

ESTTA Tracking number: **ESTTA629797**

Filing date: **09/29/2014**

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

Proceeding	92057023
Party	Defendant John "Giovanni" Aragona
Correspondence Address	JAMIE N PITTS THE LAW OFFICE OF JAMIE N PITTS 3340 WOOD THRUSH DR STE 341 PUNTA GORDA, FL 33950 UNITED STATES jamiempitts@jnplawfirm.com
Submission	Reply in Support of Motion
Filer's Name	Jamie Pitts
Filer's e-mail	jamiempitts@jnplawfirm.com
Signature	/Jamie Pitts/
Date	09/29/2014
Attachments	R's Reply in Support of Motion Final.pdf(268352 bytes )

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

In the matter of Trademark Registration No. 4220686  
Mark: GIOVANNI'S ALOHA FOODS  
Registration Date: October 9, 2012

In the matter of Trademark Registration No. 4224400  
Mark: GIOVANNI'S SCAMPI MARINADE  
Registration Date: October 16, 2012

In the matter of Trademark Registration No. 4232569  
Mark: GIOVANNI'S ORIGINAL WHITE SHRIMP TRUCK  
Registration Date: October 30, 2012

In the matter of Trademark Registration No. 4248595  
Mark: GIOVANNI'S HOT & SPICY WE REALLY MEAN IT! SAUCE  
Registration Date: November 27, 2012

LuckyU Enterprises, Inc.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92057023
	)	
John "Giovanni" Aragona,	)	
	)	
Registrant.	)	

**REPLY TO PETITIONER'S RESPONSE TO REGISTRANT'S MOTION  
FOR LEAVE TO ATTEND AND TAKE DEPOSITIONS REMOTELY**

Registrant, John "Giovanni" Aragona, (hereinafter "Registrant") respectfully files this Reply to Petitioner's, LuckyU Enterprises, Inc., dba Giovanni's Original White Shrimp Truck (hereinafter "Petitioner"), Response to Registrant's Motion for Leave to Attend and Take Depositions Remotely, and states as follows:

Registrant included the request for leave to Take Depositions Remotely with the Motion for Leave to Attend Troy Nitsche's Deposition Remotely in an effort to avoid wasting

the resources of both the Board and the Parties with redundant Motions. Determination is necessary at this point as Registrant's trial dates are fast approaching and consolidation is appropriate due to the overlapping issues related to both taking and attending depositions remotely.

In its Response to the current Motion, Petitioner stated: "[t]o the extent the Motion is requesting leave to take these depositions remotely is improper until each deposition is actually noticed and LuckyU opposes this portion of the current Motion." In an effort to eliminate this issue voiced by Petitioner's counsel, Registrant has noticed all depositions to which this Motion currently applies (See exhibit A).

The New York resident witness referenced in the Motion and by Petitioner, is Debra E. Wolfe, M.A., LMHC. This witness and her relevance was disclosed to Petitioner's counsel in January 2014, immediately following Registrant's counsel's discovery of Ms. Wolfe's existence and the potential need for her testimony. All other testimonial depositions apart from Registrant's are of witnesses residing in Hawaii. Registrant has also communicated its flexibility as to alternate dates for its noticed depositions to accommodate travel plans of counsel for Petitioner and also its willingness to conduct the depositions of Ms. Wolfe, Mr. Saccoccio, and Mr. Sonson as depositions on written questions as an alternative to the depositions being taken by remote means. Additionally, should Petitioner's counsel want to attend any testimonial deposition noticed by Registrant in person to observe and cross-examine, Registrant will arrange the necessary meeting space upon request by Petitioner.

## **CONCLUSION**

As good cause exists and Petitioner's concerns have been addressed by Registrant to the fullest extent possible, it is respectfully requested that Registrant's Motion for Leave to Attend

and Take Depositions Remotely be granted by the Board, or that the Board take any other appropriate action deemed just and proper.

