

ESTTA Tracking number: **ESTTA630465**

Filing date: **10/01/2014**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

|                                       |   |
|---------------------------------------|---|
| Name                                  | Kai LLC   |
| Granted to Date of previous extension | 10/01/2014  |
| Address                               | 3806 Cross Creek Road, Suite F<br>Malibu, CA 90265<br>UNITED STATES |

|                      |  |
|----------------------|--|
| Attorney information | Shaun Murphy<br>Slovak Baron Empey Murphy & Pinkney LLP<br>1800 East Tahquitz Canyon Way<br>Palm Springs, CA 92262<br>UNITED STATES<br>murphy@sbemp.com, m3btmks@me.com Phone:7603222275 |
|----------------------|--|

**Applicant Information**

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 86104014  | Publication date       | 06/03/2014 |
| Opposition Filing Date | 10/01/2014  | Opposition Period Ends | 10/01/2014 |
| Applicant              | Mariner Biomedical, Inc.<br>6276 San Ignacio Avenue, Suite A<br>San Jose, CA 95119<br>UNITED STATES |                        |            |


**Goods/Services Affected by Opposition**


|  |
|--|
| Class 003. First Use: 0 First Use In Commerce: 0<br>All goods and services in the class are opposed, namely: Non-medicated skin care preparations; non-medicated skin care products, namely, exfoliating salt scrubs, anti-aging serums, anti-wrinkle gel, bath salts, facial cleansers, massage gels and oils, bodyoils and lotions, facial and body toners, bath soap, lip balms |
| Class 005. First Use: 0 First Use In Commerce: 0<br>All goods and services in the class are opposed, namely: Medicated skin care preparations; medicated skin care products, namely, sun screens, skin protectant preparations, anti-itch preparations, anti-inflammatory preparations; dermatological pharmaceutical products; parapharmaceutical products for use in dermatology |


**Grounds for Opposition**

|                                      |                             |
|--------------------------------------|-----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d)  |
| Dilution                             | Trademark Act section 43(c) |

**Marks Cited by Opposer as Basis for Opposition**

|                       |  |                       |            |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2638344  | Application Date      | 09/25/2000 |
| Registration Date     | 10/22/2002   | Foreign Priority Date | NONE       |
| Word Mark             | KAI  |                       |            |
| Design Mark           |        |                       |            |
| Description of Mark   | NONE   |                       |            |
| Goods/Services        | Class 003. First use: First Use: 1998/12/15 First Use In Commerce: 1998/12/15<br>Perfume |                       |            |

|                       |  |                       |            |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4522188  | Application Date      | 05/13/2010 |
| Registration Date     | 04/29/2014   | Foreign Priority Date | NONE       |
| Word Mark             | KAI  |                       |            |
| Design Mark           |    |                       |            |
| Description of Mark   | NONE   |                       |            |
| Goods/Services        | <p>Class 003. First use: First Use: 1998/12/15 First Use In Commerce: 2000/09/30<br/>Fragrance, perfume, eau de parfum, eau de toilette, cologne, body lotion, hand cr me, body butter, body wash, soap, fragrance infused sponges, body soap for bath and shower, deodorant for personal use, body fragrant mist, bubble bath, bathgels, bath salts, shampoo, conditioner, oils for hair treatment, hair care lotion, body scrub, non-medicated body soaks, linen soap and detergent, scented roomand linen spray, lip conditioner, lip scrub, sun care lotions, nail polish, non-medicated skincare preparations for face and body, body glow, shaving preparations, shaving gel and cream, body and skin beauty care preparations, liquid hand soap, sunscreen, tanning oils and lotions, hair care lotions, creams and gels; potpourri, incense, scented oils, essential oils for household use, sachets, roomfragrances, bath and bar soap, and, household cleaning preparations</p> <p>Class 004. First use: First Use: 2001/11/08 First Use In Commerce: 2001/11/08</p> |                       |            |

|                       |   |                       |            |
|-----------------------|---|-----------------------|------------|
|                       | Candles   |                       |            |
| U.S. Registration No. | 4264957   | Application Date      | 05/13/2010 |
| Registration Date     | 12/25/2012  | Foreign Priority Date | NONE       |
| Word Mark             | KAI BY GAYE STRAZA  |                       |            |
| Design Mark           |   |                       |            |
| Description of Mark   | NONE  |                       |            |
| Goods/Services        | <p>Class 003. First use: First Use: 2011/06/01 First Use In Commerce: 2011/06/01<br/> Fragrance, perfume, eau de parfum, eau de toilette, cologne, body lotion, hand cr me, body butter, body wash, soap, fragrance infused sponges primarily used for imparting fragrance, body soap for bath and shower, deodorant for personal use, body fragrant mist, bubble bath, bath gels, bath salts, shampoo, conditioner, oils for hair treatment, hair care lotion, body scrub, non-medicated body soaks, linen soap and detergent, scented room and linen spray, lip conditioner, lip scrub, sun care lotions, nail polish, non-medicated skin care preparations for face and body, body glow, shaving preparations, shaving gel and cream, body and skin beauty care preparations, liquid hand soap, sunscreen, tanning oils and lotions, hair care lotions, creams and gels; potpourri, incense, scented oils, essential oils for household use, sachets, room fragrances, bath and bar soap, and, household cleaning preparations</p> <p>Class 004. First use: First Use: 2011/06/01 First Use In Commerce: 2011/06/01<br/> Candles</p> |                       |            |

|             |   |
|-------------|---|
| Attachments | 76134334#TMSN.png( bytes )<br>85038236#TMSN.png( bytes )<br>85038229#TMSN.png( bytes )<br>Notice of Opposition Final.pdf(683918 bytes ) |
|-------------|---|

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

|           |              |
|-----------|--------------|
| Signature | /s/          |
| Name      | Shaun Murphy |
| Date      | 10/01/2014   |

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

|                           |   |                                   |
|---------------------------|---|-----------------------------------|
| Kai, LLC,                 | ) |                                   |
|                           | ) |                                   |
| Opposer,                  | ) | In the Matter of Application      |
| v.                        | ) | Serial No. 86104014               |
|                           | ) | for the Mark KAIDERMA             |
|                           | ) |                                   |
| Mariner Biomedical, Inc., | ) | Published in the Official Gazette |
|                           | ) | on June 3, 2014                   |
| Applicant.                | ) |                                   |
| _____                     | ) |                                   |

**NOTICE OF OPPOSITION**

Kai, LLC, a California limited liability company, having a principal place of business at 3003 Malibu Canyon Road, Malibu, California 90265 (“Opposer”), hereby opposes the application of Mariner Biomedical, Inc., a California corporation, having a principal place of business at 6276 San Ignacio Avenue, Suite A, San Jose, California 95519 (“Applicant”). The application at issue is Application Serial No. 86104014 for the mark KAIDERMA (“Applicant’s Mark”) which was published for opposition in the *Official Gazette* on June 3, 2014 (the “Application”).

Opposer believes it will be damaged by registration of the Applicant’s Mark and hereby opposes same on the grounds below and alleges as follows:

1. Applicant filed Application Serial No. 86104014 for the mark KAIDERMA on October 29, 2013 for use in connection with the following goods:
  - a. non-medicated skin care preparations; non-medicated skin care products, namely, exfoliating salt scrubs, anti-aging serums, anti-wrinkle gel, bath salts, facial cleansers, massage gels and oils, body oils and lotions, facial and body toners, bath soap, lip balms in International Class 003; and
  - b. medicated skin care preparations; medicated skin care products, namely, sun screens, skin protectant preparations, anti-itch preparations, anti-inflammatory preparations; dermatological pharmaceutical products; parapharmaceutical products for use in dermatology in International Class 005.

