I. I only plant orchids.
Q. OK. What countries do you sell to?
I. What countries do you sell flowers to?
A You want to ask me?
I. You have to ask me this? In Taiwan?
A. Do you ask me about Taiwan?
I. You have to ask things about Taiwan?
R. I think she's asking in Taiwan.
Q. No. Outside of Taiwan.
I. What about other countries?
A. Other countries, like Japan, Germany, Europe, the United States.
I. Japan, Europe, United States.
Q. Other than orchids that you have sold in the United States, what other products have you sold here?
I. You, What else do you sell in the United States other than orchids?
A. Yes, our American clients ordered vegetables from us.
I. Yes, vegetables.
Q. What else?
I. What else?
A. Also vegetables and fruits, flowers, etc.
I. Fruits, vegetable, and flower.
Q. What kind of flowers other than orchids?
I. What other flowers do you sell there except orchids?
A. We also grow money trees, and we also sell money trees to our clients.
I. Money trees.
Q. What are money trees?
I. What are money trees?
A. You have never seen money trees? They are green plants with broad leaves, and they are green.

I. It's a green plant.
A. Green plants with broad leaves.
Q. And when did you first start selling money trees to customers in the United States?
I. Um, when did you first start selling money trees to American clients?
A. This...we have sold them for over ten years.
I. Over ten years and started...
Q. Anything else you sold to the United States that you haven't told us about?
I. What else did you sell to the clients in the United States, those you did not tell us earlier?
A. We most sold plants I grew ourselves, and I mostly sold those I grew.
I. Sell the stuff that I plant.
Q. What else is that?
I. What else?
A. What do you mean by 'what else'?
I. What do you mean what else?
Q. You told us you sell orchids, money trees, and fruits and vegetables to the United States, anything else?
I. You said you sold orchids, money trees, fruits, vegetable, then what else?
A. Nothing else. Only when our customers ordered, then we sold them. Plants, you mean plants, right?
I. No. No. Only when the customer orders. (Somebody walks by)
Q. Are you familiar with a company called Golden Vision Flower in the United States?
I. Are you familiar with this company? Ah, the company's name is Golden Vision Flowers.
A. This...this was not the application our boss came to file here in the United States. I might know, and of course I know the company.
I. Yes, I know this company.
Q. Are you an officer of this company?
I. Are you an officer of the company?
A. I am only a...I help them to do such as filing applications. It is easy to apply for something in Taiwan, and we do it in Taiwan. Then let him do something.
I. Um, I help them with the paperwork if they want to apply something Taiwan, I'll help them with it.
Q. Are you an officer of the company?
I. Are you a...of the company? Do you have a position in the company? In the company.
A. I suppose I take care of financial area.
I. I suppose I take care of the financial part.
Q. Are you the president of the company?
I. Are you the president of the company?
A. No.
I. No.
Q. Are you the vice president of the company?
I. Are you the vice president of the company?
A. No.
I. No.
Q. Are you the secretary of the company?
I. Are you the secretary of the company?
A. I think my work should be classified there and because I help them with the business in Taiwan.
I. Um, I think it's supposed to belong to the secretary.
Q. Are you the secretary of the company?
I. Are you the secretary of the company?
A. Yes.

