

ESTTA Tracking number: **ESTTA778381**

Filing date: **10/21/2016**

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

Proceeding	92060328
Party	Plaintiff L.A. Gem and Jewelry Design, Inc.
Correspondence Address	MILORD A KESHISHIAN MILORD & ASSOCIATES PC 10517 WEST PICO BLVD LOS ANGELES, CA 90064 UNITED STATES uspto@milordlaw.com
Submission	Opposition/Response to Motion
Filer's Name	Milord A. Keshishian
Filer's e-mail	uspto@milordlaw.com
Signature	/Milord A. Keshishian/
Date	10/21/2016
Attachments	LAR08-061T Opposition to MTD Final.pdf(131577 bytes ) MAK Declaration - Final.pdf(347584 bytes )



pendant using the mark – *for the first time* – only a few months ago. Notably, throughout this entire proceeding, Respondent has failed to provide substantive responses to discovery, failed to provide any documents, has failed to retain counsel despite this Board’s numerous requests, and has filed incomprehensible motions, including in contravention to the Board’s order suspending proceedings. Respondent has repeatedly stonewalled Petitioner in this matter, which should not be condoned. Thus, Petitioner respectfully requests that the Board deny Respondent’s Motion to dismiss in its entirety and deem moot Respondent’s request to not file a sur-reply.

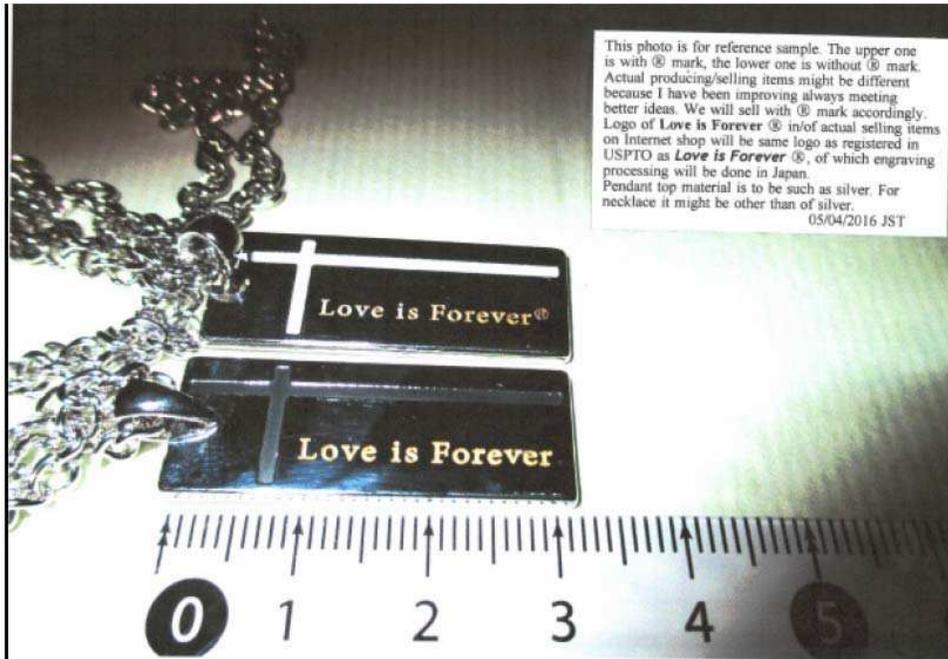
## **II. STATEMENT OF FACTS**

On May 13, 2009, Respondent filed an application to register the trademark LOVE IS FOREVER on the Principal Register for use in connection with “key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks,” in International Class 014. Milord A. Keshishian Declaration (“Keshishian Decl.”) ¶ 2; Exhibit A. The Registration was issued under Section 66(a) of the United States Trademark Act on June 29, 2010. Keshishian Decl. ¶ 3; Exhibit B.

Respondent, at the time it filed its application, did not have a *bona fide* intent to use the LOVE IS FOREVER mark on the goods identified in the Registration, not on even a single good listed in the application. This lack of bona fide intent to use the LOVE IS FOREVER mark for *six years* also supports Petitioner’s abandonment argument.

On May 4, 2016, Respondent filed a “Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71,” which contains the following image. Keshishian Decl. ¶

4; Exhibit C.



This was the first time that Respondent had attempted to even use the mark, albeit on a single pendant and not the laundry list of goods listed in the application. Respondent’s note specifically states “This photo is for reference sample,” not for an actual good bearing the mark in commerce, which is approximately six years too late to establish a bona fide intent to use the mark at application filing.

On May 25, 2016, The United States Patent and Trademark Office (“USPTO”) rejected Respondent’s Section 71 Request as Respondent did not set forth any evidence regarding the mark’s use. The USPTO stated that “the specimen includes a caption that states that the specimens are “referenced sample[s]” and indicates that “[a]ctual production/selling” has not yet begun.” Keshishian Decl. ¶ 5; Exhibit D. Indeed, Respondent was not selling products in connection with the trademark when it submitted its Section 71 Request on May 4, 2016, as also conceded in the Motion to purported sales commencing on June 16, 2016. Please see

Respondent's Motion, "correction (3)" and "correction (4)." In addition, the USPTO further rejected the Section 71 request on the grounds the specimen provided was *merely ornamental* and "unacceptable...[to] show use of the registered mark in a manner in which it would be perceived as a trademark." Keshishian Decl. ¶ 5; Exhibit D.

Thereafter, in order to comply with the "use" requirement, Respondent created a website to purportedly offer a pendant with the "mark" for sale in the United States; however, the website lacks any e-commerce capability and appears to make a token use because it would be impossible for any consumer to locate the website with a complicated URL. Keshishian Decl. ¶ 6; Exhibit E. Moreover, there is no evidence that Respondent is using the mark on the laundry list of goods in the registration. Thus, Respondent's gamesmanship is simply transparent.

Even though Respondent was purportedly selling one product in the United States, the USPTO still rejected Respondent's Section 71 Request for a second time on July 5, 2016 stating that "the specimen of record fails to function as a trademark because it consists of an ornamental slogan imprinted on the goods. Accordingly, the Section 71 Affidavit cannot be accepted." The second rejection letter further stated that "[t]he registration will be cancelled in due course." Keshishian Decl. ¶ 7; Exhibit F.

Based on the above, Respondent has not properly used the mark, despite its contentions, and has in fact abandoned the Registered Mark within the meaning of 15 U.S.C. §§ 1064(3) and 1127. The submitted evidence further establishes Respondent's lack of *bona fide* intent to use the mark on the listed goods at the time of filing.

### **III. DISCUSSION**

A request for an extension of protection under § 66(a) allows a holder of an International Registration to extend protection to the United States; the requester must include "a declaration

of bona fide intention to use the mark in commerce.” 15 U.S.C. § 1141f(a). A registration based on § 66(a) depends on the scope and validity of the International Registration and unlike § 1(a) and (b) applications, an applicant under §§ 44(e) or 66(a) does not need to actually use the mark in commerce in the United States prior to obtaining a domestic registration. **Importantly, a U.S. registration that was issued based on § 66(a) “is subject to the same grounds for cancellation as those registrations issued under Section 1 or Section 44(e).”** *Saddlesprings, Inc. v. Mad Croc Brands, Inc.*, 2012 TTAB LEXIS 378, at \*9 (T.T.A.B. Sept. 25, 2012) (denying a motion to dismiss a petition to cancel a registration based on § 66(a) due to abandonment); see also 15 U.S.C. § 1141i(b) (“[S]uch extension of protection shall have the same effect and validity as a registration on the Principal Register [and] the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.”). The U.S. registration may be subject to cancellation “even if the international registration remains [\*6] valid and subsisting.” *Saddlesprings, Inc.*, 2012 TTAB LEXIS 378, at \*12; *Sandro Andy, S.A. v. Light Inc.*, 2012 U.S. Dist. LEXIS 182401, at \*4-6 (S.D.N.Y. Dec. 27, 2012)

Trademark Act Section 1(b), 15 U.S.C. Section 1051(b), states that “a person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce” may apply for registration of the mark. An applicant’s bona fide intent to use a mark must reflect an intention that is firm, though it may be contingent on the outcome of an event (that is, market research or product testing) and must reflect an intention to use the mark “in the ordinary course of trade, ... and not ... merely to reserve a right in a mark.” *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503 (TTAB 1993). A determination of whether an applicant has a bona fide intention to use the mark in commerce is an objective determination based on all the circumstances. *Boston Red Sox Baseball Club LP*

*v. Sherman*, 88 USPQ2d 1581, 1587 (TTAB 2008) (“Here, Congress made clear that a ‘bona fide intent to use’ also involves an objective standard by specifying there must be ‘circumstances showing . . . good faith.’ Thus, an opposer may defeat a trademark application for lack of bona fide intent by proving the applicant did not actually intend to use the mark in commerce or by proving the circumstances at the time of filing did not demonstrate that intent.”). In determining the sufficiency of documentary evidence demonstrating bona fide intent, the Board has held that the Trademark Act does not expressly impose “any specific requirement as to the contemporaneousness of an applicant’s documentary evidence corroborating its claim of bona fide intention. Rather, the focus is on the entirety of the circumstances, as revealed by the evidence of record.” *Lane Ltd. v. Jackson International Trading Co.*, 33 USPQ2d 1351, 1355 (TTAB 1994).