All of the above are jointly referred as “Applicant’s Goods.” A current printout of the information from the TSDR Electronic Database of the USPTO showing the current title and status of the Application is attached hereto as Exhibit A.

2. The Application is based on Section 1(b) of the Trademark Act, 15 U.S.C. §1051(b).

3. Opposer is the owner of U.S. Trademark Registration No. 2638344 which issued on October 22, 2002 for the mark KAI for perfume in Class 003. The '344 Registration is valid, subsisting, in full force and effect, and is incontestable under Section 15 of the Lanham Act. A current printout of the information from the TSDR Electronic Database of the USPTO showing the current title and status of the Registration is attached hereto as Exhibit B.

4. Opposer is the owner of the U.S. Trademark Registration No. 4522188 which issued on April 29, 2014 for the mark KAI for fragrance, perfume, eau de parfum, eau de toilette, cologne, body lotion, hand crème, body butter, body wash, soap, fragrance infused sponges, body soap for bath and shower, deodorant for personal use, body fragrant mist, bubble bath, bath gels, bath salts, shampoo, conditioner, oils for hair treatment, hair care lotion, body scrub, non-medicated body soaks, linen soap and detergent, scented room and linen spray, lip conditioner, lip scrub, sun care lotions, nail polish, non-medicated skincare preparations for face and body, body glow, shaving preparations, shaving gel and cream, body and skin beauty care preparations, liquid hand soap, sunscreen, tanning oils and lotions, hair care lotions, creams and gels; potpourri, incense, scented oils, essential oils for household use, sachets, room fragrances, bath and bar soap, and, household cleaning preparations in Class 003 and candles in Class 004. A current printout of the information from the TSDR Electronic Database of the USPTO showing the current title and status of the Application is attached hereto as Exhibit C.

5. Opposer is the owner of the U.S. Trademark Registration No. 4264957 which issued on December 25, 2012, for the mark KAI BY GAYE STRAZA for fragrance, perfume, eau de parfum, eau de toilette, cologne, body lotion, hand crème, body butter, body wash, soap, fragrance infused sponges primarily used for imparting fragrance, body soap for bath and shower, deodorant for personal use, body fragrant mist, bubble bath, bath gels, bath salts, shampoo, conditioner, oils for hair treatment, hair care lotion, body scrub, non-medicated body soaks, linen soap and detergent, scented room and linen spray, lip conditioner, lip scrub, sun care lotions, nail polish, non-medicated skin care preparations for face and body, body glow, shaving preparations, shaving gel and cream, body and skin beauty care preparations, liquid hand soap, sunscreen, tanning oils and lotions, hair care lotions, creams and gels; potpourri, incense, scented oils, essential oils for household use, sachets, room fragrances, bath and bar soap, and, household cleaning preparations in Class 003 and candles in Class 004. A current printout of the information from the TSDR Electronic Database of the USPTO showing the current title and status of the Application is attached hereto as Exhibit D.

6. Hereinafter the above referenced KAI trademarks are jointly referred to as "Opposer's Marks and the above referenced KAI trademark registrations are jointly referred to as "Opposer's Registrations."

**FIRST GROUND FOR OPPOSITION**  
**(Likelihood of Confusion)**  
**(Trademark Act §2(d), 15 U.S.C. §1052(d))**

7. Upon information and belief, Applicant has commenced use of the mark KAIDERMA long after Kai's dates of first use and first use in commerce of its KAI Marks.

8. Opposer commenced use and obtained registration of its KAI Marks prior to Applicant's filing date of the Application.

9. Opposer commenced use and obtained registration of its KAI Marks prior to Applicant's date of first use of the mark KAIDERMA.

10. Such use and registration grants Opposer priority over Applicant with respect to the Application.

11. Applicant's Mark KAIDERMA is virtually identical to Opposer's Marks as to appearance, sound, connotation and commercial impression.

12. Applicant's Mark KAIDERMA encompasses Opposer's Mark KAI in its entirety with the only additional element being the descriptive term "derma" which term is merely descriptive and not distinctive enough to differentiate Applicant's Mark from Opposer's KAI Mark.

13. Applicant's Goods are identical and/or nearly identical to the goods listed in Opposer's Registrations.

14. Opposer's Goods and the goods identified in the Application are used together and/or are complementary goods and would emanate from the same source.

15. Applicant's Goods are in the natural zone of expansion for the goods described in Opposer's Registrations.

16. Applicant's Goods travel in the same marketing channels and channels of trade and are viewed by the same consumers as Opposer's Goods.

17. If Applicant uses and/or continues to use its mark KAIDERMA in connection with the goods listed in the Application, such use would be likely to cause confusion, mistake, and/or deception in the relevant trade and public. Customers and potential customers are likely to believe that Applicant's Goods offered under the mark KAIDERMA emanate from, or are licensed or approved by Opposer, when, in fact, they are not. Such confusion, mistake and/or deception would be a source of damage to Opposer.

18. Deficiencies or faults in the quality of Applicant's Goods are likely to reflect negatively upon, tarnish and seriously injure the reputation which Opposer has established for

the goods sold in connection with the KAI Marks. This injury is likely to result in loss of revenues to Opposer and damage Opposer's reputation.

19. For the foregoing reasons, Applicant's registration and use of the Mark KAIDERMA would likely create confusion, mistake or deception in the minds of prospective purchasers as to the source or origin of the goods offered and sold in connection with Opposer's KAI Marks and would damage Opposer's rights to Opposer's Marks.

20. Accordingly, registration of Applicant's alleged mark KAIDERMA is barred by the provisions of Section 2(d) and Section 43(a) of the Lanham Act and Applicant is not entitled to federal registration of its alleged Mark and Opposer believes it would be damaged therefore.

**SECOND GROUND FOR OPPOSITION  
(Prior Use)  
(Trademark Act §2(d), 15 U.S.C. §1052(d))**

21. Opposer commenced use of the Opposer's Marks long before Applicant's filing date of the Application.

22. Opposer commenced use of the Opposer's Mark long before any alleged date of first use by Applicant of Applicant's Marks.

23. Opposer has had continuous and on-going use of Opposer's Marks before Applicant's filing date of the Application and has not abandoned use of its Marks.

24. Opposer has used its KAI Marks in such a manner so as to create public identification as to the source of Opposer's goods.

25. Such use grants Opposer priority over Applicant with respect to the Application.

26. Accordingly, registration of Applicant's alleged mark KAIDERMA is barred by the provisions of Section 2(d) and Section 43(a) of the Lanham Act and Applicant is not entitled to federal registration of its alleged Mark and Opposer believes it would be damaged therefore.

**THIRD GROUND FOR OPPOSITION  
(Dilution by Blurring and Tarnishment)  
15 U.S.C. § 1125(c)**

27. Opposer's Mark KAI is distinctive and famous. Factors that support such findings include (i) the inherent distinctiveness of the KAI Mark; (ii) over fifteen years of extensive and continuous use of the KAI Mark; (iii) the broad geographical scope of KAI branded goods, which are advertised nationally and internationally; and (iv) unsolicited media coverage given KAI branded products.