1 I. We should...
2 Q. No...
3 Mr. Dawson. Can you tell her she can't ...
4 Q. She can't ask anybody any questions. Tell her she can't talk to anybody.
5 A . I should answer questions?
6 I. You can't talk with anybody else. You have to answer question.
7 A. Um, because I don't know. I don't know what to do?
8 I. I don't know.
9 Q. You don't know if you're the secretary?
10 I. You don't know, um, you don't know if you are the secretary of the company?
11 A. I help them with some business in Taiwan.
12 I. I just help them to take care of the business stuff in Taiwan.
13 Q. So if you're not the secretary of the company, are you the treasurer of the company?
14 I. Then, do you take care of financial affairs of the company?
15 A. I suppose I take care of financial area.
16 I. I suppose I take care of the financial.
17 Q. Do you have any title with the company as treasurer?
18 I. Do you hold a position in this area?
19 A. No.
20 I. No.
21 Q. Do you have any title at all?
22 A. I don't come very frequently.
23 I ... I don't come here very often.
24 Q. Do you have any title at all with the company Golden Vision Flower?
25 I. Then, do you have any position in Golden Vision Flower?
26 I. No.
27 Q. OK. Are you a director of Golden Vision Flower?
28 I. Are you the president of Golden Vision Flower?
29 A. Not at all.
30 I. No.
31 Q. Are you a shareholder of Golden Vision Flower?
32 I. Are you a shareholder of Golden Vision Flower?
33 A. Yes, Yes, we have. We registered for shares at that time.
34 I. I suppose at the very beginning when we register I have.
35 Q. And what's the basis of your understanding that you're a shareholder?
36 I. Ah, What do you mean when you say you are a shareholder of the company?
37 A. (coughing) we have...we have that...I was one shareholder when we registered.
38 I. When we registered I was one of the shareholders,
39 A. Yes, my husband and I...
40 I. Me and my husband.
41 Q. And what percentage of the shares do you hold today?
42 I. What percentage of the shares do you hold?
43 A. Do I have to tell?
44 I. I have to say that?
45 Q. Yes.
46 I. Yes, you do.
47 A. Do I have to tell?
48 I. I have to say it?
49 A. I...ah...about ten percent.
50
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1 I. Ten ... ten something percent.
2 A. Yes, ten something percent.
3 Q. Are you an employee of Golden Vision Flower?
4 I. Are you an employee of Golden Vision Flower?
5 A. I am its shareholder.
6 I. I am the shareholder.
7 A. Yes, a shareholder.
8 I. Shareholder.
9 Q. Other than shareholder, are you an employee of the company?
10 I. Other than a shareholder, are you also an employee of the company?
11 A. I guess I am not an employee, only a shareholder.
12 I. I suppose not employee. I am only the shareholder.
13 Q. Have you ever been an employee?
14 I. Then was you ever an employee?
15 A. Um?
16 I. (repeat) Was you ever an employee?
17 A. In the United States? Or at Golden in Taiwan?
18 I. In Golden or in Taiwan?
19 Q. Golden.
20 A. No.
21 I. No.
22 (the paper is flipped)
23 Q. I see before you is a copy of Petitioner's Exhibit 30, which is the registration for your company
24 mark; is that right?
25 I. Ah, I ever saw it before, a copy of your company's documents for registration, registration for 30.
26 Q. Sorry.
27 I. He saw it before.
28 A. What about him?
29 I What?
30 Q. And you're familiar with the mark that is shown on Exhibit 30?
31 I. That means whether or not you are familiar with the document?
32 A Yeah. I helped them with that in Taiwan.
33 I. Yeah. In Taiwan I help them with this.
34 Q. What did you help them with?
35 I. What did you help them to do?
36 A. After we came here to start our business here, we have designed our logo, the mark. Then we
37 don't know English, and so I asked the lawyer in Taiwan to help them with that.
38 I. Because we're planning to come here to do business, um, I was in Taiwan help them design the
39 trademark and I don't understand English, I hired an attorney design this.
40 Q. Who designed the mark that's shown in Plaintiff's Exhibit 30?
41 I. Who designed that?
42 A. The boss did. He designed that and then asked us to implement that.
43 I. The boss.
44 A . He asked us to implement that.
45 Q. And by "the boss," do you mean your husband?
46 I. You mean your husband?
47 A. Correct, the boss.
48 I. Yes.
49 Q. Did he have assistance from anybody?
50 I. Then did he get some assistance from others?
51 A. Yes, he did. Our staff designed it and then the boss confirmed it.
52 I. Yes. This was designed by somebody inside and the boss confirmed it.
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1 Q. How did the boss confirm it?
2 I. How did the boss confirm it?
3 A. After the design of the logo, and then we went to go. The boss said we would go for sales. He
4 wanted us to do something as references. Then the boss made the final decision.
5 I. We designed several logos and, um, the boss asked us to discuss then finally he decided to use
6 this one.
7 Q When was that?
8 I. When was that probably?
9 A. It was ...probably 2000...should be the beginning of 2004.
10 I. Um, 2004, beginning. Beginning of 2004.
11 Q. And how does she recall that?
12 I. How can you remember that?
13 A. Because I helped them with that application. In 2004, I helped with that.
14 I. Because I helped ... I helped him applied this,
15 A. I hired a lawyer in Taiwan.
16 I. hired attorney from Taiwan.
17 Q. Uh-huh.
18 Q. Let me ask the reporter to mark a one-page document as Petitioner's Exhibit 33
19 R. Yeah, I think 33 (Plaintiff's Exhibit Number 33 was marked for identification.)
20 Q. Let me show you what we've marked as Petitioner's Exhibit 33 and ask if you've seen this
21 document before.
22 I. How about now? This 33, did you ever see the document, appendix #33?
23 A. This...yes, the company is in Taiwan. I hired them to help us with the application.
24 I. Yeah, this company is from Taiwan. I hired them to help us be
25 A I hired the firm but whether it could go through America's verification, I don't know.
26 I. Maybe they ... they, um, got this through America, but I don't know.
27 A. They are documents between our companies.
28 Q. What do you mean?
29 I. What do you mean?
30 A. They are just the documents between them. I don't know the documents between him and the
31 other party.
32 I. This is a document that ... that our – my attorney, um, had with the other company in the US
33 maybe, I just signed my name.
34 Q. OK. Can you read this document?
35 A . Ah.
36 I. Can you read the document?
37 A. No, I can't .
38 I. No.
39 A. He simply states what I would apply for and then I told him what guidelines I want to apply for.
40 That's it.
41 I. They explained this to me and to tell me what was on the document and I just need to sign it.
42 A. I instructed him how to apply. It's us who instructed him. Because we don't know English, then we
43 spoke Chinese to him and told him how we would apply. He handled the application process in
44 the direction we expected.
45 I. We direct the attorney and told the attorney how to apply.
46 Q. What is your relationship with this law firm?
47 I. What relationship do you have with the lawyer's firm?
48 A. Good friendship, good friendship. They treated many cases for our company. We had lots of
49 application...
50 I. This company, our ... our documents, um, issued by this company.
51 A. I only know this firm.
52
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1 I. I only know this company.
2 Q. And by "this company," are we talking about Leader?
3 I. Do you refer to Leader when you said 'this firm'?
4 A. Correct.
5 I. Yes.
6 Q. OK. And who do you know at this company?
7 I. Who do you know at the firm?
8 A. The person in charge of sales.
9 I. Sales.
10 A. Correct.
11 Q. Do you know the name of anybody there of somebody?
12 I. Then do you know any person's name, the names of persons at the firm?
13 A. Our company, Mr. Wong, Mr. Wong. I don't know his...we all call him 'Mr. Wong'.
14 I. We call him Mr. Wong, Mr. Wong, that's all.
15 Q. And who did you deal with there, Mr. Wong?
16 I. Than who do you contact there? Mr. Wong?
17 A. Mr. Wong, Mr. Wong.
18 I. Yeah, Mr. Wong.
19 Q. And this letter is addressed to a company called Bacon and Thomas in the United States. Do you
20 know Bacon and Thomas?
21 I. This letter was addressed to the American company. It is called Bacon and Thomas. Do you know
22 the name of Bacon and Thomas?
23 A. I don't know.
24 I. No.
25 A. Because they don't want us to know that, understand? They don't let us know due to the matter of
26 fees.
27 I. No. No. They wouldn't let us know this company because of the fees.
28 A. But they would explain it. They would explain it when they need me to sign.
29 I. Yeah, but he explained the document before I signed it.
30 Q. Let me ask the report to mark a two-page document as Petitioner's 34.
31 (Petitioner's Exhibit Number 34 was marked for identification.)
32 Do you learn (whispering from the background)
33 Mr. Springut. Let's start over here. What was that?
34 Mr. Springut. Please come over here.
35 One person. ...next one.
36 Mr. Springut. I think it's next one. It's coming up.
37 Q. Have you ever seen the letter of Petitioner's Exhibit 34?
38 I. Did you ever see the letter?
39 A. Yes, I did. They explained it to me a few moments ago.
40 I. Yes. They explained it to me.
41 Q. And did you understand from their explanation that the lawyers in the US had to file a statement
42 of use of the mark?
43 I. Ah, from his explanation, did you know that the American lawyer would apply for this document?
44 A. Yes, I did. He asked me to sign it.
45 I. Yes. Yes. They asked me to sign.
46 Q. Do you understand what a statement of use is?
47 I. Do you know what this...this document was about?
48 A. They explained to us this way, because they would probably tell us to sign the document through
49 their application. I instructed them what to do in this document. He did so. Actually I didn't know
50 clearly what the document was generally about.
51 I. Yeah. They ... they explained ... they explained the document before I signed it.
52 Q. OK. Let me next mark another one.
53 A. It has been a long time and I can't remember. Actually, I don't have any memory at all.
54
55
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1 I. It's been a long time, I can't remember so clearly, but they explained it.
2 Q. Let me next have a one-page document marked as Petitioner's Exhibit 35.
3 (Petitioner's Exhibit Number 35 was marked for identification.)
4 I. The next is No.35, document No.35.
5 Q. Have you seen Petitioner's Exhibit 35 prior to today?
6 I. Um, did you ever see this document prior to today?
7 A. They showed a Chinese version for me to read.
8 I. Yes. It was in Chinese. I read the Chinese of this document.
9 Q. And what did you understand was the importance of this document?
10 I. Then what do you think the document is about?
11 A. Oh, I need to read it again. It's been a long time.
12 I. (smiling) I have to read it again, it's been a long time.
13 Q. That's quite all right. Go ahead.
14 A. But I did not contact this person.
15 Q. That is OK. It could be.
16 Q. Now that you've reread the document, do you have understanding of what it's saying?
17 I. Now you have read this document. Can you come to know what the document is about?
18 A. We applied for an investigation there, and we filed an application.
19 I. Yeah, our application.
20 Q. Our application what?
21 I. What application?
22 A. For the trademark.
23 I. Trademark.
24 Q. Trademark was allowed?
25 I. The trademark allowed?
26 A. No, this...this...is about how he communicated with the other party, correspondence with the
27 other party.
28 I. No. I think this is a document that they, um, in between of them.
29 A. I provided something to them and then asked them to...
30 I. They provide document asked them to do something.
31 Q. Do they say that the trademark application for Golden Vision Flower was allowed on August 1,
32 2005?
33 I. Did he say that the mark of this company would be available for use from August, 2000?
34 A. 2000?
35 I. 2005?
36 A. That's not true.
37 A. June 1, 2004.
38 I. 2004. June 1, 2004.
39 A. 2004.
40 Q. What's June 1, 2004?
41 I. What is June 1, 2004?
42 A. Our application was approved and our trademark passed.
43 I. We applied so the trademark was approved.
44 Q. And what's June 1, 2004?
45 I. That means what June 1, 2004 is?
46 A. It means our application, you need to apply and get it approved.
47 I. Applied. Approved.
48 A. Correct.
49 Q. What happened on June 1, 2004?
50 I. What happened on June 1, 2004?
51 A. Nothing. Our application got approved.
52 I. Our trademark ... our trademark approved.
53 Q. How do you know that?
54
55
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1 I. How do you know that?
2 A. Oh, because I signed the document and because he was going to sue us, so we went to view that
3 document.
4 I. Because I signed the document they said it was to us. I signed the document.
5 Q. Yeah, but how do you remember that date?
6 I. How do you remember the date?
7 A. I went to find it and I asked Leader about this. He said that our trademark was approved.
8 I. Um, I want to see ... I want to check and I was told the trademark was approved.
9 A. Prior to it, I went there prior to it.
10 I. Before.
11 Q. When did you want to see?
12 I. When did you go there to see it?
13 A. Um... ?
14 I. When did you go there to see it? (repeating)
15 A. When they said that he was going to sue us, I called them. Because he was going to sue our
16 American lawyer, because our liaison with all our American lawyers...it's the lawyers who asked
17 us to appear in court. Our Leader told us that somebody wanted our trademark...wanted that...
18 Leader told us.
19 A. Correct. Leader told us.
20 Q. What did Leader tell you?
21 I. What did Leader tell you?
22 A. He said...he told us that our trademark was no problem.
23 I. Our trademark has no problem at all.
24 Q. But how do you remember that date, June 1, 2004?
25 I. How do you remember ...?
26 A. He told me, Leader told me.
27 I. He told me, Leader told me.
28 Q. When did he tell you?
29 I. When did Leader tell you?
30 A. He asked their lawyers. He would ask their lawyers.
31 A. When you check their trademark and told their lawyers, the lawyer would tell us.
32 I. They have to ask their attorney. You have to check with the attorney.
33 Q. Who has to check with the attorney?
34 I. Which lawyer? You said with which lawyers?
35 A. No, Leader told me. Mr. Wong told me and said you would ask the American lawyer but we don't
36 know American lawyers.
37 I. Leader told me, Mr. Wong told me.
38 Q. When did he tell you this?
39 I. When did you tell you?
40 A. Probably a few months ago. When they asked...I forgot, maybe a few months ago. I would ...
41 I. A few months ago. I don't really remember. A few months ago.
42 Q. And what did he tell you about June 1, 2004?
43 I. Did he tell June 1, 2004? What did he tell you regarding the date?
44 A. He talked about our trademark and I asked him why he sued us. He said it was not a problem
45 because that we had had the trademark for long.
46 I. Um, I asked them why they sue us. He told me that we ... our trademark was approved on that
47 day.
48 Q. On June 1, 2004?
49 I. June 1, 2004?
50 A. He said...he told me. Taiwan told me.
51 I. Yes. He said that. He told me that Taiwan told me that.
52 A. Somebody sued you and you would ask whatever. How would he be like this?
53 I. Somebody sue you, you have to ask.
54 Q. How is it that you remember this ... this date?
55
56