Date: September 29, 2014

Respectfully submitted,  
John “Giovanni” Aragona

s/Jamie N. Pitts  
**Jamie N. Pitts**  
Florida Bar No. 72632  
**The Law Office of Jamie N. Pitts, Esq.**  
3340 Wood Thrush Dr., Ste. 341  
Punta Gorda, FL 33950  
(941) 893-7751– telephone  
(855) 224-7819– facsimile  
Email: [jamienspitts@jnplawfirm.com](mailto:jamienspitts@jnplawfirm.com)

*Counsel for Registrant*

**EXHIBIT A**

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

In the matter of Trademark Registration No. 4220686  
Mark: GIOVANNI'S ALOHA FOODS  
Registration Date: October 9, 2012

In the matter of Trademark Registration No. 4224400  
Mark: GIOVANNI'S SCAMPI MARINADE  
Registration Date: October 16, 2012

In the matter of Trademark Registration No. 4232569  
Mark: GIOVANNI'S ORIGINAL WHITE SHRIMP TRUCK  
Registration Date: October 30, 2012

In the matter of Trademark Registration No. 4248595  
Mark: GIOVANNI'S HOT & SPICY WE REALLY MEAN IT! SAUCE  
Registration Date: November 27, 2012

LuckyU Enterprises, Inc.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92057023
	)	
John "Giovanni" Aragona,	)	
	)	
Registrant.	)	

**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that on Thursday, November 20, 2014, Registrant, John "Giovanni" Aragona, will take the testimony deposition upon oral examination of Paul Saccoccio at the Offices of Paul Saccoccio, Saccoccio & Lopez, Esqs., 66-437 Kamehameha Hwy, Haleiwa, HI 96712 at 10:00AM HST before an officer authorized to administer oaths.

You are invited to attend and cross-examine.

Date: September 29, 2014

Respectfully submitted,  
John “Giovanni” Aragona

s/Jamie N. Pitts

**Jamie N. Pitts**

Florida Bar No. 72632

**The Law Office of Jamie N. Pitts, Esq.**

3340 Wood Thrush Dr., Ste. 341

Punta Gorda, FL 33950

(941) 893-7751– telephone

(855) 224-7819– facsimile

Email: [jamienpitts@jnplawfirm.com](mailto:jamienpitts@jnplawfirm.com)

*Counsel for Registrant*

**CERTIFICATE OF SERVICE**

**WE HEREBY CERTIFY** that the foregoing **NOTICE OF DEPOSITION** was served on September 29, 2014 to Petitioner's counsel via U.S. Mail with a courtesy copy sent via email as follows:

Jennifer Fraser  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, N.W.  
Eleventh Floor  
Washington, D.C. 20006

Jennifer.fraser@novakdruce.com  
Daniel.mullarkey@novakdruce.com

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

In the matter of Trademark Registration No. 4220686  
Mark: GIOVANNI'S ALOHA FOODS  
Registration Date: October 9, 2012

In the matter of Trademark Registration No. 4224400  
Mark: GIOVANNI'S SCAMPI MARINADE  
Registration Date: October 16, 2012

In the matter of Trademark Registration No. 4232569  
Mark: GIOVANNI'S ORIGINAL WHITE SHRIMP TRUCK  
Registration Date: October 30, 2012

In the matter of Trademark Registration No. 4248595  
Mark: GIOVANNI'S HOT & SPICY WE REALLY MEAN IT! SAUCE  
Registration Date: November 27, 2012

LuckyU Enterprises, Inc.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92057023
	)	
John "Giovanni" Aragona,	)	
	)	
Registrant.	)	

**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that on Friday, November 21, 2014, Registrant, John "Giovanni" Aragona, will take the testimony deposition upon oral examination of Alex M. Sonson at the Offices of Alex M. Sonson, Waipahu Office Plaza, 94-210 Pupukahi St., Suite 204, Waipahu, HI 96797 at 10:00AM before an officer authorized to administer oaths.

You are invited to attend and cross-examine.

