

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

Mailed: January 28, 2009

Opposition No. 91168038

THE GOLD CORPORATION

v.

HAWAII KINE INC.

Frances S. Wolfson, Interlocutory Attorney:

This proceeding now comes before the Board for consideration of applicant's motion (filed October 1, 2008) to extend the discovery period and subsequent trial dates. The motion has been fully briefed and the Board has reviewed the parties' arguments and submissions.

On January 26, 2009, at 4:00 p.m. eastern time, the Board convened a telephone conference among Stephen J. Quigley, Esq. and Douglas A. Miro, Esq., representing applicant; Colin O. Miwa, Esq., representing opposer; and the above-referenced Board attorney responsible for resolving interlocutory matters in this case, to discuss applicant's motion.

During the telephone conference, the parties were able to reach an agreement on several matters. For sake of expediting matters, this order does not summarize the parties' arguments or submissions but merely sets forth below both the

agreements reached between the parties during the telephone conference and the determinations made by the Board after consideration of the arguments and submissions.

IT IS HEREBY ORDERED THAT:

1. Applicant's motion to extend is granted. The discovery period is extended upon the terms set forth below. Subsequent trial dates are reset as indicated below.

2. Applicant and opposer are both allowed until forty-five (45) days from the date of the telephone conference (i.e., until March 12, 2009) to supplement their responses to any outstanding discovery requests. In particular, the parties will exchange responsive documents and information that previously has been withheld on the basis of confidentiality.¹

3. Both parties are under a continuing obligation to supplement their responses under Fed. R. Civ. P. 26(e). Opposer is further required to update its answers to applicant's first set of interrogatories and requests for production of documents to include information from 2007

¹ The Board's standard protective order is presently applicable to this proceeding and its terms govern the disclosure of confidential information. The parties are free to hereinafter modify or amend the terms of the order, by mutual agreement, subject to Board approval. The parties are further encouraged to sign the agreement themselves so that it is clear that they are themselves bound thereby; that they have created a contract which will survive the proceeding; and that there may be a remedy at court for any breach of that contract which occurs after the conclusion of the Board proceeding. See TBMP § 412.03 (2d ed. rev. 2004).

and 2008 and to produce unredacted copies of sales invoices produced as Documents G00001 through G00022.

4. Applicant is allowed to notice opposer's discovery deposition under Fed. R. Civ. P. 30(b)(6). Applicant is further allowed to notice the deposition of one fact witness for opposer; it is understood that the fact witness and the Rule 30(b)(6) witness may be the same individual. Applicant must serve such notice and complete the depositions within 135 days from the date of the telephone conference (i.e., no later than 90 days following the 45-day exchange period, or June 11, 2009).

5. Follow-up discovery is not authorized by this order although the parties may agree to allow each other the opportunity to conduct follow-up discovery without prior Board approval. If either party desires to conduct follow-up discovery and the other side does not consent thereto, however, the requesting party must bring a motion to conduct follow-up discovery. The Board encourages the parties to cooperate in this regard to resolve any discovery disputes that may arise without further Board intervention.

The Board thanks counsel for their courtesy and cooperation during the phone conference.

Trial dates, including the close of discovery, are reset as indicated below.

DISCOVERY PERIOD TO CLOSE:	June 11, 2009
30-day testimony period for party in the position of plaintiff to close:	September 9, 2009
30-day testimony period for party in the position of the defendant to close:	November 8, 2009
15-day rebuttal period for party in the position of the plaintiff to close:	December 23, 2009

IN EACH INSTANCE, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within **thirty days** after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule

and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>