As a general rule, the factual question of intent is unsuited to disposition on summary judgment. *See Copelands’ Enterprises, Inc. v. CNV, Inc.*, 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991). Nonetheless, one way an opposer can establish its prima facie case of no bona fide intent is by proving that applicant has no documentary evidence to support its allegation in the application of its claimed bona fide intent to use the mark in commerce as of the application filing date. *Saul Zaentz Co. v. Bumb*, 95 USPQ2d 1723, 1727 (TTAB 2010). Where there is no evidence of an applicant’s bona fide intent to use the mark at issue on the claimed goods or services, entry of summary judgment on a claim that the applicant had no bona fide intent to use the mark in commerce when he filed his involved application may be warranted. *See Honda Motor Co. v. Winkelmann*, 90 USPQ2d 1660 (TTAB 2009).

Here, the evidence establishes Respondent’s lack of a *bona fide* intent to use the mark at the time of registration. Respondent has failed to set forth any admissible evidence to prove its

intentions, its business plans, whether it has contacted manufacturers, done market research or whether it has priced the goods to be sold in connection with the mark. See *Lane Ltd. v. Jackson*, 33 USPQ2d 1351 [“Applicant’s evidence pertaining to the formulation and implementation of its business plan and licensing program constitutes credible, objective corroboration of its statement in the application that it had a bona fide intention to use the mark in commerce on tobacco”]; see further *SmithKline Beecham Corp. v. Omnisource DDS, LLC*, 2010 TTAB LEXIS 431, 97 U.S.P.Q.2D (BNA) 1300 (Trademark Trial & App. Bd. Nov. 29, 2010) [“applicant has no documentation to demonstrate that it had the requisite bona fide intent to use the mark AQUAJETT in commerce when it filed the present application. As evidenced by its responses to discovery requests, applicant has no plans relating to manufacture, licensing, marketing or use of the mark. So as to be clear, the record is devoid of any evidence such as manufacturing efforts, licensing efforts, test marketing, correspondence with prospective licenses, preparation of marketing plans or business plans, creation of labels, marketing or promotional materials, and the like.”]

Here, such lack of credible, objective evidence to corroborate Respondent’s use statements constitutes grounds for cancellation. In fact, the Board has “repeatedly found a lack of bona fide intent to use a mark by individuals who lack the demonstrated capacity to produce the goods identified in the application.” *Swatch AG (Swatch SA)(Swatch Ltd.) v. M.Z. Berger & Co., Inc.*, USPQ2d , 2013 TTAB LEXIS 515 (TTAB, Opposition No. 91187092, September 30, 2013); see *L’Oreal S.A. v. Marcon*, 102 USPQ2d 1434 (TTAB 2012); *Saul Zaentz Co.*, 95 USPQ2d at 1726-27; *Wet Seal, Inc. v. FD Mgmt., Inc.*, 82 USPQ2d 1629, 1643 (TTAB 2007).

**A. Respondent’s “Reason 1” Is Insufficient to Prove Bona Fide Intent**

Respondent’s “correction (1)” simply states the international registration number for the

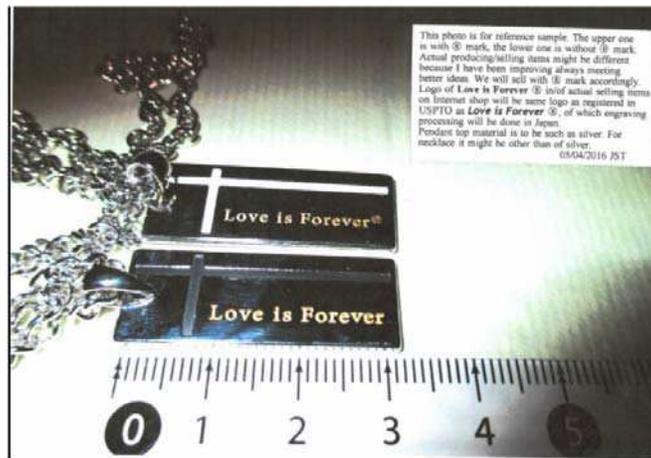
trademark, not the U.S. Registration No. 3,811,074, which is the subject of this proceeding.

Respondent's "correction (2)" is misplaced as the U.S. Registration No. 3,811,074 was issued under Section 66(a) of the United States Trademark Act on June 29, 2010. Milord A. Keshishian Declaration ("Keshishian Decl.") ¶ 3; Exhibit B.

Respondent's corrections (3), (4), (5) and (6) merely prove that Respondent abandoned the subject trademark for over six years as the trademark was registered in 2010 and Respondent did not attempt to use the trademark until allegedly 2016 – seven years after filing the application. Such lack of use for six years proves Respondent did not have a *bona fide* intent and in fact abandoned the mark. Further, Respondent has failed to set forth any admissible evidence or documentation to prove it made good faith efforts to use the subject trademark during those seven years. Respondent has further failed to set forth any admissible evidence to prove its intentions, its business plans, whether it has contacted manufacturers, done market research or whether it has priced the goods to be sold in connection with the mark. See *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503, 1507 n.7 (TTAB 1993).

Moreover, Respondent, at the time it filed its application, did not have a *bona fide* intent to use the LOVE IS FOREVER mark on the goods – not on even a single good – identified in the Registration. This lack of bona fide intent to use the LOVE IS FOREVER mark renders the registration void and also supports Petitioner's abandonment argument.

On May 4, 2016, Respondent filed a "Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71," which contains the following image. Keshishian Decl. ¶ 4; Exhibit C.



Again, this was the first time that Respondent had attempted to even use the mark, albeit on a single pendant and not the laundry list of goods listed in the application. Respondent's note specifically states "This photo is for reference sample," not for an actual good bearing the mark in commerce, which is approximately six years too late to establish a bona fide intent to use the mark at application filing.

On May 25, 2016, the United States Patent and Trademark Office ("USPTO") rejected Respondent's Section 71 Request as Respondent did not set forth any evidence regarding the mark's use. The USPTO stated that "the specimen includes a caption that states that the specimens are "referenced sample[s]" and indicates that "[a]ctual production/selling" has not yet begun." Keshishian Decl. ¶ 5; Exhibit D. Indeed, Respondent was not selling products in connection with the trademark when it submitted its Section 71 Request on May 4, 2016, as also conceded in the Motion to purported sales commencing on June 16, 2016. Please see Respondent's Motion, "correction (3)" and "correction (4)." In addition, the USPTO further rejected the Section 71 request on the grounds the specimen provided was *merely ornamental* and "unacceptable...[to] show use of the registered mark in a manner in which it would be perceived as a trademark." Keshishian Decl. ¶ 5; Exhibit D.

Thereafter, in order to comply with the "use" requirement, Respondent created a website

to purportedly offer a pendant with the “mark” for sale in the United States; however, the website lacks any e-commerce capability and appears to make a token use because it would be impossible for any consumer to locate the website with a complicated URL. Keshishian Decl. ¶¶ 6; Exhibit E. Moreover, there is no evidence that Respondent is using the mark on the laundry list of goods in the registration. Thus, Respondent’s gamesmanship is simply transparent.

Even though Respondent was purportedly selling one product in the United States, the USPTO still rejected Respondent’s Section 71 Request for a second time on July 5, 2016 stating that “the specimen of record fails to function as a trademark because it consists of an ornamental slogan imprinted on the goods. Accordingly, the Section 71 Affidavit cannot be accepted.” The second rejection letter further stated that “[t]he registration will be cancelled in due course.” Keshishian Decl. ¶ 7; Exhibit F.

Thus, Respondent has failed to demonstrate proper use of the trademark, failed to demonstrate a *bona fide* intent to use the trademark and has in fact abandoned the trademark for not using it within the manner and timeframe required under the Trademark Act.

**B. Respondent’s “Reason 2” and “Reason 3” Are Insufficient to Prove *Bona Fide* Intent**

Respondent’s “Reason 2” and “Reason 3” are incomprehensible, making it impossible for Petitioner to properly respond. In regards to “Reason 2”, this proceeding is not a “criminal case.” In regards to “Reason 3”, Respondent merely makes nonsensical statements instead of setting forth admissible evidence or documentation to prove its *bona fide* intent. Such lack of documentation and evidence warrants denial of the Motion.

**C. Respondent’s Request Not to Respond to Petitioner’s Reply Memorandum**

In its Amended Motion to Dismiss, Respondent requests permission to not respond to Petitioner’s Reply Memorandum filed in support of Petitioner’s motions to compel.

Respondent's request is nonsensical as a response to a reply is not required.

**IV. CONCLUSION**

Respondent filed the incomprehensible motion purporting to request dismissal of Petitioner's Petition for Cancellation, however failed to substantiate its position with any case law or admissible evidence to prove its *bona fide* intent to use – through objective evidence – when it filed the application. The only evidence submitted actually mandates cancellation because Respondent admits to purportedly advertising for sale a pendant using the mark – *for the first time* – only a few months ago. Further, Respondent's request to not file a response to Petitioner's Reply is nonsensical as a response to a reply is not required. Thus, Petitioner respectfully requests that the Board deny Respondent's Motion to dismiss in its entirety and deem moot Respondent's request to not file a sur-reply.

Dated: October 21, 2016

Respectfully submitted,

MILORD & ASSOCIATES, PC

/Milord A. Keshishian/

Milord A. Keshishian, Esq.

Attorneys for Petitioner

L.A. GEM AND JEWELRY DESIGN, INC.

