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

Proceeding	92059866
Party	Defendant Taryn Rodighiero dba KaiKini
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Date	05/29/2015
Attachments	Rodighiero Motion for Discovery (Final).pdf(408365 bytes )

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

**Kini Kai, L.L.C.** )  
Petitioner, )  
v. ) Cancellation No. 92059866  
**Taryn Rodighiero** )  
Registrant. )  
\_\_\_\_\_ )

**REGISTRANT’S MOTION TO TAKE DISCOVERY FROM PETITIONER**

Pursuant to Rule 56(d) of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.127(e)(1), Registrant Taryn Rodighiero (“Registrant”) hereby requests that the Board permit Registrant to take discovery from Petitioner so that she can effectively oppose Petitioner’s Motion for Summary Judgment. Specifically, Registrant requests that the Board allow her to take the deposition of Jennifer K. Meadors, who is one of the owners and managers of Petitioner.

The grounds for Registrant’s Motion to Take Discovery from Petitioner are as follows:

1. On August 29, 2014, Petitioner filed a Petition for Cancellation against Registrant’s registration for KAIKINI (Reg. No. 4,149,388).
2. In its Petition for Cancellation, Petitioner alleges that (1) Registrant committed fraud on the Trademark Office in the procurement of her registration, and (2) Petitioner has prior use of a confusingly similar mark (KINI KAI) in connection with related products.
3. On May 1, 2015, Petitioner filed a Motion for Summary Judgment requesting that the Board find that there are no genuine issues of material fact regarding Petitioner’s alleged

prior use of its KINI KAI mark, as well as Registrant's alleged fraud in the procurement of her registration for KAIKINI.<sup>1</sup>

4. In support of its Motion for Summary Judgment, Petitioner attached a number of documents purporting to demonstrate prior use of its KINI KAI mark. Petitioner's Motion for Summary Judgment, Exs. 2-4.

5. In support of its Motion for Summary Judgment, Petitioner attached a Declaration of Jennifer K. Meadors, who is one of Petitioner's owners and managers. Petitioner's Motion for Summary Judgment, Ex. 1, ¶ 2. In her Declaration, Ms. Meadors asserts that Petitioner used its KINI KAI mark prior to Registrant's first use of her KAIKINI mark. Petitioner's Motion for Summary Judgment, Ex. 1, ¶¶ 5-10.

6. As explained more fully in the attached Declaration of Taryn Rodighiero, Registrant has the need to take the deposition of Ms. Meadors regarding (1) Petitioner's alleged prior use of its KINI KAI mark, (2) the facts alleged in the Declaration of Ms. Meadors regarding Petitioner's alleged prior use of its KINI KAI mark, and (3) the exhibits attached to Petitioner's Motion for Summary Judgment purporting to demonstrate prior use of Petitioner's KINI KAI mark.

7. Without the requested discovery, Registrant will be unable to present facts sufficient to show the existence of a genuine issue of material fact for trial. All such facts and essential pieces of information pertaining to Petitioner's alleged prior use of KINI KAI are exclusively within the control of Petitioner and Ms. Meadors. There is no other feasible way for Registrant to obtain such facts and information.

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<sup>1</sup> Registrant's Motion to Take Discovery from Petitioner only addresses Petitioner's allegations and evidence of prior use of its KINI KAI mark in commerce. Registrant has no need to take discovery from Petitioner regarding Petitioner's allegations of fraud.



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Kini Kai, L.L.C.

Petitioner,

v.

Taryn Rodighiero

Registrant.

Cancellation No. 92059866

**DECLARATION OF TARYN RODIGHIERO**

COMES NOW, Taryn Rodighiero, under the penalty of perjury and being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, declares the following:

1. My name is Taryn Rodighiero and I am over the age of majority and do not suffer from any mental disability or infirmity that prevents me from giving this Declaration. This Declaration is based on my own personal knowledge.
2. I am the owner of U.S. Registration No. 4,149,388 for the mark KAIKINI and am the Registrant in Cancellation No. 92059866 filed by Petitioner Kini Kai, LLC ("Petitioner").
3. I have thoroughly reviewed Petitioner's Motion for Summary Judgment, the attached exhibits, and the Declaration of Jennifer K. Meadors.
4. I have a need to take the deposition of Jennifer K. Meadors regarding her allegations of prior use of the mark KINI KAI by Petitioner set forth in her Declaration. I have no other feasible way in which to obtain facts and information pertaining to Petitioner's alleged prior use or to test the veracity of Ms. Meadors' allegations.

5. I have a need to take the deposition of Jennifer K. Meadors regarding the exhibits attached to Petitioner's Motion for Summary Judgment purporting to demonstrate prior use of Petitioner's KINI KAI mark. I have no other feasible way in which to obtain facts and information pertaining to the exhibits or to test the genuineness and veracity of the information presented in the exhibits.

6. Without taking the deposition of Jennifer K. Meadors, I will be unable to present facts sufficient to show the existence of a genuine issue of material fact for trial. It is my belief that all such facts and essential pieces of information pertaining to Petitioner's alleged prior use of its KINI KAI mark are exclusively within the control of Petitioner and Ms. Meadors.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Taryn Rodighiero  
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Dated: 5/28/15