1 I. How do you remember the date?
2 A. Please...somebody wants you.... It is so important; you can remember it, can't you? He told you,
3 you had to write it down.
4 I. Um, somebody tell you that this is very important, is it important, so I remembered it.
5 Q. And when was the last time someone told you that this was an important date, June 1, 2004?
6 I. It means that somebody said to you that June 1, 2004 was important, and then when he said this
7 to you?
8 A. He...when they asked the lawyer to appear in court, but I forget the time?
9 I. They asked ... they asked the attorney to go to the court. I don't remember when.
10 Q. Has anyone else told you that this is an important date?
11 I. Anybody else ever told you that the date was very important?
12 A. No, nobody.
13 Mr. Dawson. I object ... hang on, instruct her not to make any statement about any conversations she's
14 had with me. OK.
15 Mr. Springut. Wait, wait, wait, wait, wait, wait, wait. She hasn't gone anywhere near that so why ...
16 Mr. Dawson. It doesn't matter.
17 Mr. Springut. ... why are you instructing her? Are you trying to coach her?
18 Mr. Dawson. I'm not trying to coach her.
19 Mr. Springut. I think you're trying to coach her.
20 Mr. Dawson. You're wrong.
21 Mr. Springut. OK. I'm noting my objection, you know, on the record.
22 Mr. Dawson. Note all you want. I'm telling my client don't divulge any conversation she's had with me.
23 It's attorney/client privilege. She doesn't have to get into that divulging information –
24 I. He said that you would not tell them about your lawyer.
25 Mr. Springut. There's ...
26 Mr. Dawson. ... attorney/client privilege.
27 Mr. Springut. But there's no privilege to assert since she hasn't gone anywhere near that.
28 Mr. Dawson. You're asking her ...
29 Mr. Springut. You're coaching her.
30 Mr. Dawson. ... a question that's going to elicit potentially attorney/client privilege information so I am
31 stating my objection, I'm instructing her not to divulge anything.
32 Mr. Springut. OK.
33 Mr. Dawson. That's not coaching my witness.
34 Mr. Springut. I think you're coaching your witness.
35 Mr. Dawson. I think you're wrong.
36 A. Is my lawyer speaking?
37 I. Your lawyer is reminding you.
38 A. No, no, he would ask actively. You would ask. Tell him that you would for sure ask him. It is
39 reasonable like this.
40 I. (Translating). So when somebody ask you something, you must ask them back.
41 A. Correct. It has been a long time.
42 I. It has been a long time.
43 Q. What preparation did you do before coming in here today with regard to this deposition?
44 I. What preparations did you make before you come here?
45 A. Just about this trademark. I would go to check regarding the mark?
46 I. Regarding the trademarks and I was told this about the trademarks so I viewed some documents.
47 Q. Mrs. Chuong, it's very important that you listen to my question.
48 A. Ah?
49 I. Miss Chen, it is very important that you listen to my question.
50 Q. Prior to coming in here today, did you discuss with ... discuss your ... what you would be talking
51 about at this deposition today with anybody?
52 I. Before you came here today, did you tell others what we would do here today?
53 A. No. Because he asked me to pay, I asked him about that.
54 I. No. They asked me to ... they ask me to pay so I have to ask.
55
56

1 Q. But Mrs. Chuong, you're not listening to my question.
2 I. You have to listen to my question.
3 Q. Before you came to this deposition today, did you talk to anybody about what would be
4 happening here today?
5 I. Before you came here today, did you tell anybody what would happen today?
6 A. No.
7 I. No.
8 Q. Did you talk to your lawyer about what would happen here today before coming in?
9 I. Did you tell you lawyer before you came here today?
10 A. No. I don't know what his question meant.
11 I. No. How do I know what kind of questions you're going to ask me?
12 Q. Did you have a conversation with your lawyer as to what would happen at this deposition today?
13 I. Then did you tell your lawyer what would happen today?
14 A. I don't know...I did not. I don't know what they would say.
15 I. I didn't ... I don't know.
16 Q. What do you mean you don't know?
17 I. What do you mean when you said 'you don't know'?
18 A. I only know we had an appointment. The following day I would come here after I got down from
19 the plane. How could I know what they would say here?
20 I. I know I have appointment the day after I arrive out of the airplane I had to come. I don't know
21 what questions...
22 Q. You know who your lawyer is in this case, right?
23 I. Who do you know your lawyer is?
24 A. Lawyer? No, I don't know. What I know is that we hire Leader to handle all these.
25 I. No. The only thing I know is I asked the Leader to help us.
26 Q. You don't know that Mr. Dawson is your lawyer?
27 I. So you don't know Mr. Dawson is your lawyer?
28 A. Is he?
29 I. Him?
30 Q. Yeah, him.
31 A. (laughter)
32 Q. Is he your lawyer?
33 I. Is he your lawyer?
34 A. Yes, he is.
35 I. Yes
36 Q. OK. Did you have any conversations with him today or yesterday?
37 I. Do you talk to him today or talked to him yesterday?
38 A. No, I just saw him, that's it. He took us here this morning.
39 I. No. I just saw him this morning. He took us here. No.
40 A. No.
41 Q. Did you have any discussions of what would happen at the deposition today?
42 I. Then do you know what we are sitting to do today?
43 A. Not at all.
44 I. No.
45 Q. OK. Now, turning back to Plaintiff's Exhibit 35
46 I. Look at 35, look at 35.
47 Q. you can read this first line here, right?
48 I. Go to the first line.
49 A. In fact, Leader did not give this and did not give us this place on it, only this place on this,
50 remember?
51 I. Actually, when Leader gave me this document, I didn't see the top part, I only saw the bottom
52 part.
53 Q. What do you mean?
54 I. What do you mean?
55
56