10517 West Pico Boulevard

Los Angeles, CA 90064

Telephone: (310) 226-7878

Facsimile: (310) 226-7879

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on October 21, 2016, I caused a true and correct copy of the foregoing **PETITIONER'S OPPOSITION TO RESPONDENT'S JUDGMENT TO DISMISS AND RESPONDENT'S REQUEST TO NOT RESPOND TO PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF ITS MOTIONS TO COMPEL** sent via email only, to Registrant's Correspondence of Record as follows:

Souki Manufacturing, Inc.  
326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043  
Japan  
Email: [mina-csj@nifty.com](mailto:mina-csj@nifty.com)

/Milord A. Keshishian/  
Milord A. Keshishian  
10517 West Pico Boulevard  
Los Angeles, CA 90064  
Telephone: (310) 226-7878  
Facsimile: (310) 226-7879



5. Attached hereto as Exhibit D is a true and correct copy of the USPTO's "Post Registration Office Action" dated May 25, 2016.

6. Attached hereto as Exhibit E is a true and correct copy of a printout of Respondent's website.

7. Attached hereto as Exhibit F is a true and correct copy of the USPTO's "Post Registration Office Action" dated July 5, 2016.

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

Executed on this 21<sup>st</sup> day of October, 2016, in Los Angeles, California.

/s/ Milord A. Keshishian  
Milord A. Keshishian

# EXHIBIT A

## FILING RECEIPT FOR TRADEMARK APPLICATION

Aug 4, 2009

This acknowledges receipt on the FILING DATE of the application for registration for the mark identified below. The FILING DATE is contingent upon all minimum filing date requirements being met. Your application will be considered in the order in which it was received. Please review the status of your application every six months from the filing date of your application. You can check the status of your application on-line at <http://tarr.uspto.gov/> or by contacting the Trademark Assistance Center at 1-800-786-9199. Also, documents in the electronic file for pending applications can be viewed and downloaded at <http://www.uspto.gov/>.

Souki Manufacturing Inc.  
326-6 Sakamoto-cho,  
Hodogaya-ku,  
Kanagawa 240-0043  
JAPAN

**ATTORNEY  
REFERENCE NUMBER**

### PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction to the filing receipt should be submitted within 30 days. Such requests may be submitted by mail to: COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA, VIRGINIA 22313-1451; by fax to 571-273-9913; or by e-mail to [tmfiling\\_receipt@uspto.gov](mailto:tmfiling_receipt@uspto.gov). The USPTO will review the request and make corrections when appropriate.

SERIAL NUMBER: 79/070322  
FILING DATE: May 13, 2009  
REGISTER: Principal  
MARK: LOVE IS FOREVER  
MARK TYPE(S): Trademark  
DRAWING TYPE: Stylized words, letters, or numbers  
FILING BASIS: Sect. 66(a)(Madrid Protocol)

OWNER: Souki Manufacturing Inc. (JAPAN, Corporation  
326-6 Sakamoto-cho,  
Hodogaya-ku.; Yokohama-shi; Kanagawa 240-0043  
, JAPAN

FOR: Key rings; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, precious metal bonnet pins, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; sleeve links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pocket, clocks for vehicles, stop watches, wall clocks, alarm clocks  
INT. CLASS: 014  
FIRST USE: NONE USE IN COMMERCE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

### OTHER DATA

COLOR(S) CLAIMED: Color is not claimed as a feature of the mark.

Warning: You may receive unsolicited communications from companies requesting fees for trademark related services, such as monitoring and document filing. Although solicitations from these companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services.

For document filing, such companies typically charge a service fee in addition to applicable USPTO fees. You can electronically file directly with the USPTO using forms available through the Trademark Electronic Application System (TEAS), accessible via the USPTO website at [www.uspto.gov](http://www.uspto.gov) <<http://www.uspto.gov/>>. Only applicable fees required by law, and no service fees, are charged. Status can be monitored directly at no cost through Trademark Application Registration Retrieval (TARR). For general information on filing and maintenance requirements for U.S. trademark applications and registrations, including required fees, please consult the USPTO website.

### INTERNATIONAL OR FOREIGN REGISTRATION DATA

INTERNATIONAL REG. NUMBER: 1006266

Note on representation: An attorney who is a member in good standing of the bar of the highest court of any U.S. state may practice before the USPTO in trademark matters. See [http://tess2.uspto.gov/tmdb/tmep/0600.htm#\\_T60206](http://tess2.uspto.gov/tmdb/tmep/0600.htm#_T60206) for more information on foreign attorneys and persons who may practice before the Office.

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

**EXHIBIT B**

Generated on: This page was generated by TSDR on 2016-10-19 16:46:29 EDT

Mark: LOVE IS FOREVER

*Love is Forever*

US Serial Number: 79070322

Application Filing Date: May 13, 2009

US Registration Number: 3811074

Registration Date: Jun. 29, 2010

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Cancellation/Invalidation Pending

This trademark application has been registered with the Office, but it is currently undergoing a challenge which may result in its removal from the registry.

Status: A cancellation proceeding is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Oct. 16, 2015

Publication Date: Apr. 13, 2010

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## Mark Information

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Mark Literal Elements: LOVE IS FOREVER

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of the stylized words "Love is Forever".

Color(s) Claimed: Color is not claimed as a feature of the mark.

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## Related Properties Information

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International Registration Number: 1006266

International Registration Date: May 13, 2009

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## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*.\* identify additional (new) wording in the goods/services.

For: Key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks

International Class(es): 014 - Primary Class

U.S Class(es): 002, 027, 028, 050

Class Status: ACTIVE

Basis: 66(a)

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## Basis Information (Case Level)

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Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No  
Filed 44E: No  
Filed 66A: Yes  
Filed No Basis: No

Currently 44D: No  
Currently 44E: No  
Currently 66A: Yes  
Currently No Basis: No

Amended 44D: No  
Amended 44E: No

## Current Owner(s) Information

**Owner Name:** Souki Manufacturing Inc.  
**Owner Address:** 326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043 JAPAN  
**Legal Entity Type:** CORPORATION  
**State or Country Where Organized:** JAPAN

## Attorney/Correspondence Information

Attorney of Record - None  
Correspondent

**Correspondent Name/Address:** Souki Manufacturing Inc.  
Hodogaya-ku, Yokohama-shi  
326-6 Sakamoto-cho  
Kanagawa 240-0043 JAPAN

**Correspondent e-mail:** [521@b3comm.com](mailto:521@b3comm.com)

**Correspondent e-mail Authorized:** Yes

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Oct. 04, 2016	ASSIGNED TO PETITION STAFF	77357
Aug. 29, 2016	PETITION TO DIRECTOR RECEIVED	72574
Aug. 29, 2016	PAPER RECEIVED	
Aug. 26, 2016	FAX RECEIVED	
Jul. 05, 2016	POST REGISTRATION ACTION MAILED - SEC.71	85321
Jun. 29, 2016	PAPER RECEIVED	
Jun. 29, 2016	FAX RECEIVED	
Jun. 27, 2016	PAPER RECEIVED	
Jun. 28, 2016	FAX RECEIVED	
Jun. 22, 2016	FAX RECEIVED	
Jun. 22, 2016	FAX RECEIVED	
Jun. 21, 2016	FAX RECEIVED	
Jun. 21, 2016	FAX RECEIVED	
May 25, 2016	POST REGISTRATION ACTION MAILED - SEC.71	85321
May 24, 2016	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	85321
May 04, 2016	TEAS SECTION 71 RECEIVED	
May 04, 2016	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Oct. 16, 2015	CASE ASSIGNED TO TTAB	60328
Sep. 28, 2015	TTAB RELEASE CASE TO TRADEMARKS	58656
Sep. 28, 2015	CANCELLATION TERMINATED NO. 999999	58656
Sep. 28, 2015	CANCELLATION DISMISSED NO. 999999	58656
Nov. 06, 2014	CANCELLATION INSTITUTED NO. 999999	60328
Feb. 11, 2014	CANCELLATION INSTITUTED NO. 999999	58656
Feb. 12, 2013	FINAL DECISION TRANSACTION PROCESSED BY IB	
Oct. 14, 2010	FINAL DISPOSITION NOTICE SENT TO IB	
Oct. 14, 2010	FINAL DISPOSITION PROCESSED	67445
Sep. 29, 2010	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB	
Jul. 22, 2010	REVIEW OF CORRESPONDENCE COMPLETE	67657