28. Opposer's products are marketed, sold and distributed on a nationwide and international basis and have been featured in numerous media features and stories.

29. Opposer has used the trade name and trademark KAI and variants therefore, on and in connection with beauty and body care products, including, perfumes and fragrances, lotions, oils, creams, sprays, scrubs, body wash, deodorant, home fragrance, and candles, since at least as early as 1998.

30. Opposer has, by virtue of extensive usage, advertising and promotion, built a high level of consumer and trade recognition in the KAI Marks, and variants thereof, for beauty and body care products. Due to public exposure and awareness by consumers, media, and the trade, the KAI Marks are famous and have acquired and now possess an extremely favorable reputation and distinctiveness with an invaluable amount of goodwill, solely signifying Opposer as the source of beauty and body care products of high quality.

31. Further, Opposer's distinctive KAI Marks became famous long before the filing date of the Application, as well as any claimed dates of first use, and the registration and use of Applicant's mark KAIDERMA is likely to dilute the distinctive quality of Opposer's KAI Marks. Accordingly, Applicant's alleged mark KAIDERMA is not entitled to registration under 15 U.S.C. § 1125(c) and Section 43(a) of the Lanham Act.

WHEREFORE, Opposer prays that Application Serial No. 86104014 be rejected, and that registration of the mark KAIDERMA be denied and refused.

This Notice of Opposition is being filed electronically pursuant to the ESTTA system.

Respectfully submitted,

KAI, LLC



Date: October 1, 2014

By: \_\_\_\_\_

Shaun M. Murphy, Esq.  
Slovak Baron Empey Murphy & Pinkney LLP  
Attorney for Opposer  
1800 East Tahquitz Canyon Way  
Palm Springs, California 92262  
Tel: 760-322-2275  
Fax: 760-322-2107

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 1<sup>st</sup> day of October, 2014, a true and complete copy of the foregoing NOTICE OF OPPOSITION was served by first-class mail,





**EXHIBIT A**  
**NOTICE OF OPPOSITION**  
**In the Matter of Application Serial No. 86104014 for the Mark KAIDERMA**

•  
Generated on:  
This page was generated by TSDR on 2014-09-30 16:37:27 EDT  
Mark:  
KAIDERMA

US Serial Number:  
86104014

Application Filing Date:  
Oct. 29, 2013

Register:  
Principal  
Mark Type:  
Trademark

Status:  
A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Status Date:  
Jun. 28, 2014  
Publication Date:  
Jun. 03, 2014

## **Mark Information**

Mark Literal Elements:  
KAIDERMA

Standard Character Claim:

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type:  
4 - STANDARD CHARACTER MARK

## **Goods and Services**

**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:

Non-medicated skin care preparations; non-medicated skin care products, namely, exfoliating salt scrubs, anti-aging serums, anti-wrinkle gel, bath salts, facial cleansers, massage gels and oils, body oils and lotions, facial and body toners, bath soap, lip balms

International Class(es):

003 - Primary Class

U.S Class(es):

001, 004, 006, 050, 051, 052

Class Status:

ACTIVE

Basis:

1(b)

For:

Medicated skin care preparations; medicated skin care products, namely, sun screens, skin protectant preparations, anti-itch preparations, anti-inflammatory preparations; dermatological pharmaceutical products; parapharmaceutical products for use in dermatology

International Class(es):

005 - Primary Class

U.S Class(es):

006, 018, 044, 046, 051, 052

Class Status:

ACTIVE

Basis:

1(b)

## **Basis Information (Case Level)**

Filed Use:

No

Currently Use:

No

Amended Use:

No

Filed ITU:

Yes

Currently ITU:

Yes

Amended ITU:

No

Filed 44D:

No  
Currently 44D:  
No  
Amended 44D:  
No  
Filed 44E:  
No  
Currently 44E:  
No  
Amended 44E:  
No  
Filed 66A:  
No  
Currently 66A:  
No  
Filed No Basis:  
No  
Currently No Basis:  
No

## **Current Owner(s) Information**

Owner Name:  
Mariner Biomedical, Inc.  
Owner Address:  
6276 San Ignacio Avenue, Suite A  
San Jose, CALIFORNIA 95119  
UNITED STATES  
Legal Entity Type:  
CORPORATION  
State or Country Where Organized:  
CALIFORNIA

## **Attorney/Correspondence Information**

Attorney of Record  
Attorney Name:  
Bassam N. Ibrahim  
Docket Number:  
0082515-0000  
Attorney Primary Email Address:  
[bassam.ibrahim@bipc.com](mailto:bassam.ibrahim@bipc.com)  
Attorney Email Authorized:  
Yes  
Correspondent

Correspondent Name/Address:  
 BASSAM N. IBRAHIM  
 BUCHANAN INGERSOLL & ROONEY PC  
 PO BOX 1404  
 ALEXANDRIA, VIRGINIA 22313-1404  
 UNITED STATES  
 Phone:  
 703.836.6620  
 Fax:  
 703.836.2021  
 Correspondent e-mail:  
[bassam.ibrahim@bipc.com](mailto:bassam.ibrahim@bipc.com)  
 Correspondent e-mail Authorized:  
 Yes  
 Domestic Representative - Not Found

## Prosecution History

| <b>Date</b>   | <b>Description</b>                                 | <b>Proceeding Number</b> |
|---------------|--|--------------------------|
| Jun. 28, 2014 | EXTENSION OF TIME TO OPPOSE RECEIVED               |                          |
| Jun. 03, 2014 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED |                          |
| Jun. 03, 2014 | PUBLISHED FOR OPPOSITION                           |                          |
| May 14, 2014  | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED     |                          |
| Apr. 30, 2014 | LAW OFFICE PUBLICATION REVIEW COMPLETED            | 73296                    |
| Apr. 29, 2014 | ASSIGNED TO LIE                                    | 73296                    |
| Apr. 09, 2014 | APPROVED FOR PUB - PRINCIPAL REGISTER              |                          |
| Apr. 09, 2014 | EXAMINER'S AMENDMENT ENTERED                       | 88888                    |
| Apr. 09, 2014 | NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED       | 6328                     |
| Apr. 09, 2014 | EXAMINERS AMENDMENT E-MAILED                       | 6328                     |
| Apr. 09,      | EXAMINERS AMENDMENT -WRITTEN                       | 80813                    |

|                  |   |       |
|------------------|---|-------|
| 2014             |   |       |
| Apr. 08,<br>2014 | TEAS/EMAIL CORRESPONDENCE ENTERED                       | 88889 |
| Apr. 07,<br>2014 | CORRESPONDENCE RECEIVED IN LAW OFFICE                   | 88889 |
| Apr. 07,<br>2014 | TEAS RESPONSE TO OFFICE ACTION RECEIVED                 |       |
| Feb. 18,<br>2014 | NOTIFICATION OF NON-FINAL ACTION E-MAILED               | 6325  |
| Feb. 18,<br>2014 | NON-FINAL ACTION E-MAILED                               | 6325  |
| Feb. 18,<br>2014 | NON-FINAL ACTION WRITTEN                                | 80813 |
| Feb. 14,<br>2014 | ASSIGNED TO EXAMINER                                    | 80813 |
| Nov. 05,<br>2013 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED<br>IN TRAM |       |
| Nov. 01,<br>2013 | NEW APPLICATION ENTERED IN TRAM                         |       |