A. He said how the lawyer could do this. I have never seen this, never seen it, not at all.
I. I never saw this part.
Q. But you saw the part in Chinese, right?
I. You saw this. You have seen this in Chinese. You saw the Chinese part, right?
A. Because it has been a long time since the registration. Now I can understand it but I found I did not have this. It seems that my trademark validates in a wrong period of time.
I. Yeah. But this being a long time, I'm not sure.
Q. Can you read this or not?
I. Can you read this? In Chinese?
A. Do I have to read right away?
I. Now?
Q. Now.
A. OK. Letter forwarded to...Aug.1, 2005, Trademark for information, customer, what is this? View the use regarding this case. Please note: please use it if proper.
I. This company 2005 August 1st transferred trademark documents customer. If it is OK, please use.
A. What is this word? I can't understand it.
I. What does this mean? I don't understand anything.
Q. Uh-huh. You understand from this that your trademark was approved?
I. That means whether or not you understand that this letter tells you of the approval of your trademark?
A. The letter he gave us would not be forwarded this way. He would forward his other letter to us. He would not give us this letter. This is a letter between their company divisions.
I. The letter they gave us, it's not like this. They ... they transferred it to a different letterhead.
Q. Right. But you understood that the trademark was approved, right?
I. Were you clear that your trademark was approved?
A. I did not understand it when I saw all documents until this one.
I. Tell you the truth, after I read this, I don't understand.
A. I was puzzled even after I saw this one.
I. After I read this I don't understand.
Q. Did you ask the lawyers what it meant?
I. Did you ask your lawyer what all these meant?
A. Let me tell you. He did not show me this letter. It might be that he would forward another letter to us. There was something they had seen like this. I know Leader was our company. Then these internal letters...he would...
I. Um, I told you I never saw this letter before. It was a transferred document. I got that from Leader.
Q. Leader told you that the trademark was approved at some point, right?
I. Does it mean that Leader told you of the approval of your trademark?
A. This...this...is this...or ...or...?
I. Regarding this matter or ...
Q. Yes, regarding this matter.
I. Just regarding this matter.
A. Um, I have seen it. I come to know that after he told me.
I. Yes. Yes.
Q. OK. And that you had to start using the trademark, right?
I. So, you began to use the mark, right?
A. It seems that our trademark did not validate in such a period of time. The use of this was approved... the use of this was approved.
I. Our ... our trademark I don't think we use the trademark at that time, after approval we ... we used it.
Q. Right. After approval you knew you had to use the trademark to proceed, right?
I. After the approval of the mark, you knew that you could use it, right?
A. Um, right.

I. Yes.
Q. OK. And then you had to file a document saying that you used it, right?
I. Then, you had to file an application, and for the first application document, it meant that you began using the mark, right?
A. Ah, I had to file an application? I don't think so.
I. Do I have to file? I don't think so.
A. I have done and why do I do it again?
I. Already approved. Why?
Q. But you had to tell the patent office that you used it so you could proceed, right?
I. He means that you have to tell me your management office...you would begin to use it, use it formally, right?
A. Yes.
I. Yes.
Q. OK. Now, let me show you what we previously marked as Petitioner's Exhibit 29.
I. It is another document, Appendix number 29.
A. Correct. I signed it.
I. Yes. That's my signature.
Q. You've seen this document before?
I. Did you ever see such a document before?
A. Yes, I did. I signed it. How could it not be. He...but I wanted him to explain it to me as more as possible.
I. Yes. I ... that's my signature. They explained it to me.
Q. And what did they explain to you?
I. How did they explain it to you?
A. Yeah, you see...correct. It said here that we (saw it) on June1.
I. Yes. Look ...
I. She's pointing to the date June 1, 2004.
Q. So you've seen this document and the date June 1, 2004, right?
I. So, you saw this document on June 1, 2004, right?
A. Yeah, yeah.
I. Yes.
Q. And what else did they explain to you?
I. What else did they explain to you?
A. I can't remember it. It has been a long time...2004. I can't speak good English, otherwise I would read it again, that would be better. (smiling)
I. I don't remember. It's been a long time. My English not that well, otherwise I read it again.
Q. OK. So could you have her read it again and could you translate it for her? Start right here.
I. He said we would ...He said the applicant asked to register for the American trademark with the U.S.trademark office. The law passed in 1946 based on the law of July 5, 1946.
Mr. Springut. OK. Wait. So let me just read what you translated for her.
I. (Without translating). OK. That's the first paragraph.
Mr. Springut. And again ... right.
Q. And you understand that this was directed to the trademark office in the United States, right?
I. This is from the U.S. trademark office.
A. OK.
I. Yes.
Q. OK. It says, "Sir. Applicant requests registration of the 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.)" explained that to you, right?
I. He said I explained this section to you.
A. Yes.
Q. All right. Now, let me read the next paragraph and then you'll translate. OK?
I. OK.

1 Q. "Applicant has adopted and is using the mark in commerce in the United States on or in
2 connection with each of the following,
3 I. It means that the applicant begins to use the trademark in the following areas:
4 Q. in accord with Section 1(a) of the Lanham Act, as amended,
5 I. This is a base and this law, listed in 15 U.S.C.
6 Q. 15 U.S.C. section 1051
7 I. This is the name of the law.
8 Q. (a) [lists good s/services].
9 I. It means that your goods or service will be listed.
10 Q. Cut flowers, dried flowers and live flower;
11 I. Get fresh flowers dry, this flower.
12 Q. flower bulbs; flower seeds; live flowering plants;
13 I. And this flower bulb and this flower seed,
14 Q. dried plants and live plants;
15 I. And dry and also wet (plants),
16 Q. grass and grass seeds;
17 I. grass, grass seeds.
18 Q. fresh herbs and raw herbs;
19 I. There is also this one, it seems to be Chinese medical herbs.
20 Q. Live orchids."
21 I. Also this orchid.
22 A. We used it in the early stage but we felt something like dried (plants) could not go so well, not so
23 well.
24 I. Only some of it like the dried flowers and the market.
25 Q. But they read this to you what they were ... what you were signing, right?
26 I. Is it that they explained to you before?
27 A. He told us, not them. We would sell such stuffs. We told them about this.
28 I. That's what we told them that we will do this.
29 A. We would sell these stuffs.
30 Q. And based on what you told them they put it in this document, right?
31 I. So based on what you told us, they put this in the document.
32 A. Correct. Besides, I saw it and I told them about these.
33 I. Yes.
34 Q. OK. Paragraph 2 says, "The mark was first used on the date at least as early June 1, 2004."
35 I. It says that this mark was first used on June 1, 2004.
36 A. Yes.
37 I. Yes.
38 Q. OK. And you gave them the date June 1, 2004?
39 I. Did you give them this date?
40 A. Yes. Because you see the following and the below and we are using it, he could take this photo.
41 I. Yes. If you look at the back of the document, um, they had a picture then they started to use it.
42 Q. OK. So, when –
43 I. But this ...
44 Q. Sorry.
45 A. Our products did not go well, not well, so we wanted to stop selling them.
46 I. But the sales was not that good so we don't want to use it anymore.
47 Q. Could you just explain what you just said?
48 I. Could you explain what you said again?
49 A. I said we did have. I know something like this. The date is...
50 I. Yes. I know like the dates and stuff.
51 Q. So the June 1, 2004 date comes from the date of the pictures?
52 I. So you mean that the date of June 1, 2004 comes from this photo? But I know that we were
53 selling our goods. I don't know when this photo was taken but the problem is we were selling goods.
54
55
56

I. Um, I don't remember. I don't know when we got the picture, but we used it.
Q. OK. And the date June 1, 2004 was information you provided to the lawyers?
I. Did you provide the date of June 1, 2004 to the lawyer?
I. Yes.
Q. OK. And what happened on June 1, 2004?
I. What happened on June 1, 2004?
A. We...we filed our application.
I. We applied.
I. We were using the mark, the trademark.
I. We used ... we used ... used the trademark.
Q. OK. And you used it on these cards?
I. Did you use it on these cards?
A. Use what?
I. Use what?
Q. The mark.
I. The trademark.
I. Yes.
Q. OK. And these tags are attached to orchids?
I. These tags...this was inserted on orchids?
A. It's not a tag.
I. It's not a tag.
A. This is...what you said is...it is a tag...inserted ...it is a tag.
I. Yes, it is tag.
Q. OK. And –
A. It should be dried flower?
I. It's a dry flower.
Q. What?
I. That's a dry flower.
Q. Dried orchids?
I. Were they dried orchids?
A. No. They were dried flowers, not orchids.
I. Specimen?
A. Dried flowers, not orchids.
I. Dry flower.
I. Dry flower.
Q. OK. And where was this tag applied to the dried flower? In Taiwan? The US? Where did this happen?
I. Was this tag put on dried flowers in Taiwan, or where it happened?
A. What did you say?
I. I will repeat. This...this tag was inserted on dried flowers, in Taiwan, or where it happened?
A. I can't figure it out when it happened, I can't.
I. I can't tell.
Q. Who applied this mark on the tag to the flowers?
I. Who put the tag on flowers?
A. We did.
I. Us.
Q. And who was ... was this in Taiwan or the US?
I. It happened in Taiwan or in the United States?
A. Ah, this...when we sold them to the United States, we need packaging.
I. Oh, this package we need to sell to the US, the package.
Q. Who was this sold to?
I. Where did this product go?
A. It went to the United States.