Jul. 22, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67657
Jul. 11, 2010	FAX RECEIVED	
Jun. 29, 2010	REGISTERED-PRINCIPAL REGISTER	
May 03, 2010	ASSIGNED TO EXAMINER	85323
Apr. 13, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Apr. 13, 2010	PUBLISHED FOR OPPOSITION	
Apr. 05, 2010	PAPER RECEIVED	
Mar. 16, 2010	FAX RECEIVED	
Mar. 05, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	76984
Mar. 05, 2010	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	76984
Mar. 05, 2010	AMENDMENT FROM APPLICANT ENTERED	76984
Mar. 05, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Mar. 03, 2010	FAX RECEIVED	
Mar. 03, 2010	CORRESPONDENCE MAILED	
Mar. 02, 2010	FAX RECEIVED	
Mar. 02, 2010	FAX RECEIVED	
Mar. 02, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 02, 2010	EXAMINER'S AMENDMENT ENTERED	88888
Mar. 02, 2010	EXAMINERS AMENDMENT -WRITTEN	85325
Mar. 02, 2010	AMENDMENT FROM APPLICANT ENTERED	76984
Mar. 02, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Mar. 01, 2010	FAX RECEIVED	
Mar. 02, 2010	CONTINUATION OF FINAL REFUSAL MAILED	
Mar. 01, 2010	ACTION CONTINUING A FINAL - COMPLETED	85325
Feb. 25, 2010	CONTINUATION OF FINAL REFUSAL MAILED	
Feb. 25, 2010	ACTION CONTINUING A FINAL - COMPLETED	85325
Feb. 04, 2010	AMENDMENT FROM APPLICANT ENTERED	76984
Feb. 04, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Feb. 03, 2010	FAX RECEIVED	
Feb. 03, 2010	FAX RECEIVED	
Feb. 01, 2010	AMENDMENT FROM APPLICANT ENTERED	76984
Feb. 01, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Jan. 28, 2010	FAX RECEIVED	
Oct. 21, 2009	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	76984
Oct. 21, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Oct. 20, 2009	PAPER RECEIVED	
Oct. 15, 2009	CORRESPONDENCE MAILED	
Oct. 15, 2009	CORRESPONDENCE MAILED	
Oct. 15, 2009	ACTION CONTINUING A FINAL - COMPLETED	85325
Oct. 15, 2009	AMENDMENT FROM APPLICANT ENTERED	76984
Oct. 15, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Oct. 15, 2009	FAX RECEIVED	
Oct. 06, 2009	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	76984
Oct. 06, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Oct. 05, 2009	PAPER RECEIVED	
Sep. 29, 2009	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	76984
Sep. 29, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 29, 2009	FAX RECEIVED	
Sep. 22, 2009	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	76984
Sep. 22, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 21, 2009	FAX RECEIVED	
Sep. 18, 2009	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 18, 2009	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	76984
Sep. 18, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 18, 2009	FAX RECEIVED	

Sep. 16, 2009	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	76984
Sep. 16, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 15, 2009	FAX RECEIVED	
Sep. 16, 2009	CORRESPONDENCE MAILED	
Sep. 16, 2009	ACTION CONTINUING A FINAL - COMPLETED	85325
Sep. 15, 2009	AMENDMENT FROM APPLICANT ENTERED	76984
Sep. 15, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 15, 2009	FAX RECEIVED	
Sep. 15, 2009	FAX RECEIVED	
Sep. 11, 2009	REFUSAL PROCESSED BY IB	
Sep. 09, 2009	FINAL REFUSAL MAILED	
Sep. 09, 2009	FINAL REFUSAL WRITTEN	85325
Sep. 09, 2009	AMENDMENT FROM APPLICANT ENTERED	76984
Sep. 09, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 09, 2009	AMENDMENT FROM APPLICANT ENTERED	76984
Sep. 05, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 09, 2009	AMENDMENT FROM APPLICANT ENTERED	76984
Sep. 04, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 07, 2009	FAX RECEIVED	
Sep. 05, 2009	FAX RECEIVED	
Sep. 04, 2009	FAX RECEIVED	
Sep. 03, 2009	NOTICE OF UNRESPONSIVE AMENDMENT - MAILED	
Sep. 03, 2009	REPORT UNRESPONSIVE AMENDMENT - COMPLETED	85325
Sep. 03, 2009	AMENDMENT FROM APPLICANT ENTERED	76984
Sep. 03, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	76984
Sep. 03, 2009	ASSIGNED TO LIE	76984
Sep. 01, 2009	FAX RECEIVED	
Aug. 13, 2009	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	
Aug. 13, 2009	REFUSAL PROCESSED BY MPU	72589
Aug. 13, 2009	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
Aug. 12, 2009	NON-FINAL ACTION WRITTEN	85325
Aug. 12, 2009	ASSIGNED TO EXAMINER	85325
Aug. 04, 2009	APPLICATION FILING RECEIPT MAILED	
Jul. 31, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 30, 2009	SN ASSIGNED FOR SECT 66A APPL FROM IB	

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## International Registration Information (Section 66a)

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**International  
Registration  
Number:** 1006266

**International  
Registration Date:** May 13, 2009

**Intl. Registration  
Status:** REQUEST FOR EXTENSION OF PROTECTION  
PROCESSED

**Date of  
International  
Registration  
Status:** Jul. 30, 2009

**Notification of  
Designation Date:** Jul. 30, 2009

**Date of Automatic  
Protection:** Jan. 30, 2011

**International  
Registration  
Renewal Date:** May 13, 2019

**First Refusal Flag:** Yes

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## TM Staff and Location Information

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**TM Staff Information - None  
File Location**

**Current Location:** PETITIONS OFFICE

**Date in Location:** Oct. 04, 2016

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## Proceedings

**Summary**

Number of Proceedings: 2

**Type of Proceeding: Cancellation**

Proceeding Number: [92060328](#)

Filing Date: Nov 05, 2014

Status: Pending

Status Date: Nov 05, 2014

Interlocutory Attorney: MARY CATHERINE FAINT

**Defendant**

Name: Souki Manufacturing Inc.

Correspondent Address: SOUKI MANUFACTURING INC  
326-6 SAKAMOTO-CHO, HODOGAYA-KU, YOKOHAMA-SHI  
KANAGAWA JAPAN , 240-0043

Correspondent e-mail: [mina-csj@nifty.com](mailto:mina-csj@nifty.com)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
LOVE IS FOREVER	Cancellation Pending	<a href="#">79070322</a>	<a href="#">3811074</a>

**Plaintiff(s)**

Name: L.A. Gem and Jewelry Design, Inc.

Correspondent Address: MILORD A KESHISHIAN  
MILORD & ASSOCIATES PC  
10517 WEST PICO BLVD  
LOS ANGELES CA UNITED STATES , 90064

Correspondent e-mail: [uspto@milordlaw.com](mailto:uspto@milordlaw.com)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
LOVE IS FOREVER	Report Completed Suspension Check - Case Still Suspended	<a href="#">86285762</a>	

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Nov 05, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 06, 2014	Dec 16, 2014
3	PENDING, INSTITUTED	Nov 06, 2014	
4	P MOT FOR EXT W/O CONSENT	Oct 14, 2014	
5	D's MT TO AMEND ITS APPLICATION.	Nov 24, 2014	
6	STIP FOR EXT	Dec 05, 2014	
7	EXTENSION OF TIME GRANTED	Dec 05, 2014	
8	D'S COMMUNICATION	Dec 12, 2014	
9	D'S COMMUNICATION	Feb 19, 2015	
10	AMENDED ANSWER	Mar 03, 2015	
11	P MOTION TO STRIKE	Mar 05, 2015	
12	D'S PROOF OF SERVICE	Mar 10, 2015	
13	D RESPONSE TO P MOTION TO STRIKE	Mar 19, 2015	
14	SUSP PEND DISP OF OUTSTNDNG MOT	Mar 28, 2015	
15	D MOTION	Apr 03, 2015	
16	P REPLY IN SUPPORT OF MOTION	Apr 03, 2015	
17	D'S PROOF OF SERVICE	Apr 06, 2015	
18	D OPP/RESP TO MOTION	Apr 07, 2015	
19	D OPP/RESP TO MOTION	Apr 09, 2015	
20	PROOF OF SERVICE	Apr 16, 2015	
21	PROOF OF SERVICE	Apr 17, 2015	
22	D'S COMMUNICATION	Apr 19, 2015	

23	RESPONSE DUE 30 DAYS (DUE DATE)	Jun 12, 2015	Jul 12, 2015
24	AMENDED ANSWER	Jul 13, 2015	
25	AMENDED ANSWER	Jul 21, 2015	
26	P MOT FOR DEFAULT JUDGMENT	Jul 31, 2015	
27	SUSP PEND DISP OF OUTSTNDNG MOT	Aug 26, 2015	
28	D'S COMMUNICATION	Aug 27, 2015	
29	D OPP/RESP TO MOTION	Aug 28, 2015	
30	D'S PROOF OF SERVICE	Aug 29, 2015	
31	D MOTION	Sep 05, 2015	
32	D'S PROOF OF SERVICE	Sep 06, 2015	
33	P OPP/RESP TO MOTION	Sep 11, 2015	
34	D'S COMMUNICATION	Sep 16, 2015	
35	D'S PROOF OF SERVICE	Sep 17, 2015	
36	D'S PROOF OF SERVICE	Oct 02, 2015	
37	D'S COMMUNICATION	Oct 05, 2015	
38	D'S COMMUNICATION	Oct 14, 2015	
39	D'S COMMUNICATION	Nov 19, 2015	
40	D'S COMMUNICATION	Nov 19, 2015	
41	D COMMUNICATION	Dec 16, 2015	
42	D COMMUNICATION	Dec 16, 2015	
43	TRIAL DATES RESET	Dec 29, 2015	
44	D COMMUNICATION	Jan 04, 2016	
45	D'S PROOF OF SERVICE	Jan 07, 2016	
46	D REQ FOR DISCOVERY CONFERENCE-PHONE	Jan 10, 2016	
47	D'S PROOF OF SERVICE	Jan 10, 2016	
48	TRIAL DATES REMAIN AS SET	Jan 19, 2016	
49	D'S COMMUNICATION	Jan 21, 2016	
50	D'S PROOF OF SERVICE	Jan 22, 2016	
51	D'S MT TO AMEND ITS COMMUNICATION	Jan 25, 2016	
52	D'S PROOF OF SERVICE	Jan 26, 2016	
53	D'S MT TO AMEND ITS COMMUNICATION	Jan 28, 2016	
54	D'S PROOF OF SERVICE	Jan 28, 2016	
55	D'S COMMUNICATION	Feb 01, 2016	
56	D'S MT TO AMEND ITS COMMUNICATION	Feb 01, 2016	
57	D'S MT TO AMEND ITS COMMUNICATION	Feb 01, 2016	
58	D'S COMMUNICATION	Feb 01, 2016	
59	D'S PROOF OF SERVICE	Feb 03, 2016	
60	D'S PROOF OF SERVICE	Feb 03, 2016	
61	D'S PROOF OF SERVICE	Feb 03, 2016	
62	D'S PROOF OF SERVICE	Feb 07, 2016	
63	D'S COMMUNICATION	Feb 14, 2016	
64	D'S PROOF OF SERVICE	Feb 24, 2016	
65	D'S PROOF OF SERVICE	Feb 26, 2016	
66	D'S PROOF OF SERVICE	Feb 27, 2016	
67	CHANGE OF CORRESP ADDRESS	May 27, 2016	
68	AMENDED PET TO CANCEL FILED	May 28, 2016	
69	D OPP/RESP TO MOTION	Jun 21, 2016	
70	P MOT TO COMPEL DISCOVERY	Aug 25, 2016	
71	SUSP PEND DISP OF OUTSTNDNG MOT	Aug 31, 2016	
72	D OPP/RESP TO MOTION	Sep 01, 2016	
73	D'S COMMUNICATION	Sep 05, 2016	
74	P REPLY IN SUPPORT OF MOTION	Sep 23, 2016	
75	D OPP/RESP TO MOTION	Oct 06, 2016	
76	D'S COMM	Oct 08, 2016	
77	D'S COMMUNICATION	Oct 10, 2016	

