

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: May 25, 2007

Opposition No. 91168038

The GOLD CORPORATION

v.

Hawaii Kine Inc.

Frances S. Wolfson, Interlocutory Attorney:

On May 22, 2007, the Board issued an order *inter alia* granting applicant's motion for continued discovery under Fed. R. Civ. P. 56(f). The Board, in reviewing the order, recognizes that Paragraphs A-E and G should have included, as an appropriate area of inquiry, discovery relating to the wording "HAWAII KINE" in addition to "KINE" and "DA KINE." Paragraphs A-E and G are hereby modified accordingly.

It is further noted that applicant may inquire into the basis for opposer's claim that the mark HAWAII KINE is primarily geographically descriptive, to the extent that opposer has not already presented information or documents that support its claim in the motion for summary judgment. However, opposer need not identify fact witnesses it intends to call at trial; or, with respect to how the law applies to facts, explain or defend its position or the legal or theoretical basis for its claim. See *Time Warner*

Entertainment Company L.P. v. Karen L. Jones, 65 USPQ2d 1650, 1657 (TTAB 2002).

On the other hand, the parties are reminded of their obligation to cooperate with one another in the discovery process. Each party and its attorney or other authorized representative has a duty to make a good faith effort to satisfy the discovery needs of its adversary. See TBMP § 408.01 (2d ed. rev. 2004). Each party has a duty to thoroughly search its records for all information properly sought in a discovery request. TBMP § 408.02 (2d ed. rev. 2004). Each party has a continuing obligation to supplement its discovery responses. TBMP § 408.03 (2d ed. rev. 2004).

The Board order dated May 22, 2007 otherwise remains unchanged.