## **TM Staff and Location Information**

TM Staff Information

TM Attorney:

HELFMAN, JUDITH MICHEL

Law Office Assigned:

LAW OFFICE 114

File Location

Current Location:

PUBLICATION AND ISSUE SECTION

Date in Location:

Apr. 30, 2014

## **Proceedings**

Summary

Number of Proceedings:

1

## **Type of Proceeding: Extension of Time**

Proceeding Number:  
[86104014](#)  
Filing Date:  
Jun 27, 2014  
Status:  
Not Instituted  
Status Date:  
Jun 27, 2014  
Interlocutory Attorney:

**Defendant**

Name:  
Mariner Biomedical, Inc.  
Correspondent Address:  
BASSAM N. IBRAHIM  
BUCHANAN INGERSOLL & ROONEY PC  
PO BOX 1404  
ALEXANDRIA VA , 22313-1404

**Associated marks**

| Mark     | Application Status                               | Serial Number            | Registration Number |
|----------|--|--------------------------|---------------------|
| KAIDERMA | Request For Extension of Time to File Opposition | <a href="#">86104014</a> |                     |

**Potential Opposer(s)**

Name:  
Kai LLC  
Correspondent Address:  
Shaun Murphy  
Slovak Baron Empey Murphy & Pinkney LLP  
1800 east Tahquitz canyon way  
Palm Springs CA , 92262  
UNITED STATES  
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[murphy@sbemp.com](mailto:murphy@sbemp.com) , [m3btmks@me.com](mailto:m3btmks@me.com)  
Name:  
GALDERMA S.A.  
Correspondent Address:  
G MATHEW LOMBARD  
LOMBARD & GELIEBTER LLP  
1115 BROADWAY12 FL

NEW YORK NY , 10010  
UNITED STATES  
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### Prosecution History

| Entry Number | History Text                        | Date         | Due Date |
|--------------|-------------------------------------|--------------|----------|
| 1            | INCOMING - EXT TIME TO OPPOSE FILED | Jun 27, 2014 |          |
| 2            | EXTENSION OF TIME GRANTED           | Jun 28, 2014 |          |
| 3            | INCOMING - EXT TIME TO OPPOSE FILED | Jun 30, 2014 |          |
| 4            | EXTENSION OF TIME GRANTED           | Jun 30, 2014 |          |
| 5            | INCOMING - EXT TIME TO OPPOSE FILED | Jul 26, 2014 |          |
| 6            | EXTENSION OF TIME GRANTED           | Jul 26, 2014 |          |



**EXHIBIT B**  
**NOTICE OF OPPOSITION**  
**In the Matter of Application Serial No. 86104014 for the Mark KAIDERMA**

Generated on:

This page was generated by TSDR on 2014-09-30 16:43:02 EDT

Mark:

KAI

US Serial Number:

76134334

Application Filing Date:

Sep. 25, 2000

US Registration Number:

2638344

Registration Date:

Oct. 22, 2002

Register:

Principal

Mark Type:

Trademark

Status:

The registration has been renewed.

Status Date:

Aug. 25, 2012

Publication Date:

Jan. 08, 2002

**Mark Information**

Mark Literal Elements:

KAI

Standard Character Claim:

No

Mark Drawing Type:

1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Translation:

The English translation of HAWAIIAN word "KAI" is "ocean".

**Goods and Services**

**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:

Perfume

International Class(es):

003 - Primary Class

U.S Class(es):

001, 004, 006, 050, 051, 052

Class Status:

ACTIVE

Basis:

1(a)

First Use:

Dec. 15, 1998

Use in Commerce:

Dec. 15, 1998

**Basis Information (Case Level)**

Filed Use:

Yes

Currently Use:

Yes

Amended Use:

No

Filed ITU:

No

Currently ITU:

No

Amended ITU:

No

Filed 44D:

No

Currently 44D:

No

Amended 44D:

No

Filed 44E:

No

Currently 44E:

No

Amended 44E:

No

Filed 66A:

No

Currently 66A:

No

Filed No Basis:

No

Currently No Basis:

No

**Current Owner(s) Information**

Owner Name:

KAI, LLC

Owner Address:

3003 malibu canyon road

MALIBU, CALIFORNIA 90265

UNITED STATES

Legal Entity Type:

LIMITED LIABILITY COMPANY

State or Country Where Organized:

CALIFORNIA

**Attorney/Correspondence Information**

Attorney of Record

Attorney Name:

John O. Pinkney

Docket Number:

80788.00002

Attorney Primary Email Address:

[pinkney@sbelawyers.com](mailto:pinkney@sbelawyers.com)

Attorney Email Authorized:

Yes

Correspondent

Correspondent Name/Address:

John O. Pinkney

Slovak Baron & Empey

1800 East Tahquitz Canyon Way

Palm Springs, CALIFORNIA 92262

UNITED STATES

Phone:

7603222275

Correspondent e-mail:

[pinkney@sbelawyers.com](mailto:pinkney@sbelawyers.com) [ninabeck@dc.rr.com](mailto:ninabeck@dc.rr.com)

Correspondent e-mail Authorized:

Yes

Domestic Representative - Not Found

**Prosecution History**

| <b>Date</b>   | <b>Description</b>                                  | <b>Proceeding Number</b> |
|---------------|---|--------------------------|
| Aug. 25, 2012 | NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED       |                          |
| Aug. 25, 2012 | REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)     | 73376                    |
| Aug. 25, 2012 | REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED | 73376                    |
| Aug. 20, 2012 | TEAS SECTION 8 & 9 RECEIVED                         |                          |
| May 14, 2010  | ATTORNEY REVOKED AND/OR APPOINTED                   |                          |

|               |  |       |
|---------------|--|-------|
| May 14, 2010  | TEAS REVOKE/APPOINT ATTORNEY RECEIVED              |       |
| May 07, 2008  | REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK. | 73376 |
| Feb. 29, 2008 | REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED         |       |
| Mar. 05, 2008 | ASSIGNED TO PARALEGAL                              | 73376 |
| Feb. 29, 2008 | PAPER RECEIVED                                     |       |
| Oct. 22, 2002 | REGISTERED-PRINCIPAL REGISTER                      |       |
| Feb. 15, 2002 | EXTENSION OF TIME TO OPPOSE RECEIVED               |       |
| Jan. 08, 2002 | PUBLISHED FOR OPPOSITION                           |       |
| Dec. 19, 2001 | NOTICE OF PUBLICATION                              |       |
| Oct. 02, 2001 | APPROVED FOR PUB - PRINCIPAL REGISTER              |       |
| Sep. 10, 2001 | CORRESPONDENCE RECEIVED IN LAW OFFICE              |       |
| Mar. 26, 2001 | NON-FINAL ACTION MAILED                            |       |
| Mar. 15, 2001 | ASSIGNED TO EXAMINER                               | 76616 |
| Mar. 12, 2001 | ASSIGNED TO EXAMINER                               | 73348 |
| Mar. 06, 2001 | ASSIGNED TO EXAMINER                               | 74305 |

**Maintenance Filings or Post Registration Information**

Affidavit of Continued Use:

Section 8 - Accepted

Affidavit of Incontestability:

Section 15 - Accepted

Renewal Date:

Oct. 22, 2012

*TM Staff and Location Information*

TM Staff Information - None

File Location

Current Location:

GENERIC WEB UPDATE

Date in Location:

Aug. 25, 2012

*Assignment Abstract Of Title Information*

Summary

Total Assignments:

1

Registrant:

Canal Company, The

*Assignment 1 of 1*

Conveyance:

ASSIGNS THE ENTIRE INTEREST

Reel/Frame:

[2791/0762](#)

Pages:

2

Date Recorded:

Jul. 28, 2003

Supporting Documents:

[assignment-tm-2791-0762.pdf](#)

Assignor

Name:

[CANAL COMPANY, THE](#)

Execution Date:

Nov. 27, 2001

Legal Entity Type:

CORPORATION

State or Country Where Organized:

CALIFORNIA

Assignee

Name:

[KAI, LLC](#)

Legal Entity Type:

CALIFORNIA LIMITED LIABILITY COMPANY

State or Country Where Organized:

No Place Where Organized Found

Address:

3806 CROSS CREEK RD., STE. F

MALIBU, CALIFORNIA 90265

Correspondent

Correspondent Name:

DOUGLAS E. WHITE

Correspondent Address:

ATTORNEY AT LAW

14 CAMINO SOBRANTE

ORINDA, CA 94563

Domestic Representative - Not Found



[Proceedings](#)

Summary

Number of Proceedings:

2

[Type of Proceeding: Opposition](#)

Proceeding Number:

[91211865](#)

Filing Date:

Aug 03, 2013

Status:

Terminated

Status Date:

Nov 20, 2013

Interlocutory Attorney:

BENJAMIN U OKEKE

**Defendant**

Name:

Intrawest Honua Kai Hospitality Management LLC

Correspondent Address:

IAN L SAFFER

KILPATRICK TOWNSEND & STOCKTON LLP

1400 WEWATTA ST STE 600

DENVER CO , 80202

UNITED STATES

Correspondent e-mail:

[denverteas@kilpatricktownsend.com:dacke](mailto:denverteas@kilpatricktownsend.com:dacke)

**Associated marks**

| Mark             | Application Status                         | Serial Number            | Registration Number |
|------------------|--|--------------------------|---------------------|
| SPA HONUA<br>KAI | Abandoned - After Inter-Partes<br>Decision | <a href="#">85779409</a> |                     |

**Plaintiff(s)**

Name:

Kai, LLC

Correspondent Address:

SHAUN MURPHY

SLOVAK BARON EMPEY MURPHY & PINKNEY

1800 E TAHQUITZ CANYON WAY

PALM SPRINGS CA , 92262

UNITED STATES

Correspondent e-mail:

[murphy@sbemp.com](mailto:murphy@sbemp.com) , [m3btmks@me.com](mailto:m3btmks@me.com)

**Associated marks**

| Mark                        | Application Status           | Serial Number            | Registration Number     |
|-----------------------------|------------------------------|--------------------------|-------------------------|
| KAI                         | Renewed                      | <a href="#">76134334</a> | <a href="#">2638344</a> |
| KAI                         | Registered                   | <a href="#">85038236</a> | <a href="#">4522188</a> |
| KAI BY GAYE STRAZA          | Registered                   | <a href="#">85038229</a> | <a href="#">4264957</a> |
| KAI TERRE BY GAYE<br>STRAZA | Fifth Extension -<br>Granted | <a href="#">85317593</a> |                         |

### Prosecution History

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Aug 03, 2013 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Aug 03, 2013 | Sep 12, 2013 |
| 3            | PENDING, INSTITUTED                      | Aug 03, 2013 |              |
| 4            | NOTICE OF DEFAULT                        | Oct 02, 2013 |              |
| 5            | BD DECISION: SUSTAINED                   | Nov 20, 2013 |              |
| 6            | TERMINATED                               | Nov 20, 2013 |              |

#### Type of Proceeding: Opposition

Proceeding Number:

[91205425](#)

Filing Date:

Jun 04, 2012

Status:

Terminated

Status Date:

Jul 23, 2013

Interlocutory Attorney:

JENNIFER KRISP

#### Defendant

Name:

Harmony Green America, Inc.

Correspondent Address:

KRISTIN JORDAN HARKINS

CONLEY ROSE PC

5601 GRANITE PARKWAY, SUITE 750

PLANO TX , 75024

UNITED STATES

Correspondent e-mail:

[dallaslit@dfw.conleyrose.com](mailto:dallaslit@dfw.conleyrose.com)

**Associated marks**

| Mark  | Application Status                    | Serial Number            | Registration Number |
|-------|---------------------------------------|--------------------------|---------------------|
| ROKAI | Abandoned - No Statement Of Use Filed | <a href="#">85414215</a> |                     |

**Plaintiff(s)**

Name:

Kai LLC

Correspondent Address:

SHAUN MURPHY

LOVAK BARON EMPEY MURPHY PINKNEY LLP

1800 EAST TAHQUITZ CANYON WAY

PALM SPRINGS CA , 92262

UNITED STATES

Correspondent e-mail:

[murphy@sbelawyers.com](mailto:murphy@sbelawyers.com) , [barlow@sbemp.com](mailto:barlow@sbemp.com)

**Associated marks**

| Mark | Application Status | Serial Number            | Registration Number     |
|------|--------------------|--------------------------|-------------------------|
| KAI  | Renewed            | <a href="#">76134334</a> | <a href="#">2638344</a> |
| KAI  | Registered         | <a href="#">85038236</a> | <a href="#">4522188</a> |

KAI BY GAYE STRAZA

Registered

[85038229](#)

[4264957](#)

KAI TERRE BY GAYE

Fifth Extension -

[85317593](#)

STRAZA

Granted

**Prosecution History**

| EntryNumber | History Text                                | Date         | Due Date     |
|-------------|---|--------------|--------------|
| 1           | FILED AND FEE                               | Jun 04, 2012 |              |
| 2           | NOTICE AND TRIAL DATES SENT; ANSWER DUE:    | Jun 05, 2012 | Jul 15, 2012 |
| 3           | PENDING, INSTITUTED                         | Jun 05, 2012 |              |
| 4           | STIPULATION FOR AN EXTENSION OF TIME        | Jul 12, 2012 |              |
| 5           | EXTENSION OF TIME GRANTED                   | Jul 12, 2012 |              |
| 6           | CHANGE OF CORRESPONDENCE ADDRESS            | Sep 13, 2012 |              |
| 7           | D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY | Sep 13, 2012 |              |
| 8           | D'S MOT FOR EXTEN. OF TIME W/ CONSENT       | Sep 13, 2012 |              |
| 9           | EXTENSION OF TIME GRANTED                   | Sep 18, 2012 |              |
| 10          | ANSWER                                      | Oct 04, 2012 |              |
| 11          | D'S MOT FOR EXTEN. OF TIME W/ CONSENT       | Dec 03, 2012 |              |
| 12          | EXTENSION OF TIME GRANTED                   | Dec 10, 2012 |              |
| 13          | STIP TO SUSPEND PEND SETTLEMENT NEGOTNS     | Jan 16, 2013 |              |
| 14          | SUSPENDED                                   | Jan 16, 2013 |              |
| 15          | MOT TO AMEND APPLICATION                    | Apr 11, 2013 |              |
| 16          | RESPONSE DUE 30 DAYS (DUE DATE)             | Apr 25, 2013 | May 25, 2013 |
| 17          | W/DRAW OF OPPOSITION                        | Apr 26, 2013 |              |
| 18          | RESPONSE DUE 30 DAYS (DUE DATE)             | May 18, 2013 | Jun 17, 2013 |

|    |                                |              |
|----|--------------------------------|--------------|
| 19 | BD DECISION: DISMISSED W/ PREJ | Jul 23, 2013 |
| 20 | TERMINATED                     | Jul 23, 2013 |

