

ESTTA Tracking number: **ESTTA599059**

Filing date: **04/17/2014**

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

Proceeding	92055269
Party	Plaintiff Mango's Tropical Cafe, Inc.
Correspondence Address	DAVID K FRIEDLAND FRIEDLAND VINING PA 1500 SAN REMO AVENUE, SUITE 200 CORAL GABLES, FL 33146 UNITED STATES trademarks@friedlandvining.com, dkf@friedlandvining.com, jrv@friedlandvining.com
Submission	Other Motions/Papers
Filer's Name	David K. Friedland
Filer's e-mail	trademarks@friedlandvining.com, dkf@friedlandvining.com, jrv@friedlandvining.com
Signature	/David K. Friedland/
Date	04/17/2014
Attachments	ACR Stipulation - AS FILED.pdf(127684 bytes )

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

**Mango's Tropical Cafe, LLC,**  
Petitioner,

v.

**Tango Mango, LLC,**  
Registrant.

Cancellation No.: 92055269

Registration No.: 3,328,822

Mark: **TANGO MANGO**

Registration Date: November 6, 2007

**JOINT STIPULATION TO PARTICIPATE IN THE BOARD'S ACCELERATED CASE  
RESOLUTION PROCESS**

By order dated March 31, 2014, the Board denied the parties' cross-motions for summary judgment. As a result, the parties have subsequently decided to pursue the Board's Accelerated Case Resolution ("ACR") process and have stipulated to the following:

1. The Board, in lieu of a full trial, may employ its ACR procedure to resolve this proceeding based on the parties' cross-motions for summary judgment, responses and reply briefs filed in support thereof, and evidence and testimony submitted therewith, including the supplementation to their respective motions for summary judgment, as provided below in paragraph 3, the subject Registration No. 3,328,822, and Petitioner's pleaded registrations submitted with its motion for summary judgment;

2. The Board may consider the parties' cross-motions for summary judgment and reply briefs, and supplementation thereto, as the parties' final briefs on the merits.

3. The parties may not submit and the Board will not consider any additional briefs or evidence for purposes of the ACR trial and decision, except for the permitted supplementation limited to the issues of (a) the commercial impressions of the parties' marks, (b) the scope of protection that should be afforded petitioner's marks in light of the extent of the fame, if any, of petitioner's marks contending with the strength or weakness of petitioner's marks in view of the

evidence of third-party usage of the term MANGO in relation to restaurant and bar services, and (c) Petitioner's abandonment claim, namely whether the original assignment of respondent's underlying application from Tango Mango, LLC to Knightspin, LLC was an invalid assignment or whether identifying Tango Mango, LLC as the assignor in the original assignment is also a curable mistake.

4. The evidence submitted in connection with the parties' respective cross-motions for summary judgment and reply briefs and permitted supplementation is authentic for purposes of admission into the evidence and deemed properly of record for purposes of the ACR trial and the Board's ACR final decision. The parties have agreed that the Declarations of Joshua Wallack and Shirley Spinetta submitted in support of their respective summary judgment motions shall be deemed testimony and subject to the parties' rights to cross-examine testimonial witnesses, as set forth in the below schedule;

5. The parties maintain all evidentiary, relevance, and other objections and arguments made in their respective briefs and reply briefs on the cross-motions for summary judgment and any objections that may be interjected in their supplementation of their respective motions for summary judgment;

6. The Board may resolve any genuine disputes of material fact, including the drawing of reasonable inferences from any such fact(s), presented by the parties' cross-motions and related filings noted above;

7. The parties reserve the right to request an oral hearing on the merits by no later than their respective final supplementation submissions to the Board;

8. The Board will not entertain any further extensions of time for deadlines set forth in this order absent a showing of extraordinary circumstances;

9. Any party to this proceeding that is dissatisfied with the ACR decision of the Board retains the right to appeal to the United States Court of Appeals for the Federal Circuit or to appeal by civil action in a United States District Court in accordance with Trademark Rule 2.145 and TBMP §§ 900 and 901 (3d ed. rev. 2 2013).

New deadlines related to the parties' supplementations to their respective motions for summary judgment are proposed as follows:

- Deadline to serve written direct testimony in the form of declarations or affidavits: **June 2, 2014**;
- Deadline to conduct live cross-examination of direct testimony witnesses, including Joshua Wallack and Shirley Spinetta as to their Declarations submitted in support of their respective summary judgment motions, via deposition: **August 8, 2014**;
- Deadline for the parties to file their stipulation of facts and any further stipulations that will streamline the ACR process: **September 26, 2014**;
- Petitioner's supplementation due: **October 20, 2014**;
- Respondent's supplementation due: **November 19, 2014**;
- Petitioner's reply supplementation due: **December 5, 2014**;
- Each party's supplementation will not exceed twenty pages in length, exclusive of exhibits; and
- Petitioner's reply supplementation will not exceed ten pages in length.

Based on the foregoing, the parties respectfully request that the Board enter an Order permitting them to participate in the ACR process and setting the ACR scheduled proposed herein.

Date: April 17, 2014

Respectfully submitted,

<p><b>FRIEDLAND VINING, P.A.</b></p> <p><u>/s/David K. Friedland</u> By: David K. Friedland Florida Bar No. 833479 Email: dkf@friedlandvining.com Jaime Rich Vining Florida Bar No. 030932 Email: jrv@friedlandvining.com 1500 San Remo Ave., Suite 200 Coral Gables, FL 33146 (305) 777-1720 – telephone (305) 456-4922 – facsimile</p> <p><i>Counsel for Petitioner</i></p>	<p><b>LEVY &amp; GRANDINETTI</b></p> <p><u>/s/Rebecca J. Stempien Coyle</u> By: Rebecca J. Stempien Coyle Florida Bar No. 329037 Email: mail@levygrandinetti.com PO Box 18385 Washington, DC 20036-8385 (202) 429-4560 – telephone (202) 429-4564 – facsimile</p> <p><i>Counsel for Respondent</i></p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------