**Type of Proceeding: Cancellation****Proceeding Number:** [92058656](#)**Filing Date:** Feb 07, 2014**Status:** Terminated**Status Date:** Oct 22, 2015**Interlocutory Attorney:** ANDREW P BAXLEY**Defendant****Name:** Souki Manufacturing Inc.**Correspondent Address:** SOUKI MANUFACTURING INC  
326-6 SAKAMOTO-CHO, HODOGAYA-KU  
KANAGAWA JAPAN , 240-0043**Correspondent e-mail:** [mina-csj@nifty.com](mailto:mina-csj@nifty.com)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
LOVE IS FOREVER	Cancellation Pending	<a href="#">79070322</a>	<a href="#">3811074</a>

**Plaintiff(s)****Name:** Samuel Aaron, Inc.**Correspondent Address:** CATHERINE M C FARRELLY  
FRANKFURT KURNIT KLEIN & SELZ PC  
488 MADISON AVENUE  
NEW YORK NY UNITED STATES , 10022**Correspondent e-mail:** [cfarrelly@fkks.com](mailto:cfarrelly@fkks.com) , [pto@fkks.com](mailto:pto@fkks.com)**Associated marks**

Mark	Application Status	Serial Number	Registration Number
WHEN LOVE IS FOREVER	Suspension Letter - Mailed	<a href="#">85948771</a>	

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Feb 07, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Feb 11, 2014	Mar 23, 2014
3	PENDING, INSTITUTED	Feb 11, 2014	
4	ANSWER	Mar 31, 2014	
5	DEF'S COMMUNICATION RE: CERTIFICATE OF SERVICE	Apr 03, 2014	
6	AMENDED ANSWER	Apr 08, 2014	
7	AMENDED ANSWER	Apr 16, 2014	
8	TRIAL DATES REMAIN AS SET	Apr 29, 2014	
9	DEF'S CERTIFICATE OF SERVICE	May 05, 2014	
10	CHANGE OF CORRESP ADDRESS	May 22, 2014	
11	DEF'S COMMUNICATION	Aug 11, 2014	
12	DEF'S COMMUNICATION	Oct 07, 2014	
13	CHANGE OF CORRESP ADDRESS	Oct 20, 2014	
14	RESPONSE DUE	Dec 01, 2014	
15	D MOT FOR EXT W/O CONSENT	Dec 12, 2014	
16	DEF'S CERTIFICATE OF SERVICE	Dec 22, 2014	
17	DEF'S COMPLETE VERSION OF AMENDED ANSWER	Jan 05, 2015	
18	RESPONSE DUE 30 DAYS (DUE DATE)	Jan 26, 2015	Feb 25, 2015
19	D'S PRETRIAL DISCLOSURES, TRIAL EVIDENCE AND DISCOVERY RESPONSES	Feb 02, 2015	
20	D'S MOTION FOR LEAVE TO AMEND ANSWER	Feb 18, 2015	
21	D'S AMENDMENT TO EVIDENCE	Feb 24, 2015	
22	COPY OF #20 WITH CERTIFICATE OF SERVICE	Feb 22, 2015	
23	DEF'S CERTIFICATE OF SERVICE	Mar 03, 2015	
24	P'S AMENDMENT TO PRETRIAL DISCLOSURES	May 04, 2015	
25	D'S AMENDMENT TO #24	May 07, 2015	

26	D'S MOTION TO AMEND #17	Jun 11, 2015
27	D'S COMMUNICATION	Jun 20, 2015
28	PROCEEDINGS RESUMED	Jul 22, 2015
29	W/DRAW OF PET FOR CANCELLATION	Sep 23, 2015
30	BD DECISION: DISMISSED W/O PREJ	Sep 28, 2015
31	TERMINATED	Sep 28, 2015
32	DEF'S COMMUNICATION	Oct 13, 2015
33	DEF'S COMMUNICATION	Oct 21, 2015
34	PAPER RECEIVED AT TTAB	Oct 23, 2015

EXHIBIT C

## Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71

The table below presents the data as entered.

Input Field	Entered
<b>REGISTRATION NUMBER</b>	3811074
<b>REGISTRATION DATE</b>	06/29/2010
<b>SERIAL NUMBER</b>	79070322
<b>MARK SECTION</b>	
<b>MARK</b>	LOVE IS FOREVER (stylized and/or with design)
<b>CORRESPONDENCE SECTION (current)</b>	
<b>FIRM NAME</b>	SOUKI MANUFACTURING INC
<b>INTERNAL ADDRESS</b>	HODOGAYA-KU, YOKOHAMA-SHI
<b>STREET</b>	326-6 SAKAMOTO-CHO
<b>CITY</b>	KANAGAWA
<b>POSTAL CODE</b>	240-0043
<b>COUNTRY</b>	Japan
<b>PHONE</b>	81-45-333-4525 or 81-45-3
<b>FAX</b>	81-45-515-0047
<b>EMAIL</b>	mina-csj@nifty.com
<b>CORRESPONDENCE SECTION (proposed)</b>	
<b>NAME</b>	Souki Manufacturing Inc.
<b>INTERNAL ADDRESS</b>	326-6 Sakamoto-cho
<b>STREET</b>	Hodogaya-ku, Yokohama-shi
<b>CITY</b>	Kanagawa 240-0043
<b>COUNTRY</b>	Japan
<b>EMAIL</b>	521@b3comm.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	014
<b>GOODS OR SERVICES</b>	Key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks
<b>SPECIMEN FILE NAME(S)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT 16\790\703\79070322\xml3\S710002.JPG</a>

<b>SPECIMEN DESCRIPTION</b>	applicants mark in use
<b>OWNER/HOLDER SECTION (current)</b>	
<b>NAME</b>	Souki Manufacturing Inc.
<b>INTERNAL ADDRESS</b>	326-6 Sakamoto-cho
<b>STREET</b>	Hodogaya-ku, Yokohama-shi
<b>CITY</b>	Kanagawa 240-0043
<b>COUNTRY</b>	Japan
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	Souki Manufacturing Inc.
<b>INTERNAL ADDRESS</b>	326-6 Sakamoto-cho
<b>STREET</b>	Hodogaya-ku, Yokohama-shi
<b>CITY</b>	Kanagawa 240-0043
<b>COUNTRY</b>	Japan
<b>EMAIL</b>	521@b3comm.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>LEGAL ENTITY SECTION (current)</b>	
<b>TYPE</b>	corporation
<b>STATE/COUNTRY OF INCORPORATION</b>	Japan
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>NUMBER OF CLASSES PAID</b>	1
<b>SUBTOTAL AMOUNT</b>	100
<b>TOTAL FEE PAID</b>	100
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/N.Minaki/
<b>SIGNATORY'S NAME</b>	Nobuhiko Minaki
<b>SIGNATORY'S POSITION</b>	Applicant
<b>DATE SIGNED</b>	05/05/2016
<b>PAYMENT METHOD</b>	CC
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Wed May 04 17:21:13 EDT 2016
<b>TEAS STAMP</b>	USPTO/SECT71-XX.XX.XXX.XX -20160504172113680278-381 1074-550e7b05d87ba858c669 7e112a440f9f51cc0fed9f2d8 a48c2358d5c9ad74ccc13-CC- 4285-20160504170212654931



**Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71  
To the Commissioner for Trademarks:**

**REGISTRATION NUMBER:** 3811074

**REGISTRATION DATE:** 06/29/2010

**MARK:** (Stylized and/or with Design, LOVE IS FOREVER (see, [mark](#)))

The owner/holder, Souki Manufacturing Inc., a corporation of Japan, having an address of  
326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043,  
Japan  
521@b3comm.com (authorized)  
is filing a Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71.

For International Class 014, the mark is in use in commerce on or in connection with **all** goods/services, or to indicate membership in the collective membership organization, listed in the existing registered extension of protection for this specific class; or, the owner is making the listed excusable nonuse claim.

The owner is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) applicants mark in use.