1 I. United States.
2 Q. Who in the United States?
3 I. Who was it sold to?
4 A. Who was it sold to?...We had many customers, not only...
5 I. I can't remember. I have a lot of clients.
6 Q. OK. Do you have any documents that would show to who this was sold on June 1, 2004?
7 I. Do you have any documents that can show to who this was sold on June 1, 2004? To which
8 customer?
9 A. I need go to check documents...check that document.
10 I. What kind of document?
11 Q. An invoice.
12 I. That is ...this invoice.
13 A. If this...because ...sometimes, we did trade. If our trader distributed (products) to a place, say the
14 United States, then we treated this customer.
15 I. This is a trade. We just gave it to the trader and I don't know the detail.
16 Q. What's a trader?
17 I. Which trader did you sell (products) to?
18 A. Um?
19 I. Which trader did you sell (products) to?
20 A. I probably can't recall it, because I even can't recall when it happened.
21 I. I ... I can't ... I can't remember.
22 Q. But when you say "a trader," who are you talking about?
23 I. That is to say...who are you talking about when you said 'trader'?
24 A. Chang Long Farm was doing trade, including trade.
25 I. Chang Long Farm is a trader.
26 Q. I'm sorry?
27 I. Chang Long Farm is a trader.
28 Q. OK. So that's the person who got it or that's the person who ...
29 I. (Without translating). Their farm.
30 Q. OK. I'm very confused. Let's try to start again. You applied this tag with the mark to these dried
31 flowers, right?
32 I. Is it you who put these tags on that flower?
33 A. We need ship this product. When this happened, they asked us to take a picture, then we could
34 file an application.
35 I. When we provide with the goods we take ... we take a picture. We probably had an order.
36 Q. OK. And when you say "we had an order," who had an order? What company?
37 I. You said you had orders and then from which company did you get orders?
38 A. Which company placed orders?
39 I. Which company ordered?
40 Mr. Dawson. From which ... which company received the order.
41 Mr. Springut. Yes. Thank you.
42 Q. Yes, which company received the order?
43 I. Which company placed orders to you?
44 A. They did.
45 I. They ordered.
46 A. Where did they sell their products, I don't know.
47 Mr. Dawson. What company received the order? That's what he's asking.
48 Q. Who ... who was the company that sold these items?
49 I. That means, who were the sellers, whose products?
50 A. Seller? I helped them to find out (sellers), I helped them to find out. The orders came from them
51 but I don't know who they sold (these products) to?
52 I. I help them to find and they ordered. I don't know who they sell it to.
53 Q. OK. Which was the company that sold the dried flowers that we see in Plaintiff's Exhibit 29?
54 I. Which company sold these flowers?
55
56

A. We did. We placed orders on them and then sold flowers to them. Then, I don't know to who they resold (flowers).
I. We ordered ... we sell it to them I don't know ...
Q. Who is "we"?
I. You said 'we' , what do you refer to?
A. Chang Long.
I. Chang Long.
I. (Without translating). I will spell it. C-H-A-N-G L-O-N-G.
Q. OK. So that's the company you own in Taiwan?
I. That is your company in Taiwan?
A. Correct.
Q. Chang Long sold the dried flowers with the tag on it to whom?
I. To whom did Chang Long sell these flowers?
A. I don't know. We gave them and they asked us to insert tags.
I. Sell them to ... sold it to this company.
Q. To Golden Vision Flower?
I. Yeah, yeah.
Q. And that's what the date of June 1, 2004 refers to?
I. This is what happened on June 1, 2004?
A. I don't know, I don't know, I don't know. But I do know my mark could be available for use from June 1. I don't know...
I. I don't know. I don't know. I don't know. I know I can use my trademark on June 1, 2004.
Q. OK. So going back ... going back to paragraph 2 of the statement of use ... paragraph 2,
I. Look at Paragraph 2, this paragraph.
Q. could you read that ... translate that to her?
I. That means the earliest time the trademark was first used is June 1, 2004.
I. Yes.
Q. OK. So what happened on that day is Chang Long Flowers or Farm T Taiwanese company sold the dried flowers you're saying with the ... with the mark on it to Golden Vision Flower?
I. Therefore on the day of June1, 2004, Chang Long sold their flowers and you began the use of your mark.
A. Is it like this? Can you explain it this way?
I. This correct way to explain it.
Q. Is that what you understand paragraph 2 means?
I. This is you...do you understand the meaning of the second paragraph?
A. Yes, I do. That day...
I. Yes. Yes, this day approved.
Q. OK. So that's what that means?
I. To you, that has such meaning?
A. How...
I. Again, please, pardon me.
Q. On June 1, 2004, as it says in paragraph 2, the Taiwanese company Chang Long Flowers sold the dried flowers and the specimen along with that tag to Golden Vision Flowers?
I. On June 1, 2004, Chang Long Farm sold those dried flowers to U.S. company, Golden Vision, is that correct?
A. Correct.
I. Yes.
Q. OK. So now let's go to paragraph 3.
I. The third paragraph.
Q. And let me just read that before you translate it for the witness. "The mark was first used in commerce on the date at least as early as December 1, 2004."

I. He said that the mark was first used in commerce on the earliest date of December 1, 2004?
A. Yes.
Q. OK. At six months later on June 1 ...
I. What is called the earliest use?
I. What do you mean early ... as early as?
Q. Well, that's something you signed, so what did you understand it to mean when you signed it?
I. Then how do you understand its meaning because you signed it. How do you understand it?
A. He did not explain it to me like this.
I. They didn't explain it like this.
Q. Well, how did they explain it?
I. How did they explain it?
A. They said our (registration) was approved today in January 2004. They told me like this.
I. Um, they told us the mark was approved on June 1, 2004.
Q. OK. But you see paragraph 2 talks about June 1, 2004. Paragraph 3 talks about December 1, 2004, six months later, right?
I. But you can see the second paragraph and it says June 1, 2004 and the third paragraph says December 1, 2004, six months later, right?
A. This...so I knew nothing when you asked me when this picture was taken.
I. So that's why when you asked me, um, when was this picture, I don't know.
Q. But what's your understanding of why there's a difference of six months in those two dates? What happened differently or not differently?
I. Then, how do understand why the two dates are different, a difference between them. How do you understand that?
A. They did not tell me that, Ah, they did not tell me that.
I. They didn't tell me that. They didn't tell me that.
Q. Well, did the use of those tags on the next following pages on the dried flowers change in any way from June to December 2004?
I. Did this card experience any changes from June 1 to December 1?
A. Um...it should be...um, we...let me read the words. We had made many versions of cards. I don't know which version it belongs to, I don't know.
I. We made a lot of tags. I don't know what version is this tag.
Q. OK. But did you use the mark on different goods or the same goods during the rest of 2004? Did the use change in any way?
I. So, that means after June 2004, have you ever used this mark, that is, have you ever used this mark in any ways?
A. This I can't remember.
I. I don't remember.
A. I knew we were using the mark, but we had many versions.
I. I knew we used the mark, but I just can't remember.
Q. OK. And the use was by Chang Long Flower Shop to Golden Vision Flowers? That's how you used the mark?
I. You used the mark, right? Does it means it was Chang Lung Flower Shop that gave the mark to Golden Vision?
A. It should be Chang Lung Flower Shop. The Shop asked me to ship some products. The Shop gave me the tag...he gave it to me.
I. Yeah. The ... normally they ask me to find some products and ask me to use a particular tag.
Q. OK. Do you have any invoices that show any use in 2004 for flowers, dried flowers, or anything else that were sold in connection with the mark that's shown in this exhibit?
I. Do you have any invoice, receipt that proved you ever sold flowers or other things? Do you have any receipt?
A. Because it is unnecessary for the Farm to write an invoice.
I. From ... they don't need to ...
A. It should be a long time.
I. it's been a long time.