**EXHIBIT C**  
**NOTICE OF OPPOSITION**  
**In the Matter of Application Serial No. 86104014 for the Mark KAIDERMA**

•

Generated on:

This page was generated by TSDR on 2014-09-30 16:47:12 EDT

Mark:

KAI

US Serial Number:

85038236

Application Filing Date:

May 13, 2010

US Registration Number:

4522188

Registration Date:

Apr. 29, 2014

Register:

Principal

Mark Type:

Trademark

Status:

Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date:

Apr. 29, 2014

Publication Date:

Jan. 25, 2011

Notice of Allowance Date:

Mar. 22, 2011

## **Mark Information**

Mark Literal Elements:

KAI

Standard Character Claim:

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type:

4 - STANDARD CHARACTER MARK

Translation:

The English translation of "KAI" in the mark is "OCEAN".

## **Related Properties Information**

Claimed Ownership of US Registrations:

[2638344](#)

## **Goods and Services**

**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:

Fragrance, perfume, eau de parfum, eau de toilette, cologne, body lotion, hand cream, body butter, body wash, soap, fragrance infused sponges, body soap for bath and shower, deodorant for personal use, body fragrant mist, bubble bath, bath gels, bath salts, shampoo, conditioner, oils for hair treatment, hair care lotion, body scrub, non-medicated body soaks, linen soap and detergent, scented room and linen spray, lip conditioner, lip scrub, sun care lotions, nail polish, non-medicated skincare preparations for face and body, body glow, shaving preparations, shaving gel and cream, body and skin beauty care preparations, liquid hand soap, sunscreen, tanning oils and lotions, hair care lotions, creams and



gels; potpourri, incense, scented oils, essential oils for household use, sachets, room fragrances, bath and bar soap, and,  
household cleaning preparations

International Class(es):

003 - Primary Class

U.S Class(es):

001, 004, 006, 050, 051, 052

Class Status:

ACTIVE

Basis:

1(a)

First Use:

Dec. 15, 1998

Use in Commerce:

Sep. 30, 2000

For:

Candles

International Class(es):

004 - Primary Class

U.S Class(es):

001, 006, 015

Class Status:

ACTIVE

Basis:

1(a)

First Use:

Nov. 08, 2001

Use in Commerce:

Nov. 08, 2001

**Basis Information (Case Level)**

Filed Use:

No

Currently Use:

Yes

Amended Use:

No

Filed ITU:

Yes

Currently ITU:

No

Amended ITU:

No

Filed 44D:

No

Currently 44D:

No

Amended 44D:

No

Filed 44E:

No

Currently 44E:

No

Amended 44E:

No

Filed 66A:

No

Currently 66A:

No

Filed No Basis:

No

Currently No Basis:

No

### **Current Owner(s) Information**

Owner Name:

Kai, LLC

Owner Address:

3003 malibu canyon road

Malibu, CALIFORNIA 90265

UNITED STATES

Legal Entity Type:

LIMITED LIABILITY COMPANY

State or Country Where Organized:

CALIFORNIA

### **Attorney/Correspondence Information**

Attorney of Record

Attorney Name:

John O. Pinkney

Docket Number:

Shaun Murphy

Attorney Primary Email Address:

[pinkney@sbelawyers.com](mailto:pinkney@sbelawyers.com)

Attorney Email Authorized:

Yes

Correspondent

Correspondent Name/Address:

JOHN O. PINKNEY

SLOVAK BARON EMPEY MURPHY & PINKNEY LLP

1800 EAST TAHQUITZ CANYON WAY

PALM SPRINGS, CALIFORNIA 92262

UNITED STATES

Phone:

760-322-2275

Fax:

760-322-2107

Correspondent e-mail:

[murphy@sbemp.com](mailto:murphy@sbemp.com) [m3btmks@me.com](mailto:m3btmks@me.com)

Correspondent e-mail Authorized:

Yes

Domestic Representative - Not Found

### **Prosecution History**

| <b>Date</b>   | <b>Description</b>                                | <b>Proceeding Number</b> |
|---------------|---|--------------------------|
| Apr. 29, 2014 | REGISTERED-PRINCIPAL REGISTER                     |                          |
| Mar. 28, 2014 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED |                          |
| Mar. 27, 2014 | LAW OFFICE REGISTRATION REVIEW COMPLETED          | 66213                    |
| Mar. 24, 2014 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED         |                          |
| Feb. 28, 2014 | STATEMENT OF USE PROCESSING COMPLETE              | 69302                    |
| Feb. 17, 2014 | USE AMENDMENT FILED                               | 69302                    |

|               |  |       |
|---------------|--|-------|
| Feb. 17, 2014 | TEAS STATEMENT OF USE RECEIVED                   |       |
| Sep. 13, 2013 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED |       |
| Sep. 12, 2013 | EXTENSION 5 GRANTED                              | 69302 |
| Sep. 11, 2013 | EXTENSION 5 FILED                                | 69302 |
| Sep. 11, 2013 | TEAS EXTENSION RECEIVED                          |       |
| Sep. 11, 2013 | TEAS CHANGE OF CORRESPONDENCE RECEIVED           |       |
| Mar. 19, 2013 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED |       |
| Mar. 18, 2013 | EXTENSION 4 GRANTED                              | 69302 |
| Mar. 13, 2013 | EXTENSION 4 FILED                                | 69302 |
| Mar. 13, 2013 | TEAS EXTENSION RECEIVED                          |       |
| Sep. 26, 2012 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED |       |
| Sep. 25, 2012 | EXTENSION 3 GRANTED                              | 69302 |
| Sep. 20, 2012 | EXTENSION 3 FILED                                | 69302 |
| Sep. 20, 2012 | TEAS EXTENSION RECEIVED                          |       |
| Mar. 27, 2012 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED |       |
| Mar. 26, 2012 | EXTENSION 2 GRANTED                              | 69302 |
| Mar. 20, 2012 | EXTENSION 2 FILED                                | 69302 |
| Mar. 20, 2012 | TEAS EXTENSION RECEIVED                          |       |
| Mar. 20, 2012 | TEAS CHANGE OF CORRESPONDENCE RECEIVED           |       |
| Sep. 08, 2011 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED |       |
| Sep. 07, 2011 | EXTENSION 1 GRANTED                              | 69302 |
| Sep. 05, 2011 | EXTENSION 1 FILED                                | 69302 |
| Sep. 06, 2011 | CASE ASSIGNED TO INTENT TO USE PARALEGAL         | 69302 |