[Specimen File](#)

The registrant's current Correspondence Information: of SOUKI MANUFACTURING INC  
HODOGAYA-KU, YOKOHAMA-SHI  
326-6 SAKAMOTO-CHO  
KANAGAWA, 240-0043  
Japan

The registrant's proposed Correspondence Information: Souki Manufacturing Inc.  
326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043,  
Japan

The email address is 521@b3comm.com.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

**Declaration**

*Unless the owner/holder has specifically claimed excusable nonuse, the mark is in use in commerce on or in connection with the goods/services, or to indicate membership in the collective membership organization identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.*

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /N.Minaki/ Date: 05/05/2016

Signatory's Name: Nobuhiko Minaki

Signatory's Position: Applicant

Serial Number: 79070322

Internet Transmission Date: Wed May 04 17:21:13 EDT 2016

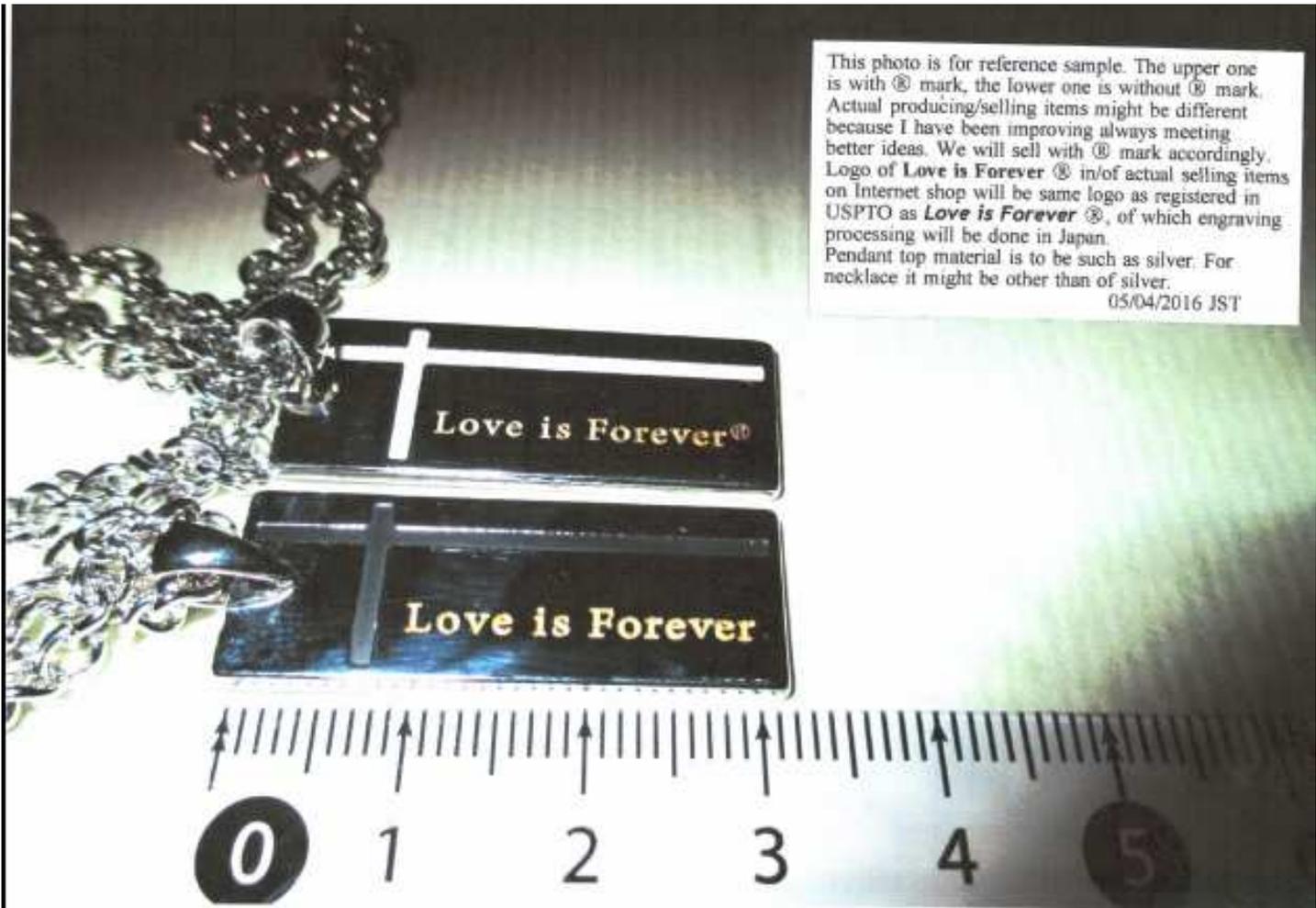
TEAS Stamp: USPTO/SECT71-XX.XX.XXX.XX-20160504172113

680278-3811074-550e7b05d87ba858c6697e112

a440f9f51cc0fed9f2d8a48c2358d5c9ad74ccc1

3-CC-4285-20160504170212654931

This photo is for reference sample. The upper one is with ® mark, the lower one is without ® mark. Actual producing/selling items might be different because I have been improving always meeting better ideas. We will sell with ® mark accordingly. Logo of Love is Forever ® in/of actual selling items on Internet shop will be same logo as registered in USPTO as *Love is Forever* ®, of which engraving processing will be done in Japan. Pendant top material is to be such as silver. For necklace it might be other than of silver.  
05/04/2016 JST



**ROUTING SHEET TO POST REGISTRATION (PRU)**

**Registration Number:** 3811074



**Serial Number:** 79070322



**RAM Sale Number:** 3811074

**RAM Accounting Date:** 20160505

**Total Fees:** \$100

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

**Transaction Date:** 20160504



**EXHIBIT D**

**To:** Souki Manufacturing Inc. ([521@b3comm.com](mailto:521@b3comm.com))  
**Subject:** TRADEMARK REGISTRATION NO. 3811074 - LOVE IS FOREVER - N/A  
**Sent:** 05/25/16 07:01:29 AM  
**Sent As:** PRG@uspto.gov  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT OWNER'S TRADEMARK REGISTRATION**

**U.S. REGISTRATION NO.** 3811074

**OWNER:** Souki Manufacturing Inc.

79070322

**CORRESPONDENT'S ADDRESS :**  
Souki Manufacturing Inc.  
326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043 Japan

**MARK:** LOVE IS FOREVER

**CORRESPONDENT'S REFERENCE/DOCKET NO.** N/A

**CORRESPONDENT'S EMAIL ADDRESS :**  
[521@b3comm.com](mailto:521@b3comm.com)

**CLICK ON THE LINK BELOW TO RESPOND TO THIS LETTER AND SELECT FORM NUMBER 11:**

[http://www.uspto.gov/trademarks/teas/reg\\_maintain.jsp](http://www.uspto.gov/trademarks/teas/reg_maintain.jsp)

**POST REGISTRATION OFFICE ACTION**

**ISSUE/MAILING DATE: 5/25/2016**

U.S. Registration Number 3811074

The Section 71 Affidavit, filed on May 4, 2016, is not accepted for the reason set forth below.

**Summary of Issues Owner Must Address**

- Clarification of Use
- Specimen Requirement
- Deficiency Surcharge (if response received after June 29, 2016)

**Clarification of Use**

The affidavit states that the mark is in use with all of the goods in the registration. However, the specimen includes a caption that states that the specimens are "reference sample[s]" and indicates that "[a]ctual production/selling" has not yet begun.

Therefore, the owner must clarify whether the mark is in use in commerce.

The use or display of a mark in the sale or advertising of goods before the goods are actually created or provided does not show use in commerce. *See Couture v. Playdom, Inc.*, 778 F.3d 1379, 1380-82, 113 USPQ2d 2042, 2043-44 (Fed. Cir. 2015) (holding that applicant failed to use the mark in commerce, even though applicant posted a website advertising his willingness to offer the services, because applicant had not rendered the services as of the application filing date); *Aycock Eng'g, Inc. v. Airflite, Inc.*, 560 F.3d 1350, 1360, 90 USPQ2d 1301, 1307-08 (Fed. Cir. 2009) (holding that applicant failed to use the mark in commerce, even though applicant had engaged in preparations to provide the

services, because applicant had not rendered the services as of the application filing date); *Richardson-Vicks, Inc. v. Franklin Mint Corp.*, 216 USPQ 989, 991-92 (TTAB 1982) (noting that the goods to be identified by the mark must exist at or prior to the application filing date); TMEP §§904, 1301.03(a).

### **Specimen Requirement**

The mark, LOVE IS FOREVER, is registered for the following goods:

Key rings of precious metal; ornaments, namely, earrings, precious metal insignias, precious metal badges, precious metal medals, tiepins, necklaces, bracelets, pendants, jewelry brooches, medals, rings to wear on finger, medallions; cuff links; clocks and watches, namely, wristwatches, table clocks, watches for carrying in pockets, clocks for vehicles, stop watches, wall clocks, alarm clocks, in Class 14.

The holder/owner of the registration provided a specimen with its Section 71 Affidavit; however, the specimen is unacceptable because it does not show use of the registered mark in a manner in which it would be perceived as a trademark. *See* TMEP §§904.07(b), 1202.03 *et seq.*

Specifically, the specimen consists of two pendants that show the mark engraved in a relatively large size on the visible surface. As shown, the mark would likely be perceived merely as a decorative or ornamental feature on the goods because it appears in large size across the entire surface of the goods. Consumers would view the mark as message to be conveyed to the recipient of the goods, rather than as a source identifier.

