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

Proceeding	86304202
Applicant	MNS, Ltd.
Applied for Mark	ISLAND KEIKI
Correspondence Address	MARTIN E. HSIA, 32,471 CADES SCHUTTE A LIMITED LIABILITY LAW PARTNERSHIP 1000 BISHOP ST FL 12 HONOLULU, HI 96813-4202 UNITED STATES ip@cades.com, mhsia@cades.com
Submission	Request for Reconsideration
Attachments	2015.06.04.RequestForReconsideration.pdf(599518 bytes )
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Signature	/Martin E. Hsia/
Date	06/04/2015

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

_____	)	
In re Application of:	)	
MNS, Ltd.	)	Trademark Law Office: 115
Serial No. 86/304,202	)	
Filed: June 9, 2014	)	Attorney: Lee-Anne Berns
Mark: ISLAND KEIKI	)	
_____	)	

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**REQUEST FOR RECONSIDERATION**  
**PURSUANT TO 37 C.F.R. § 2.64(b)**

Dear Sirs:

This is a request for reconsideration of the Final Office Action mailed December 4, 2014 (the "**Final Action**"), pursuant to 37 C.F.R § 2.64(b). This request is being made within the six month time period to reply to the Final Action.

**REMARKS**

In the Final Action, the Examining Attorney maintained her refusal of U.S. Trademark Application Serial No. 86/304,202 for "ISLAND KEIKI" ("**Applicant's Mark**") for "Children's clothing, namely, cloth bibs, headwear, footwear, tops and bottoms" in International Class 25 (the "**Application**"), in view of an alleged likelihood of confusion with U.S. Trademark Registration No. 3,144,966 for "ISLAND CHILD" for "retail store services featuring children's bedding; children's clothing, namely, overalls, robes, sweaters, sleepwear and special occasion wear; children's furniture, namely, lamps and bedroom furniture; children's shoes, namely, sandals,

flip-flops, walkers, dress shoes, clogs; children's toys, namely stuffed animals and dolls; birthday party hats; and non-medicated skin care products” in International Class 35 (the “**Blocking Registration**”).

In response, Applicant hereby requests the Trademark Trial and Appeal Board to remand the Application to Trademark Examining Attorney in view of the attached consent agreement signed by Applicant and Island Child, Inc., the registrant of the Blocking Registration, detailing the particular reasons why the parties believe no likelihood of confusion exists and specifying the arrangements undertaken by each party to avoid confusing the public. See Exhibit “A.” The consent agreement, which is highly persuasive of registrability, was not previously available before today.

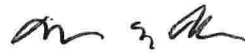
The Court of Appeals for the Federal Circuit has indicated that “[such] consent agreements should be given great weight, and that the USPTO should not substitute its judgment concerning likelihood of confusion for the judgment of the real parties in interest without good reason.” TMEP § 1207.01(d)(viii) (citing In re Four Seasons Hotels Ltd., 987 F.2d 1565, 26 USPQ2d 1071 (Fed. Cir. 1993)).

Accordingly, Applicant respectfully submits that the 2(d) refusal should be withdrawn and that all outstanding issues in the Final Action are now resolved.

### **CONCLUSION**

In view of the above, it is believed that Applicant’s Mark should be approved for publication because there is no likelihood of confusion between “ISLAND KEIKI” and “ISLAND CHILD,” and the ex parte appeal should be withdrawn, and an early action to that effect is earnestly solicited.

Respectfully submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:	)
MNS, Ltd.	) Trademark Law Office: 115
Serial No. 86/304,202	)
Filed: June 9, 2014	) Attorney: Lee-Anne Bernis
Mark: ISLAND KEIKI	)

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CONSENT

Effective as of 6-4, 2015, ISLAND CHILD, INC., a South Carolina corporation with a principal place of business and mailing address at Wilton Head Island, SC 29928, 1000 Wm Wilton Pkwy ("ICI"), and MNS, LTD., a Hawaii corporation, doing business as ABC STORES with a principal place of business and mailing address at 766 Pohukaina Street, Honolulu, Hawaii 96813 ("MNS") agree as follows:

A. RECITALS

1. ICI is the owner of U.S. Trademark Registration No. 3,144,966 for "ISLAND CHILD" for "retail store services featuring children's bedding, children's clothing, namely, overalls, robes, sweaters, sleepwear and special occasion wear; children's furniture, namely, lamps and bedroom furniture; children's shoes, namely, sandals, flip-flops, walkers, dress shoes, clogs; children's toys, namely stuffed animals and dolls; birthday party hats; and non-medicated skin care products" in International Class 035 (the "Registration").

2. MNS filed U.S. Trademark Application Serial Number 86/304,202 to register "ISLAND KEIKI" for "Children's clothing, namely, cloth bibs, headwear, footwear, tops and bottoms" in International Class 025 (the "Application").

3. The Application was refused registration on the basis of an alleged likelihood of confusion with the Registration.

4. ICI and MNS have exchanged information and concluded that MNS's use of "ISLAND KEIKI" as set forth in the Application does not and will not create a likelihood of confusion with ICI's use of "ISLAND CHILD" as set forth in the Registration.

B. AGREEMENT

1. No Use of "ISLAND CHILD" MNS agrees that it will not use "ISLAND CHILD" in connection with any goods or services.

*Senny Powell*  
Senny Powell

2. Consent ICI consents to the Application because there is and will be no likelihood of confusion resulting from the simultaneous use and/or registration of "ISLAND CHILD" and "ISLAND KEIKI" for the parties' respective goods and services because, among other reasons:

A. "ISLAND KEIKI" does not look or sound confusingly similar to "ISLAND CHILD."

B. ICI uses "ISLAND CHILD" in connection with services whereas Applicant uses or will use "ISLAND KEIKI" in connection with goods. *Island Child does produce goods under the name of Island Child.*

C. MNS has not used and will not use "ISLAND CHILD" in connection with any goods or services.

D. The parties are aware of the channels of trade and consumers for their respective goods and services and believe that their respective marks are not likely to be encountered by the same consumers under circumstances likely to give rise to the mistaken belief that the parties' respective goods and services derive from the same source.

3. Further Efforts to Avoid Confusion. MNS agrees that it will not advertise or promote its goods under its "ISLAND KEIKI" mark in a manner that implies that it or its goods are affiliated with ICI or ICI's services, and ICI agrees not advertise or promote its services under its "ISLAND CHILD" mark in a manner that implies that it or its services are affiliated with MNS or MNS' goods.

4. Cooperation in the Event of Actual Confusion. In the unlikely event that either party becomes aware of any actual consumer confusion resulting from the simultaneous use of the parties' respective marks as permitted by this Consent:

A. Such party shall advise the other party within 5 business days of the details of such confusion; and

B. The parties shall consult with one another in good faith and take commercially reasonable steps to address the confusion and prevent its future occurrence.

IN WITNESS WHEREOF, ICI and MNS have executed this Consent as of the date first written above.

ISLAND CHILD, INC.

By *Senny Powell*  
Name: Senny Powell  
Title: owner - manager

MNS, LTD. dba ABC STORES

By *Riki Morimoto*  
Name: Riki Morimoto  
Title: Executive Vice President