|               |  |       |
|---------------|--|-------|
| Sep. 05, 2011 | TEAS EXTENSION RECEIVED                              |       |
| Mar. 22, 2011 | NOA E-MAILED - SOU REQUIRED FROM APPLICANT           |       |
| Jan. 26, 2011 | ATTORNEY REVOKED AND/OR APPOINTED                    |       |
| Jan. 26, 2011 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED                |       |
| Jan. 25, 2011 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED   |       |
| Jan. 25, 2011 | PUBLISHED FOR OPPOSITION                             |       |
| Dec. 17, 2010 | LAW OFFICE PUBLICATION REVIEW COMPLETED              | 66213 |
| Dec. 17, 2010 | ASSIGNED TO LIE                                      | 66213 |
| Nov. 24, 2010 | APPROVED FOR PUB - PRINCIPAL REGISTER                |       |
| Nov. 23, 2010 | TEAS/EMAIL CORRESPONDENCE ENTERED                    | 88889 |
| Nov. 22, 2010 | CORRESPONDENCE RECEIVED IN LAW OFFICE                | 88889 |
| Nov. 22, 2010 | TEAS RESPONSE TO OFFICE ACTION RECEIVED              |       |
| Aug. 26, 2010 | NOTIFICATION OF NON-FINAL ACTION E-MAILED            | 6325  |
| Aug. 26, 2010 | NON-FINAL ACTION E-MAILED                            | 6325  |
| Aug. 26, 2010 | NON-FINAL ACTION WRITTEN                             | 82095 |
| Aug. 25, 2010 | ASSIGNED TO EXAMINER                                 | 82095 |
| May 18, 2010  | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM |       |
| May 17, 2010  | NEW APPLICATION ENTERED IN TRAM                      |       |

### **[TM Staff and Location Information](#)**

TM Staff Information - None

File Location

Current Location:

PUBLICATION AND ISSUE SECTION

Date in Location:

Mar. 27, 2014

## **Proceedings**

Summary

Number of Proceedings:

2

## **Type of Proceeding: Opposition**

Proceeding Number:

[91211865](#)

Filing Date:

Aug 03, 2013

Status:

Terminated

Status Date:

Nov 20, 2013

Interlocutory Attorney:

BENJAMIN U OKEKE

## **Defendant**

Name:

Intrawest Honua Kai Hospitality Management LLC

Correspondent Address:

IAN L SAFFER

KILPATRICK TOWNSEND & STOCKTON LLP

1400 WEWATTA ST STE 600

DENVER CO , 80202

UNITED STATES

Correspondent e-mail:

[denverteas@kilpatricktownsend.com:dacke](mailto:denverteas@kilpatricktownsend.com:dacke)

## Associated marks

| Mark          | Application Status                      | Serial Number            | Registration Number |
|---------------|---|--------------------------|---------------------|
| SPA HONUA KAI | Abandoned - After Inter-Partes Decision | <a href="#">85779409</a> |                     |

## Plaintiff(s)

Name:

Kai, LLC

Correspondent Address:

SHAUN MURPHY

SLOVAK BARON EMPEY MURPHY & PINKNEY

1800 E TAHQUITZ CANYON WAY

PALM SPRINGS CA , 92262

UNITED STATES

Correspondent e-mail:

[murphy@sbemp.com](mailto:murphy@sbemp.com) , [m3btmks@me.com](mailto:m3btmks@me.com)

## Associated marks

| Mark                     | Application Status        | Serial Number            | Registration Number     |
|--------------------------|---------------------------|--------------------------|-------------------------|
| KAI                      | Renewed                   | <a href="#">76134334</a> | <a href="#">2638344</a> |
| KAI                      | Registered                | <a href="#">85038236</a> | <a href="#">4522188</a> |
| KAI BY GAYE STRAZA       | Registered                | <a href="#">85038229</a> | <a href="#">4264957</a> |
| KAI TERRE BY GAYE STRAZA | Fifth Extension - Granted | <a href="#">85317593</a> |                         |



## Prosecution History

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Aug 03, 2013 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Aug 03, 2013 | Sep 12, 2013 |
| 3            | PENDING, INSTITUTED                      | Aug 03, 2013 |              |
| 4            | NOTICE OF DEFAULT                        | Oct 02, 2013 |              |
| 5            | BD DECISION: SUSTAINED                   | Nov 20, 2013 |              |
| 6            | TERMINATED                               | Nov 20, 2013 |              |

### Type of Proceeding: Opposition

Proceeding Number:

[91205425](#)

Filing Date:

Jun 04, 2012

Status:

Terminated

Status Date:

Jul 23, 2013

Interlocutory Attorney:

JENNIFER KRISP

## Defendant

Name:

Harmony Green America, Inc.

Correspondent Address:

KRISTIN JORDAN HARKINS

CONLEY ROSE PC

5601 GRANITE PARKWAY, SUITE 750

PLANO TX , 75024

UNITED STATES

Correspondent e-mail:

[dallaslit@dfw.conleyrose.com](mailto:dallaslit@dfw.conleyrose.com)

## Associated marks

| Mark  | Application Status                    | Serial Number            | Registration Number |
|-------|---------------------------------------|--------------------------|---------------------|
| ROKAI | Abandoned - No Statement Of Use Filed | <a href="#">85414215</a> |                     |

## Plaintiff(s)

Name:

Kai LLC

Correspondent Address:

SHAUN MURPHY

SLOVAK BARON EMPEY MURPHY PINKNEY LLP

1800 EAST TAHQUITZ CANYON WAY

PALM SPRINGS CA , 92262

UNITED STATES

Correspondent e-mail:

[murphy@sbelawyers.com](mailto:murphy@sbelawyers.com) , [barlow@sbemp.com](mailto:barlow@sbemp.com)

## Associated marks

| Mark               | Application Status | Serial Number            | Registration Number     |
|--------------------|--------------------|--------------------------|-------------------------|
| KAI                | Renewed            | <a href="#">76134334</a> | <a href="#">2638344</a> |
| KAI                | Registered         | <a href="#">85038236</a> | <a href="#">4522188</a> |
| KAI BY GAYE STRAZA | Registered         | <a href="#">85038229</a> | <a href="#">4264957</a> |

### Prosecution History

| EntryNumber | History Text                                | Date         | Due Date     |
|-------------|---|--------------|--------------|
| 1           | FILED AND FEE                               | Jun 04, 2012 |              |
| 2           | NOTICE AND TRIAL DATES SENT; ANSWER DUE:    | Jun 05, 2012 | Jul 15, 2012 |
| 3           | PENDING, INSTITUTED                         | Jun 05, 2012 |              |
| 4           | STIPULATION FOR AN EXTENSION OF TIME        | Jul 12, 2012 |              |
| 5           | EXTENSION OF TIME GRANTED                   | Jul 12, 2012 |              |
| 6           | CHANGE OF CORRESPONDENCE ADDRESS            | Sep 13, 2012 |              |
| 7           | D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY | Sep 13, 2012 |              |
| 8           | D'S MOT FOR EXTEN. OF TIME W/ CONSENT       | Sep 13, 2012 |              |
| 9           | EXTENSION OF TIME GRANTED                   | Sep 18, 2012 |              |
| 10          | ANSWER                                      | Oct 04, 2012 |              |
| 11          | D'S MOT FOR EXTEN. OF TIME W/ CONSENT       | Dec 03, 2012 |              |
| 12          | EXTENSION OF TIME GRANTED                   | Dec 10, 2012 |              |
| 13          | STIP TO SUSPEND PEND SETTLEMENT NEGOTNS     | Jan 16, 2013 |              |
| 14          | SUSPENDED                                   | Jan 16, 2013 |              |
| 15          | MOT TO AMEND APPLICATION                    | Apr 11, 2013 |              |
| 16          | RESPONSE DUE 30 DAYS (DUE DATE)             | Apr 25, 2013 | May 25, 2013 |
| 17          | W/DRAW OF OPPOSITION                        | Apr 26, 2013 |              |
| 18          | RESPONSE DUE 30 DAYS (DUE DATE)             | May 18, 2013 | Jun 17, 2013 |
| 19          | BD DECISION: DISMISSED W/ PREJ              | Jul 23, 2013 |              |
| 20          | TERMINATED                                  | Jul 23, 2013 |              |