Date: September 29, 2014

Respectfully submitted,  
John “Giovanni” Aragona

s/Jamie N. Pitts

**Jamie N. Pitts**

Florida Bar No. 72632

**The Law Office of Jamie N. Pitts, Esq.**

3340 Wood Thrush Dr., Ste. 341

Punta Gorda, FL 33950

(941) 893-7751– telephone

(855) 224-7819– facsimile

Email: [jamienspitts@jnplawfirm.com](mailto:jamienspitts@jnplawfirm.com)

***Counsel for Registrant***

**CERTIFICATE OF SERVICE**

**WE HEREBY CERTIFY** that the foregoing **NOTICE OF DEPOSITION** was served on September 29, 2014 to Petitioner's counsel via U.S. Mail with a courtesy copy sent via email as follows:

Jennifer Fraser  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, N.W.  
Eleventh Floor  
Washington, D.C. 20006

Jennifer.fraser@novakdruce.com  
Daniel.mullarkey@novakdruce.com

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

In the matter of Trademark Registration No. 4220686  
Mark: GIOVANNI'S ALOHA FOODS  
Registration Date: October 9, 2012

In the matter of Trademark Registration No. 4224400  
Mark: GIOVANNI'S SCAMPI MARINADE  
Registration Date: October 16, 2012

In the matter of Trademark Registration No. 4232569  
Mark: GIOVANNI'S ORIGINAL WHITE SHRIMP TRUCK  
Registration Date: October 30, 2012

In the matter of Trademark Registration No. 4248595  
Mark: GIOVANNI'S HOT & SPICY WE REALLY MEAN IT! SAUCE  
Registration Date: November 27, 2012

LuckyU Enterprises, Inc.	)	
	)	
	)	
	)	
	)	
v.	)	Cancellation No. 92057023
	)	
John "Giovanni" Aragona,	)	
	)	
	)	
Registrant.	)	

**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that on Monday, November 24, 2014, Registrant, John "Giovanni" Aragona, will take the testimony deposition upon oral examination of Troy Nitsche at the Offices of Paul Saccoccio, Saccoccio & Lopez, Esqs., 66-437 Kamehameha Hwy, Haleiwa, HI 96712 at 10:00AM HST before an officer authorized to administer oaths.

You are invited to attend and cross-examine.

Date: September 29, 2014

Respectfully submitted,  
John “Giovanni” Aragona

s/Jamie N. Pitts

**Jamie N. Pitts**

Florida Bar No. 72632

**The Law Office of Jamie N. Pitts, Esq.**

3340 Wood Thrush Dr., Ste. 341

Punta Gorda, FL 33950

(941) 893-7751– telephone

(855) 224-7819– facsimile

Email: [jamienpitts@jnplawfirm.com](mailto:jamienpitts@jnplawfirm.com)

*Counsel for Registrant*

**CERTIFICATE OF SERVICE**

**WE HEREBY CERTIFY** that the foregoing **NOTICE OF DEPOSITION** was served on September 29, 2014 to Petitioner's counsel via U.S. Mail with a courtesy copy sent via email as follows:

Jennifer Fraser  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, N.W.  
Eleventh Floor  
Washington, D.C. 20006

Jennifer.fraser@novakdruce.com  
Daniel.mullarkey@novakdruce.com

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

In the matter of Trademark Registration No. 4220686  
Mark: GIOVANNI'S ALOHA FOODS  
Registration Date: October 9, 2012

In the matter of Trademark Registration No. 4224400  
Mark: GIOVANNI'S SCAMPI MARINADE  
Registration Date: October 16, 2012

In the matter of Trademark Registration No. 4232569  
Mark: GIOVANNI'S ORIGINAL WHITE SHRIMP TRUCK  
Registration Date: October 30, 2012

In the matter of Trademark Registration No. 4248595  
Mark: GIOVANNI'S HOT & SPICY WE REALLY MEAN IT! SAUCE  
Registration Date: November 27, 2012

LuckyU Enterprises, Inc.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92057023
	)	
John "Giovanni" Aragona,	)	
	)	
Registrant.	)	

**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that on Monday, November 17th, 2014, Registrant, John "Giovanni" Aragona, will take the testimony deposition upon oral examination of Debra E. Wolfe, M.A., LMHC at the Staten Island Vet Center, 60 Bay Street, Staten Island, New York 10301 at 10:00AM before an officer authorized to administer oaths.