Therefore, the holder/owner must submit the following:

- (1) A substitute specimen showing current use of the registered mark in commerce for each class of goods specified in the registration; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**The substitute specimen was in use in commerce during the relevant period for filing the 6-year Section 71.**” 37 C.F.R. §7.37(g).

Examples of specimens for goods are tags, labels, instruction manuals, containers, photographs that show the mark on the actual goods or packaging, or displays associated with the actual goods at their point of sale. *See* TMEP §§904.03 *et seq.*

### **Response Guidelines**

Responses to Office actions must be properly signed. 37 C.F.R. §§2.193(e)(2), 7.39(a); TMEP §611.03(b). Where a holder/owner is not represented by an attorney, the response must be signed by someone with legal authority to bind a juristic holder/owner (e.g., a corporate officer or general partner). *See* 37 C.F.R. §2.193(e)(2)(ii); TMEP §§611.03(b), 611.06 *et seq.*

**RESPONSE TIME DEADLINE:** A complete response must be received within 6 months from the issuance date of this Office action. The holder/owner must respond to all inquiries set forth in this Office action to avoid cancellation of the registration. 37 C.F.R. §7.39(a)-(b).

**DEFICIENCY SURCHARGE INFORMATION:** A \$100 deficiency surcharge must be submitted if the response to this Office action is received by the Office after the 6<sup>th</sup> year anniversary date on June 29, 2016. 37 C.F.R. §§7.6, 7.39(c)(1).

**ADVISORY:** If a response to this Office action is not filed within the response deadline above, and time remains in the grace period, the holder/owner may avoid cancellation of its registration by filing a new affidavit of use within the grace period. 37 C.F.R. §7.39(b). Additional fees are required to file a new affidavit during the grace period. 37 C.F.R. §7.37(d)(1)-(2). For more information about this, please contact the undersigned.

/Kim Teresa Moninghoff/  
Examining Attorney  
Law Office 113  
Phone: 571-272-4738  
Fax: 571-273-9113  
Email: kim.moninghoff@uspto.gov

**TO RESPOND TO THIS LETTER:** Use the Trademark Electronic Application System (TEAS) Response to Post-Registration Office action

form number 11 at [http://www.uspto.gov/trademarks/teas/reg\\_maintain.jsp](http://www.uspto.gov/trademarks/teas/reg_maintain.jsp). Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the registration. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned specialist. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this registration will be placed in the official registration record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual owner or someone with legal authority to bind an owner (i.e., a corporate officer, a general partner, all joint owners). If an owner is represented by an attorney, the attorney must sign the response.

**CHECK THE STATUS OF THE REGISTRATION:** To check the status of your registration at any time, visit the Office's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Souki Manufacturing Inc. ([521@b3comm.com](mailto:521@b3comm.com))  
**Subject:** TRADEMARK REGISTRATION NO. 3811074 - LOVE IS FOREVER - N/A  
**Sent:** 05/25/16 07:01:29 AM  
**Sent As:** PRG@uspto.gov  
**Attachments:**

**IMPORTANT NOTICE  
USPTO OFFICE ACTION HAS ISSUED ON 05/25/2016 FOR  
REGISTRATION NO. 3811074**

Please follow the instructions below to continue the examination of your post registration filing:

**VIEW OFFICE ACTION:** Click on this link

<http://tsdr.uspto.gov/view.action?DDA=Y&sn=79070322&type=OOA&date=20160525>

(or copy and paste this URL into the address field of your browser), or visit <http://tsdr.uspto.gov/> and enter the registration number to access the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this notification.

**RESPONSE MAY BE REQUIRED:** You should carefully review the Office action to determine (1) if a response is required, (2) how to respond and (3) the applicable response time period your response deadline will be calculated from.

**Do NOT hit 'Reply' to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.**

**HELP:** For technical assistance in accessing the Office action, please e-mail [tsdr@uspto.gov](mailto:tsdr@uspto.gov). Please contact the assigned examiner with questions about the Office action.

**WARNING**

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline may result in the cancellation and/or expiration of your registration.**

**EXHIBIT E**

Dear Customers,

**OFFER TO SELL FOR OUR CUSTOMERS OF USA**  
**PENDANT TOP**

Souki Manufacturing Inc. has been happy to offer to sell the following commodity.

**1) Commodity:**

Pendant Top with stylized form trademark as laser marked *Love is Forever*® logo as the photo picture as attached.

The pendant top size: Length 32 mm x Width 9 mm x Thickness 1.4 mm

Material of commodity: Brushed Stainless Steel

Stainless is good for stain by sweat etc



**2) Countries and areas we could sell:**

Due to our capability, we would like to sell customers live in each state of USA in North American continent and state of Hawaii only now.

**3) Price of commodity etc:**

Price: Japanese yen ¥5,500.- for one piece.

Person who wants to purchase the commodity, please remit Japanese yen ¥5,500.- for one piece to the following bank account.

In Japanese yen ¥5,500.- delivery charge and tax are included.

Please allow us to regard customer admits the conditions etc stated in this offer after customer remitting Japanese yen ¥5,500.- to us.

And for purchasing and delivery, please E-mail the following 5) Necessities to

**mina-csj@nifty.com.**

**4) Bank Charge to remit the price of Japanese yen ¥5,500.- to the following our Bank Account from bank customer to remit:**

Bank Charge shall be paid by customer who could purchase our Commodity.

**5) Necessities to typewrite in E-mail for purchasing:**

Please typewrite as follows in E-mail and E-mail to mina-csj@nifty.com.

(1) Commodity name: Pendant Top

(2) Order quantity: Please typewrite such as: 1 piece or quantity customer wants to order by typewriting.

(3) Customer full name: Such as 1stly first name 2ndly middle name 3rdly last name by typewriting.

(4) Address want to receive commodity: By typewriting

(5) Zip(postal) code: By typewriting

(6) Telephone number: By typewriting

(7) E-mail address: By typewriting

**6) Bank Account customer to remit the price of commodity :**

Bank name: Sumitomomitsui Banking Corporation

Branch: Yokohamaekimae Branch

Branch Number: 547

Kind of Account: Ordinary Deposit

Account Number: 8735000

Swift Cord: SMBCJPJT

Recipient name, address etc:

Souki Manufacturing Inc.

326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi

Kanagawa, 240-0043, Japan

Telephone Number: 81-45-333-4525 (81 is for Japan)

**7) Seller:**

Souki Manufacturing Inc.

326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi

Kanagawa, 240-0043, Japan

Telephone Number: 81-45-333-4525 (81 is for Japan)

Fax Number: 81-45-515-0047

E-mail: mina-csj@nifty.com

**URL: <http://mina-smi.a.la9.jp>**

**8) Returning or changing commodity:**

In case of returning commodity due to defects etc after receiving commodity, please advise within 4 days(including the date the commodity customer received) by E-mailing stating, "I will return the commodity, the reason why ...," to mina-csj@nifty.com, and the reason to return is reasonable we will accept returning. If the reason to return could be stated in detail, it is highly thankful. Regarding delivery charge to return to us, customer shall bear. In the E-mail, please typewrite including reason to return and ① bank name ②branch name ③ branch number ④kind of account ⑤account number ⑥swift cord ⑦recipient name and address etc by which we could refund.

Or if customer wants to change from the commodity(ies) customer wants to return to change to another or other commodity(ies), 1stly please typewrite to E-mail the request to change to new commodity(ies) stating, "I will ask to change the commodity to the other one(s), the reason why ...," to mina-csj@nifty.com, and the reason to ask to change is reasonable we will accept the change. If the reason to change could be stated in detail, it is highly thankful. Regarding delivery charge to return to us, customer shall bear. We would like to deliver a new one or new ones to customer after we receiving the commodity(ies) customer to return to change.

E-mailing to request to return or to change after 5 days(including the date the commodity customer received), we could not accept request of returning and could not accept to change to a new one or new ones.

**9) Regarding information of customer:**

Regarding information of customers we being advised in purchasing, we will not use information of customers other than for customers' this purchasing purpose relation only except being requested by authorities concerned as court of justice, police.

※ *Love is Forever*® is registered trademark of Souki Manufacturing Inc., which is registered at 326-6 Sakamoto-cho, Hodogaya-ku, Yokohama-shi, Kanagawa, 240-0043, Japan

**EXHIBIT F**

**To:** Souki Manufacturing Inc. ([521@b3comm.com](mailto:521@b3comm.com))  
**Subject:** TRADEMARK REGISTRATION NO. 3811074 - LOVE IS FOREVER - N/A  
**Sent:** 07/05/16 12:50:49 PM  
**Sent As:** ecom108@uspto.gov  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT OWNER'S TRADEMARK REGISTRATION**

**U.S. REGISTRATION NO.** 3811074

**OWNER:** Souki Manufacturing Inc.

79070322

**CORRESPONDENT'S ADDRESS :**

Souki Manufacturing Inc.  
326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043 Japan

**MARK:** LOVE IS FOREVER

**CORRESPONDENT'S REFERENCE/DOCKET NO.** N/A

**CORRESPONDENT'S EMAIL ADDRESS :**  
[521@b3comm.com](mailto:521@b3comm.com)

**CLICK ON THE LINK BELOW TO RESPOND TO THIS LETTER AND SELECT FORM NUMBER 11:**

[http://www.uspto.gov/trademarks/teas/reg\\_maintain.jsp](http://www.uspto.gov/trademarks/teas/reg_maintain.jsp)

**POST REGISTRATION OFFICE ACTION**

**ISSUE/MAILING DATE: 7/5/2016**

U.S. Registration Number 3811074

Your responses to the outstanding Office action regarding the Section 71 Affidavit were timely received between June 21, 2016, and June 29, 2016. After consideration of the response and the facts of record, the refusal to accept the Section 71 Affidavit is maintained for the reasons set forth below. The registration will be cancelled in due course.