1 Q. Right. But are there any documents that exist that show the sales in 2004 of these plants with the
2 mark?
3 I. Was there any document that showed in 2004 you ever sold these products?
4 A. If it was a person-to-person deal, I don't know. But I need to get back and check it. As for one to
5 one deal, I don't know.
6 I. I cannot remember very clearly but I could go back and check.
7 Q. OK. Now, let's turn the page to the second page of the statement of use, paragraph 4.
8 I. The fourth paragraph.
9 Q. And let me read what paragraph 4 says, "The current use of the mark on or in connection with the
10 forgoing in commerce is shown by the attached specimens."
11 I. This paragraph said that we began to use this mark and we have pictures shown afterward.
12 A. The picture is this.
13 I. So the picture is this.
14 Q. And by the current use it means on or about August 8, 2005?
15 I. Does it refer to August 8, 2005 by current use?
16 A. What I know is that he asked me to sign this on August 8.
17 I. I know they asked me to sign this on August 8.
18 Q. When is says the current use, it's the day you signed it, right?
19 I. Did it mean the current mark began in use the day when you signed it
20 A. It could be earlier.
21 I. Maybe earlier.
22 Q. That's your signature, right?
23 I. Is this your signature?
24 A. Yes, it is.
25 I. Yes.
26 Q. Did you sign it on any date other than August 8, 2005?
27 I. Did you sign it on August 8, 2005?
28 A. I signed today. It is true.
29 I. Yes, I signed today.
30 Q. On August 8, 2005?
31 I. Yes, on August 8, 2005.
32 A. Yes.
33 I. Yes.
34 Q. So when paragraph 4 talks about the current use, it means on August 8, 2005, right?
35 I. What paragraph said that the current use means the current day when you signed it?
36 A. August, 2008.
37 I. 2005 August.
38 A. It should be earlier. It should be earlier.
39 I. 2005 August. Maybe earlier.
40 Q. So you were not selling these goods in August of 2005 with this mark?
41 I. So, did it mean that you did not use the mark to sell your plants on August 8, 2005?
42 A. No. It means that documents were exchanged between them. Do you understand? He...he
43 wanted to apply for other documents through them. It is true that he came here to let me sign. It is
44 true that he asked me to sign it today.
45 I. The document exchanged. I signed on that day, that's correct.
46 Q. OK. And when you signed on that day and it talks about the current use, it means when you
47 signed, right?
48 I. He said that the current use...current use referred to the date, is it correct?
49 A. It could be earlier.
50 I. Earlier.
51 Q. Did you stop selling dried flowers in connection with the Golden Vision mark by August 8, 2005?
52 I. Did you stop selling products since Aug. 5, 2005?
53 A. I believed it could be...could be on June 1 when he told me I could use the trademark. At that time
54 I started to use it. The document...document has not been signed by him yet.
55
56

1 I. I suppose I can use the mark on June 1, 2004 I was told, and I started to use it after that day.
2 Q. OK. But were you continuing to use the mark in August of 2005?
3 I. Did it mean that you continued to use the mark until August 5, 2005?
4 A. Yes.
5 I. Yes.
6 Q. OK. So in August of 2005, Chang Long Flower Shop and Farm continued to sell dried flowers
7 with the mark to Golden Vision Flowers, correct?
8 I. Does it mean that you continue to use the mark to sell flowers until that day?
9 A. No. I ...It was Golden that sold their products.
10 I. No. Golden is selling their stuff. It's different than Chang Long.
11 Q. And where was Golden getting this stuff from?
12 I. Then where did Golden get this?
13 A. They ordered the products. They would do it themselves... they deliver the products themselves.
14 Chang Lung could provide them with some products. That's it.
15 I. They ordered themselves and we provide some flowers to Chang Long.
16 Q. Right. The same as you discussed with regard to June 1, 2004, right?
17 I. It was on June 1 as we mentioned before...it started since June 1, 2004, is it correct?
18 A. Correct.
19 I. Yes.
20 Q. OK. Now, the next part of the statement of use is titled "DECLARATION,"
21 I. This is a declaration.
22 Q. and it says, "The undersigned being hereby warned that willful false statements and the like are
23 punishable by fine by imprisonment, or both, under 18 U.S.C section 1001,
24 I. What he said was that if the person who signed the document provides a wrong declaration, he or
25 she will be punished by law.
26 Q. and that such willful false statement may jeopardize the validity of the application or any resulted
27 registration,
28 I. If he or she provides wrong information, the application may be canceled.
29 Q. declares that. I am properly authorized to execute this declaration on behalf of applicant;
30 I. Then, I am authorized to sign the application.
31 Q. I believe applicant to be the owner of the mark sought to be registered;
32 I. I...I believe the mark of the boss was registered.
33 Q. the mark is in use in such commerce, as described above;
34 I. The mark can be in use within the range that we discussed.
35 Q. all statements made of my own knowledge are true;
36 I. All the information that I gave was true.
37 Q. and all statements made and information and belief are believed to be true."
38 I. All the information, we believe, is true.
39 Q. And you understood that all of this was true and accurate, correct?
40 I. So you understood that all of these are true, right?
41 A. Yes.
42 I. Yes.
43 Q. And everything in this statement of use was correct as far as you understood when you signed it,
44 right?
45 I. When you signed the document, you believed the statements written in the document were
46 correct?
47 A. Yes, correct.
48 I. Yes.
49 Q. OK. Now, it says that you're the president of Golden Vision Flower, Inc.; is that correct?
50 I. He said that you are the president of Golden Visio Flower, is it correct?
51 A. No. I was in Taiwan then and how I could be the president.
52 I. No. I'm not the president.
53 Q. OK. Now, turn to the last page of the Exhibit 29, please. That's a blow up of the two tags shown on
54 the page before Title Specimen, right?
55
56

I. He then zoomed out the tags shown on the previous page, right?
Q. Please answer.
I. Did he zoom out the previous tags?
A. I think so.
I. I think so.
Q. Who printed this tag?
I. Who printed the tag?
A. I helped him with the printing.
I. I helped.
Q. OK. But who actually printed it?
I. Which company printed it?
A. It was printed in Taiwan.
I. Printed in Taiwan.
Q. And do you know the name of the printer?
I. Then, do you know the name of the company?
A. It has been a long time. I don't know.
I. It's been a long time. I don't know.
Q. Do you have any documents that would show the name of the printer?
I. Do you have any documents?
A. Taiwan...it seems different in Taiwan from here.
I. Taiwan is different than here.
A. They did not keep anything in their hands.
I. They don't keep the documents.
Q. OK. Now, under "tag" the first things it says under the mark is "cut flowers."
I. He said that on this tag...it says that the flower was cut.
A. Yes, they did the cut-flowers business. Cut-flowers was their business.
I. Yes. Yeah, that's one of their businesses.
Q. Has Golden Vision Flower ever sold cut flowers?
I. Then, has Golden Vision Flower ever sold cut flowers?
A. I don't know. In its early stage, Golden Vision Flower sold cut-flowers...they did many things in its early stage. But then they would do evaluation to check if business was good or not.
I. At the very beginning they did that and then they did an evaluation to see if it's good or not.
A. In its early stage, they could do it.
I. The very beginning they ...
Q. And then what happened?
I. Then how was it?
A. The market was different, and so was the demand.
I. Um, market is different.
Q. OK. When did Golden Vision start selling cut flowers?
I. When did this...Golden Vision Flower begin to sell cut flowers?
A. I did not get involved.
I. I did not involve.
Q. You don't know?
A. I did not get involved.
I I did not involve.
Q. So you don't know?
A. I did not get involved, so I don't know.
I. I did not involve. I don't know.
Q. OK. Is Golden Vision Flowers selling cut flowers today?
I. Are they still selling cut flowers today?
A. I did not see it today.
I. I didn't see it today.
Q. When was the last time that Golden Vision Flowers sold cut flowers?
I. When was the last time this...this company sold cut flowers?