You are invited to attend and cross-examine.

Date: September 29, 2014

Respectfully submitted,  
John “Giovanni” Aragona

s/Jamie N. Pitts  
**Jamie N. Pitts**  
Florida Bar No. 72632  
**The Law Office of Jamie N. Pitts, Esq.**  
3340 Wood Thrush Dr., Ste. 341  
Punta Gorda, FL 33950  
(941) 893-7751– telephone  
(855) 224-7819– facsimile  
Email: [jamienpitts@jnplawfirm.com](mailto:jamienpitts@jnplawfirm.com)

*Counsel for Registrant*

**CERTIFICATE OF SERVICE**

**WE HEREBY CERTIFY** that the foregoing **NOTICE OF DEPOSITION** was served on September 29, 2014 to Petitioner's counsel via U.S. Mail with a courtesy copy sent via email as follows:

Jennifer Fraser  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, N.W.  
Eleventh Floor  
Washington, D.C. 20006

Jennifer.fraser@novakdruce.com  
Daniel.mullarkey@novakdruce.com

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

In the matter of Trademark Registration No. 4220686  
Mark: GIOVANNI'S ALOHA FOODS  
Registration Date: October 9, 2012

In the matter of Trademark Registration No. 4224400  
Mark: GIOVANNI'S SCAMPI MARINADE  
Registration Date: October 16, 2012

In the matter of Trademark Registration No. 4232569  
Mark: GIOVANNI'S ORIGINAL WHITE SHRIMP TRUCK  
Registration Date: October 30, 2012

In the matter of Trademark Registration No. 4248595  
Mark: GIOVANNI'S HOT & SPICY WE REALLY MEAN IT! SAUCE  
Registration Date: November 27, 2012

LuckyU Enterprises, Inc.	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92057023
	)	
John "Giovanni" Aragona,	)	
	)	
Registrant.	)	

**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that on Wednesday, November 26, 2014, Registrant, John "Giovanni" Aragona, will take the testimony deposition upon oral examination of John Aragona at 1990 Main St. #750, Sarasota, FL 34236 at 10:00AM EST before an officer authorized to administer oaths.

You are invited to attend and cross-examine.

Date: September 29, 2014

Respectfully submitted,  
John “Giovanni” Aragona

s/Jamie N. Pitts

**Jamie N. Pitts**

Florida Bar No. 72632

**The Law Office of Jamie N. Pitts, Esq.**

3340 Wood Thrush Dr., Ste. 341

Punta Gorda, FL 33950

(941) 893-7751– telephone

(855) 224-7819– facsimile

Email: [jamienpitts@jnplawfirm.com](mailto:jamienpitts@jnplawfirm.com)

*Counsel for Registrant*

**CERTIFICATE OF SERVICE**

**WE HEREBY CERTIFY** that the foregoing **NOTICE OF DEPOSITION** was served on September 29, 2014 to Petitioner's counsel via U.S. Mail with a courtesy copy sent via email as follows:

Jennifer Fraser  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, N.W.  
Eleventh Floor  
Washington, D.C. 20006

Jennifer.fraser@novakdruce.com  
Daniel.mullarkey@novakdruce.com

**CERTIFICATE OF SERVICE**

**WE HEREBY CERTIFY** that the foregoing **REPLY TO PETITIONER’S RESPONSE TO REGISTRANT’S MOTION FOR LEAVE TO TAKE DEPOSITIONS REMOTELY** was served on September 29, 2014 to Petitioner’s counsel via U.S. Mail with a courtesy copy sent via email as follows:

Jennifer Fraser  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, N.W.  
Eleventh Floor  
Washington, D.C. 20006

Jennifer.fraser@novakdruce.com  
Daniel.mullarkey@novakdruce.com

s/Jamie N. Pitts/  
Jamie N. Pitts