**If you disagree with this refusal to accept the Section 71 Affidavit, you may file a petition to the Director to review this decision.** 37 C.F.R. §§2.146(a)(2), 7.40; TMEP §§1604.18 *et seq.* The petition must be filed within six months from the issuance date of this letter and be accompanied by a fee of \$100. 37 C.F.R. §§2.6, 2.146(c), 7.40(b). Any facts to be proven on petition must be in the form of an affidavit or declaration under 37 C.F.R. §2.20; and signed by someone with firsthand knowledge of the facts to be proved. 37 C.F.R. §2.146(c).

**Clarification of Use**

The previous Office action included a requirement that the owner clarify whether the mark is in use. The owner has indicated that the wording referenced in the previous Office action related to a survey regarding placement of the wording on the goods, and has confirmed that the goods are available for sale to U.S. consumers via the mark owner's website. Therefore, the mark owner has **satisfied** this requirement.

**Deficiency Surcharge**

A deficiency surcharge was only required if the mark owner responded after June 29, 2016. Since the responses were received on and prior to

this date, no additional fees were required.

### **Specimen Requirement – Ornamentation**

The specimen submitted with the Section 71 Affidavit was found to be unacceptable for the following reasons:

The specimen consists of two pendants that show the mark engraved in a relatively large size on the visible surface. As shown, the mark would likely be perceived merely as a decorative or ornamental feature on the goods because it appears in large size across the entire surface of the goods. Consumers would view the mark as message to be conveyed to the recipient of the goods, rather than as a source identifier.

The mark owner has not submitted a substitute specimen. The mark owner's response references its website at <http://mina-smi.a.la9.jp/>. See *Second Fax received 6/21/2016, TSDR, at 2*. However, a copy of this website has not been made of record. Had a copy been submitted as a substitute specimen, it would not have been accepted because, as discussed in informal communications with the mark owner, see also *First Fax received, 6/22/2016, at 1-2*, the mark appears on the goods in a similar manner to the specimen of record. The subsequent amendment to the website, see *First Fax received, 6/29/2016, TSDR, at 4*, is an informational statement referencing the trademark registration, but does not show use of the LOVE IS FOREVER as a trademark for the goods sold on the page.

The mark owner has also argued that the slogan cannot be placed on earrings or rings in the same ornamental manner as the specimen of record, see *First Fax received, 6/22/2016, at 1*, but has not made of record any specimens showing how the mark owner uses the mark for these goods.

Instead of submitting a substitute specimen, the mark owner has provided argument regarding this requirement.

The summarized results of the mark owner's intercept study confirm that potential consumers view the mark as an ornamental slogan because the survey focuses on the most desirable location for engraving the slogan on the goods. See *Second Fax received 6/21/2016, TSDR, at 3*; *First Fax received 6/29/2016, TSDR, at 5*. The mark owner has also stated that the wording LOVE IS FOREVER "has fascination," which is why "a lot of homepages feature" this wording. See *First Fax received 6/27/2016, TSDR, at 3-4*. This "fascination" is also what makes the slogan ornamental. The fact that the specific meaning of the slogan (i.e., how long forever is) may vary from consumer to consumer, see *First Fax received 6/27/2016, TSDR, at 4*, *Second Fax received 6/27/2016, at 1*, does not mean that the slogan is not ornamental—consumers will still select jewelry with the slogan based on what the slogan means to them. See also *First Fax received 6/27/2016, TSDR, at 9* (discussing use of slogan on message to a friend at her wedding announcement party); *First Fax received 6/29/2016, TSDR, at 8-9* ("I think young people in Japan, especially young people, hope to last their love longer as more than 1 million years or infinitely forever. . . . In front of Love is Forever phrase, young people tends to be romantic, fascinated, insane, 'mad'.").

The mark owner has also argued for various freedoms, including freedom of business and expression. See *Second Fax received 6/21/2016, TSDR, at 3*. There is no specific freedom of business exception to a finding that a mark is merely ornamentation.

The Trademark Act, 15 U.S.C. §1052, promotes freedom of business by providing that "No trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration" unless one of six exceptions apply. However, for this provision to apply, the mark must meet the definition of being a trademark, i.e., it must "identify and distinguish [the mark owner's] goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods." 15 U.S.C. §1127; *In re Aerospace Optics Inc.*, 78 USPQ2d 1861, 1862 (TTAB 2006); *In re Bose Corp.*, 546 F.2d 893, 192 USPQ 213, 215 (CCPA 1978)).

Not every designation that is used on or in connection with a product necessarily functions or is recognized as a trademark for said product; not every designation adopted with the intention that it performs a trademark function and even labeled as a trademark necessarily accomplishes that purpose. The mere fact that a designation appears on the specimens of record does not make it a mark. *In re Safariland Hunting Corp.*, 24 USPQ2d 1380, 1381 (TTAB 1992). Subject matter that, due to the manner in which it is used, does not function as a mark to identify and distinguish the applicant's applied-for goods or services cannot be registered. *In re HSB Solomon Assocs. LLC*, 102 USPQ2d 1269, 1270. It is well settled that slogans imprinted on goods, like the applicant's mark do not meet the above definition of a trademark. See TMEP §1202.03(f)(i).

As to freedom of expression, in *In re Eagle Crest Inc.*, 96 USPQ2d 1227, 1230 (TTAB 2010), the Board upheld a similar type of refusal on the basis that some "type[s] of expression . . . should remain free for all to use." Thus the finding that the mark is mere ornamentation is consistent with freedom of expression.

The mark owner has also argued for consistency with the treatment of the mark by the examining attorneys that originally examined and approved the mark for registration. See *Second Fax received 6/21/2016, TSDR, at 13*. However, as discussed with the mark owner, the application had a Section 66(a) filing basis so no specimen was required or submitted during initial examination. Therefore, the issuance of this specimen requirement is not inconsistent with the treatment of the mark by the previous examining attorneys.

The remainder of the mark owner's faxes deal with information specific to a cancellation proceeding that has been dismissed in the mark owner's favor, or are additional copies of the information referenced above.

Thus, for the foregoing reasons, the specimen of record fails to function as a trademark because it consists of an ornamental slogan imprinted on the goods. Accordingly, the Section 71 Affidavit cannot be accepted.

/Kim Teresa Moninghoff/  
Examining Attorney  
Law Office 113  
Phone: 571-272-4738  
Fax: 571-273-9113  
Email: kim.moninghoff@uspto.gov

**TO RESPOND TO THIS LETTER:** Use the Trademark Electronic Application System (TEAS) Response to Post-Registration Office action form number 11 at [http://www.uspto.gov/trademarks/teas/reg\\_maintain.jsp](http://www.uspto.gov/trademarks/teas/reg_maintain.jsp). Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the registration. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned specialist. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

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**CHECK THE STATUS OF THE REGISTRATION:** To check the status of your registration at any time, visit the Office's Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Souki Manufacturing Inc. ([521@b3comm.com](mailto:521@b3comm.com))  
**Subject:** TRADEMARK REGISTRATION NO. 3811074 - LOVE IS FOREVER - N/A  
**Sent:** 07/05/16 12:50:49 PM  
**Sent As:** ecom108@uspto.gov  
**Attachments:**

**IMPORTANT NOTICE  
USPTO OFFICE ACTION HAS ISSUED ON 07/05/2016 FOR  
REGISTRATION NO. 3811074**

Please follow the instructions below to continue the examination of your post registration filing:

**VIEW OFFICE ACTION:** Click on this link

<http://tsdr.uspto.gov/view.action?DDA=Y&sn=79070322&type=OOA&date=20160705>

(or copy and paste this URL into the address field of your browser), or visit <http://tsdr.uspto.gov/> and enter the registration number to access the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this notification.

**RESPONSE MAY BE REQUIRED:** You should carefully review the Office action to determine (1) if a response is required, (2) how to respond and (3) the applicable response time period your response deadline will be calculated from.

**Do NOT hit 'Reply' to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.**

**HELP:** For technical assistance in accessing the Office action, please e-mail [tsdr@uspto.gov](mailto:tsdr@uspto.gov). Please contact the assigned examiner with questions about the Office action.

**WARNING**

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline may result in the cancellation and/or expiration of your registration.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on October 21, 2016, I caused a true and correct copy of the foregoing **DECLARATION OF MILORD A. KESHISHIAN IN SUPPORT OF PETITIONER'S OPPOSITION TO RESPONDENT'S JUDGMENT TO DISMISS AND RESPONDENT'S REQUEST TO NOT RESPOND TO PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF ITS MOTIONS TO COMPEL** to be sent via email, to Registrant's Correspondence of Record as follows:

Souki Manufacturing, Inc.  
326-6 Sakamoto-cho  
Hodogaya-ku, Yokohama-shi  
Kanagawa 240-0043  
Japan  
Email: [mina-csj@nifty.com](mailto:mina-csj@nifty.com)

/Milord A. Keshishian/  
Milord A. Keshishian  
10517 West Pico Boulevard  
Los Angeles, CA 90064  
Telephone: (310) 226-7878  
Facsimile: (310) 226-7879