A. I did not work here.
I. I did not work in this side.
Q. So you don't know?
I. So you did not know?
A. Yes, yes. I don't know.
I. I don't know.
Q. Has Golden Vision -- and do you know whether Golden Vision Flowersever sold cut flowers along with the mark?
I. So do you know whether or not the company used the mark when it sold flowers?
A. Yes, they did. The tag was printed on the outside of the carton.
I. Yes. Yes, it's outside the carton.
Q. Outside the carton?
I. On the outside?
A. Both situations existed.
I. Yes. Printed on the tags.
Q. Both on the carton and the tags?
I. Was it printed on the carton and on the tag?
A. Yes.
I. Yes. (motor is passing by)
Q. What period of time were cut flowers sold in connection with these tags?
I. Probably when...when was the period of time? When did they sell flowers?
A. They not only sold flowers. They always bought in that carton...they did...
I. They not only sell flowers but they always have the printed material.
Q. I'm not exactly sure what you said, but the question is: What period of time did Golden Vision Flowers sell cut flowers in connection with their mark?
I. This...you did not answer my question. My question is during what period of time Golden Vision Flower began to sell these flowers with this tag?
A. What period of time? What do you mean?
I. Period of time, what does that mean?
Q. What dates?
I. That is, from what date to what date?
A. Every day they did.
I. Every day. Every day.
Q. What documents do you have that show that?
I. Did you have any documents to prove this?
A. Documents?
I. Documents?
Q. Invoices?
I. or receipt?
A. As for invoice, how could it be printed with a mark, how could it be printed with a mark?
I. Why the invoice has to have the logo?
Q. No, I didn't say that. I -- what invoices do you have showing the sale of cut flowers?
I. I did not mean that. What I said was what receipts you had to prove they ever sold flowers. Then, they sold these flowers with the mark.
A. I did not get involved in Golden's operation, and then how could I prove that?
I. I did not involve in the daily business, how can I approve that?
Q. In 2004 was Golden Vision Flowers selling cut flowers?
I. In 2004, did this...Golden Vision ever sell cut flowers?
A. In 2004? I don't know.
I. 2004? I don't know.
A. I did not get involved in their operation. So why did you ask me?
I. I did not get involved.
Q. How about 2005?
I. How about 2005?

1 A. I don't know.
2 I. I don't know.
3 Q. 2006?
4 I. How about 2006?
5 A. I did not get involved. Why do you keep asking me about this?
6 I. I did not involve. Why are you always asking me this?
7 Q. Let's moved on to dried flowers.
8 I. Let's talk about dried flowers.
9 Q: Do you see dried flowers?
10 A. They bought dried flowers from us only once...only one time. That's it.
11 I. Only once. They only ordered once from me.
12 Q. When was that?
13 I. When?
14 A. Probably in 2004.
15 I. 2004, maybe.
16 Q. Are you guessing?
17 I. Are you guessing?
18 A. I think... It is supposed to be like this...it is correct. But I can not remember it clearly. It should be
19 that he bought dried flowers from me at one time... but I did not know whether he bought from
20 others.
21 I. Um, I think so. I think so. They ordered once with me. I don't know if they ordered with anybody
22 else.
23 Q. How about live flowers? Did Golden Vision Flowers sell live flowers in 2004?
24 I. Then did he ever sold live flowers in 2004? That fresh flowers.
25 A. Yes, he did...yes.
26 I. Yes.
27 Q: What did I say? (WHEREUPON, the court reporter read back the last question.)
28 Q: Sorry. OK. What kind of live flowers did it sell in 2004?
29 I. What kind of flowers did he sell in 2004?
30 A. He sold orchids which he bought from me.
31 I. Orchids.
32 Q. Do you have any invoices reflecting sales of orchids in 2004?
33 I. You sold orchids to them in 2004, and then do you have receipts?
34 A. Receipts?
35 I. Invoice?
36 A. Let me go back to check.
37 I. I'll go back and check.
38 Q. How about in 2005?
39 I. How about 2005?
40 A. Yes, they did. We provided them orchids in 2005...and they were buying in ...successively.
41 I. They ordering orchids all the way.
42 Q. Are there any invoices that reflect that ordering?
43 I. Do you have any receipts?
44 A. Yes, I do.
45 I. Yes.
46 A. But if they are recent dates, it is easier to find.
47 I. If recent, it's easier to find the invoices.
48 Q. OK. How about flower bulbs? When did Golden Vision first start selling flower bulbs?
49 I. Then, did they sell flower bulbs?
50 A. This stuff...they ever ordered some...they did.. They did. I will try...whether they bought in them
51 through others, I don't know.
52 I. They tried everything at the very...at the beginning.
53 Q. So when did Golden Vision Flower sell flower bulbs?
54
55
56

1 I. When did he sell flower bulbs?
2 A. In its early stage,...early stage...when I gave them those stuffs that time...
3 I. At the very beginning.
4 Q. Which was when?
5 I. When?
6 A. Maybe in 2004 or in 2005.
7 I. 2004 or 2005.
8 Q. And when were those flower bulbs first sold in connection with the Golden Vision mark?
9 I. Approximately when did they first sell (products) with this tag?
10 A. (cell phones gets signals) When I helped them with the application..., they began to say they
11 owned the logo at the market.
12 I. After I applied they started to use it.
13 Q. How did they start to use it?
14 I. How did they start to use it?
15 A. It was like this. I provided...provided this and then sent it. They put the logo on the products and
16 printed it on tags.
17 I. Like this. They provided this and then print.
18 Q. They used tags on the flower bulbs?
19 I. Did he also use this tag on the flower bulbs?
20 A. Yes. I don't know...they had to use it. Anyway I know they would print the tag and.... As to how
21 they put the tag, I don't know.
22 I. I don't know. I don't know how they used it, but they printed. I don't know how they used it.
23 Q. What did they print?
24 I. What did they print?
25 A. Cartons.
26 I. Box.
27 Q. What kind of box?
28 A. Packaging. Your products should be packed with packages and cartons, it is right.
29 I. Package.
30 Q. What period of time did Golden Vision Flowers sell flower bulbs?
31 I. That...this is what they sold...then, what period of time did they sell flower bulbs?
32 A. I helped them to take care of it. Except for the time when they got the approval, they took care of
33 other things themselves. Do you understand?
34 I. I help them to take care of when they got the document and then they take care of everything on
35 their own.
36 Q. Read the question. (WHEREUPON, the court reporter read back the last question.)
37 Q. Same question.
38 I. They sold these flower bulbs, and then from what time to what time did they sell flower bulbs?
39 A. Just when the application was done, they asked me to prepare everything for them.
40 I. After the application they asked me to prepare everything.
41 Q. But the question is: What period of time did Golden Vision Flowers sell flower bulbs?
42 I. But my question is from what time to what time did Golden Vision Flowers sell flower bulbs?
43 A. No. After the logo was approved in 2004, I only helped them to prepare one batch of flower bulbs.
44 As for others, I don't know how they did them.
45 I. Um, I helped them prepare the ones. I don't know after that.
46 Q. Do you understand the question that I'm asking you?
47 I. Do you understand what question I asked?
48 A. He asked me when they started to use it, is it right
49 I. No. You're asking me when they started to use this mark.
50 Q. No. I asked you when did Golden Flower sell flower bulbs? What period of time?
51 I. No. What I am asking is this...from what time to what time did this...this Golden Vision Flower
52 begin to sell flower bulbs?
53 A. Flower bulbs?
54
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1 I. That is the third one of yours.
2 A. Yes...his stuff...it is...
3 I. From what time to what time?
4 A. It was in 2004 that I helped them. After that, I do not know.
5 I. 2004.
6 Q. Through when?
7 I. Until what time?
8 A. Maybe you had better ask their manager of Golden about the time. But, I only helped them with the
9 preparation of one batch.
10 I. I only help them prepare once and you have to ask the Golden.
11 Q. So whatever the people at Golden Vision Flower told me, I have to listen to them, right?
12 I. So that is to say... I had to follow what this Golden Vision told me
13 A. Yes.
14 I. Yes.
15 Q. Next category is flower seeds. When did Golden Vision start selling flower seeds?
16 I. The next is about flower seeds. When did this Golden Vision start to sell flower seeds?
17 A. In 2004.
18 I. 2004.
19 Q. Until when?
20 I. Until what time?
21 A. You asked me the same question. All those things...only in 2004...I don't know anything else.
22 I. Same answer. All these things I just prepared once. I don't know anything else.
23 Q. So after 2004, you don't know if Golden Vision Flowers sold any of the items on this tag?
24 I. So after 2004 you did not know whether Golden Vision sold any other items of this kind or not?
25 A. Yes.
26 I. Yes.
27 Q. OK.
28 Q: Let's take a short break. (Break)
29 I. Let's take a break.
30 A. What is her name?
31 I. Amy.
32 A. How do you translate this?
33 OK, Sorry. I want to do a better job. But, they answer the question. I don't know. I feel like.
34 Q. OK. So a couple more questions, Mrs. Chuong, and I think we're good for the day.
35 I. One or two more questions.
36 I. OK.
37 Q. With regard to the various items listed on the tag, which is the last page of Exhibit 29 ...
38 I. This is all the above....
39 A. More than that...because it does not...It does not matter. There should be more than that.
40 I. We got more.
41 Q. Which of these items was Golden Vision Flowers selling in August of 2005?
42 I. Which of the items was Golden Vision still selling on August 25, 2005?
43 A. How can I still remember the date of August 25? Impossible...I can not remember all. Because I...
44 I. August?
45 Q. August 2005.
46 I. In August 2005.
47 A. No... I only helped them to book once in 2004...and they were responsible for other products
48 themselves.
49 I. The only thing I did I helped them did one booking in 2004, that's all.
50 Q. So by your answer do I understand you to mean that you don't know whether Golden Vision Flower
51 was selling any of these item in August of 2005?
52 I. So, that is to say...in your words...the meaning is that you said you don't know whether or not the
53 company sell these stuffs in 2005.
54 A. 2005?
55
56

I. (Translating): 2005?
A. I only helped them to book products back in 2004. They would have...if they had lived today...and had been running their business...they may have wanted to sell stuffs.
I I only helped them booking in 2004. They operating to today, they must have some sales.
Q. But you don't know?
I. But you did not know?
A. I did not get involved.
I. I did not involve in operate in this.
Q. OK. So in August of 2005 when you signed the attached statement of use, you didn't know whether or not the company was selling any of these items; is that a fair statement?
I. So you did not know whether they had these stuffs...whether they were selling these items when you signed the documents...the instructions in August 2005?
A. In 2005, they did. But I don't know whether or not they were selling all products...I don't know that.
I. They selling but I don't know if that's everything.
A. Yes.
Q. Well, which items do you know that they were selling in August of 2005 from the list?
I. That is what items they were selling in August 2005?
A. Surely they sold orchids.
I. Orchids, that's a positive.
A. There were also trees for sure...as for others...I don't know.
Q. Anything else?
I. Anything else?
A. It seemed that they did not sell dry flowers...the market was not good. They seemed not to sell those....I don't know anything else.
I. I don't think they sold dry flowers. The market is different.
A. I do not know anything else.
I. Others, I don't know.
Q. OK. So the only thing you can testify is that they were selling orchids in 2005, correct?
I. It means that the only deposition you can give is that they were selling orchids in August, 2005, is it correct?
A. Yes...it is certain that they sold orchids. Something more, let me look at this.
I. Yes. Let me double check.
A. They also sold some branches, because they must have sold anything related to orchids.
I. Anything related with orchids they would sell.
Q. Thank you, Mrs. Chuong.
Q. Nothing further.
I. That is all.
Mr. Dawson: We are going to read. I am also going to make my objection to the translation on this one as well. And I'm going to ask that -- I'll put on the record that I discussed with your manager you -- requested to you about the audio transcript and that I am going to, if I have to, if you won't voluntarily turn it over, seek a subpoena from the District Court here. So I would request that you not alter or destroy the audio tapes in any way. And that's it.
R. And you're both ordering and you both want copies.
Mr. Dawson: If he orders I want a copy.
R. And you want to order this one?
Q. Yes, ma'am.
Mr. Dawson: Thank you.

Translator's Note:
The two names of 'Chang Long Flower Shop / Flower Farm' and 'Everlasting Flower Farm' are both mentioned in the audio file by either the witness or the interpreter. In fact, they are both correct because 'Chang Long Flower Farm' is the translation of the name by pronunciation while 'Everlasting Flower Farm' is the translation of the name by meaning.

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Certificate of Accuracy

Translation Declaration

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Michael E. Douglas
Tampa Bay Translations, LLC
Date: August 19, 2010

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COUNTY OF Pinellas
Sworn to (or affirmed) and subscribed before me this
19 day of August 2010
By Michael E. Douglas

__ PERSONALLY KNOWN TO ME
X PRODUCED AS IDENTIFICATION

Florida Driver License
Type of Identification

CYNTHIA L. HOHMANN
Notary Public, State of Florida
Commission DD708921
My Commission Expires Aug. 27, 2011

Pro. Yongdong Song

Current major translation service clients and project names:

MLS, U.S.	HR Magazine En>Ch translation/editing, 175,000 words, (since 2006)
Tampa Bay Trans. U.S.	Proposal for a Confucius Institute at PC, SC, U.S. (En/Zh translaiton, 10/04/2007)
MobileTech., U.S.	Spoken English to Chinese transation, about 160,000 words (since 2007)
MYL , Hong Kong	Beijing Yintai Center, property (Ch/En, 04/17/2006)

Major translation projects involved:

1. U.S. SHRM magazine article English-Chinese translation editing, about 175,000 Chinese characters
2. Spoken English to Chinese translation, about 160,000 words, MobileTechnologies, U.S.
3. Beijmg Yintai Center's FAQs, Chinese>English translation, about 8,000 Chinese characters
4. Chunghwa Picture Tubes, Inc. Notes to Financial Statement, Chinese>English translation, 16,140 Chinese characters

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1995-1996	Full-time translator	Ma & Wang Law Office, New York City
1987-1992	English teacher Lecturer of Chengdu University of Science and Technology, Chengdu, China	

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1970-1987	English teacher Chengdu No. 11 Middle School, Chengdu, China
1968-1970	Full-time translator Chemical Engineering Institute, Guizhou, China

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1962-1968	Bachelor's degree from Sichuan University, Chengdu, China Major: English language and Literature
1960-1962	Light and Chemical Engineering College, Sichuan, China. Major: chemical engineering,

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Publications:

1992 Dictionary of World Film Stars, co-translation, published by Sichuan Literature and Arts Press, China;

1988 Dictionary of World History, co-translation, published by Commercial Press, China;

1987 Collins GEM Encyclopedia, co-translation, published by Shanxi Educational Press, China; and much other translation work in various subject fields

Since 1980s, much translation work has been done mostly in the language pair of English and Chinese and collected in the following journals:

Collection of Foreign Screw Machinery and
Mechanical Accessory of Foreign Ships and Vessels

Subject matters in translation:
general engineering; computer science and website localization, banking and finance, general business, marketing, human resources, law, politics and other social sciences.