**EXHIBIT D**  
**NOTICE OF OPPOSITION**  
**In the Matter of Application Serial No. 86104014 for the Mark KAIDERMA**

•

Generated on:

This page was generated by TSDR on 2014-09-30 16:48:32 EDT

Mark:

KAI BY GAYE STRAZA

US Serial Number:

85038229

Application Filing Date:

May 13, 2010

US Registration Number:

4264957

Registration Date:

Dec. 25, 2012

Register:

Principal

Mark Type:

Trademark

Status:

Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date:

Dec. 25, 2012

Publication Date:

Mar. 08, 2011

Notice of Allowance Date:

May 03, 2011

## **Mark Information**

Mark Literal Elements:

KAI BY GAYE STRAZA

Standard Character Claim:

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type:

#### 4 - STANDARD CHARACTER MARK

Translation:

The English translation of "KAI" in the mark is "OCEAN".

Name Portrait Consent:

The name "Gaye Straza" identifies a living individual whose consent is of record.

### [Related Properties Information](#)

Claimed Ownership of US Registrations:

[2638344](#)

### [Goods and Services](#)

**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:

Fragrance, perfume, eau de parfum, eau de toilette, cologne, body lotion, hand cream, body butter, body wash, soap, fragrance infused sponges primarily used for imparting fragrance, body soap for bath and shower, deodorant for personal use, body fragrant mist, bubble bath, bath gels, bath salts, shampoo, conditioner, oils for hair treatment, hair care lotion, body scrub, non-medicated body soaks, linen soap and detergent, scented room and linen spray, lip conditioner, lip scrub, sun care lotions, nail polish, non-medicated skin care preparations for face and body, body glow, shaving preparations, shaving gel and cream, body and skin beauty care preparations, liquid hand soap, sunscreen, tanning oils and lotions, hair care lotions, creams and gels; potpourri, incense, scented oils, essential oils for household use, sachets, room fragrances, bath and bar soap, and, household cleaning preparations

International Class(es):

003 - Primary Class

U.S Class(es):

001, 004, 006, 050, 051, 052

Class Status:

ACTIVE

Basis:

1(a)

First Use:

Jun. 01, 2011

Use in Commerce:

Jun. 01, 2011

For:

Candles  
International Class(es):  
004 - Primary Class  
U.S Class(es):  
001, 006, 015  
Class Status:  
ACTIVE  
Basis:  
1(a)  
First Use:  
Jun. 01, 2011  
Use in Commerce:  
Jun. 01, 2011

### **Basis Information (Case Level)**

Filed Use:  
No  
Currently Use:  
Yes  
Amended Use:  
No  
Filed ITU:  
Yes  
Currently ITU:  
No  
Amended ITU:  
No  
Filed 44D:  
No  
Currently 44D:  
No  
Amended 44D:  
No  
Filed 44E:  
No  
Currently 44E:  
No  
Amended 44E:  
No  
Filed 66A:  
No  
Currently 66A:  
No  
Filed No Basis:

No  
Currently No Basis:  
No

## **Current Owner(s) Information**

Owner Name:  
Kai, LLC  
Owner Address:  
3003 malibu canyon road  
Malibu, CALIFORNIA 90265  
UNITED STATES  
Legal Entity Type:  
LIMITED LIABILITY COMPANY  
State or Country Where Organized:  
CALIFORNIA

## **Attorney/Correspondence Information**

Attorney of Record  
Attorney Name:  
John O. Pinkney  
Attorney Primary Email Address:  
[pinkney@sbelawyers.com](mailto:pinkney@sbelawyers.com)  
Attorney Email Authorized:  
No  
Correspondent  
Correspondent Name/Address:  
John O. Pinkney  
Slovak Baron  
1800 East Tahquitz Canyon Way  
Palm Springs, CALIFORNIA 92262  
UNITED STATES  
Phone:  
760-322-2275  
Fax:  
760-322-2107  
Correspondent e-mail:  
[pinkney@sbelawyers.com](mailto:pinkney@sbelawyers.com)  
Correspondent e-mail Authorized:  
Yes  
Domestic Representative - Not Found

## **Prosecution History**

| <b>Date</b>      | <b>Description</b>                                 | <b>Proceeding<br/>Number</b> |
|------------------|--|------------------------------|
| Dec. 25,<br>2012 | REGISTERED-PRINCIPAL REGISTER                      |                              |
| Nov. 20,<br>2012 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED  |                              |
| Nov. 19,<br>2012 | LAW OFFICE REGISTRATION REVIEW COMPLETED           | 77312                        |
| Nov. 19,<br>2012 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED          |                              |
| Nov. 02,<br>2012 | STATEMENT OF USE PROCESSING COMPLETE               | 76538                        |
| Oct. 29,<br>2012 | USE AMENDMENT FILED                                | 76538                        |
| Oct. 29,<br>2012 | TEAS STATEMENT OF USE RECEIVED                     |                              |
| May 09,<br>2012  | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED   |                              |
| May 08,<br>2012  | EXTENSION 2 GRANTED                                | 76538                        |
| May 01,<br>2012  | EXTENSION 2 FILED                                  | 76538                        |
| May 01,<br>2012  | TEAS EXTENSION RECEIVED                            |                              |
| Oct. 21,<br>2011 | NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED   |                              |
| Oct. 20,<br>2011 | EXTENSION 1 GRANTED                                | 76538                        |
| Oct. 18,<br>2011 | EXTENSION 1 FILED                                  | 76538                        |
| Oct. 19,<br>2011 | CASE ASSIGNED TO INTENT TO USE PARALEGAL           | 76538                        |
| Oct. 18,<br>2011 | TEAS EXTENSION RECEIVED                            |                              |
| May 03,<br>2011  | NOA E-MAILED - SOU REQUIRED FROM APPLICANT         |                              |
| Mar. 08,<br>2011 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED |                              |
| Mar. 08,         | PUBLISHED FOR OPPOSITION                           |                              |



|                  |  |       |
|------------------|--|-------|
| 2011             |  |       |
| Jan. 28,<br>2011 | LAW OFFICE PUBLICATION REVIEW COMPLETED      | 77312 |
| Jan. 27,<br>2011 | ASSIGNED TO LIE                              | 77312 |
| Jan. 26,<br>2011 | ATTORNEY REVOKED AND/OR APPOINTED            |       |
| Jan. 26,<br>2011 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED        |       |
| Jan. 26,<br>2011 | APPROVED FOR PUB - PRINCIPAL REGISTER        |       |
| Jan. 26,<br>2011 | EXAMINER'S AMENDMENT ENTERED                 | 88888 |
| Jan. 26,<br>2011 | NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED | 6328  |
| Jan. 26,<br>2011 | EXAMINERS AMENDMENT E-MAILED                 | 6328  |
| Jan. 26,<br>2011 | EXAMINERS AMENDMENT -WRITTEN                 | 82095 |
| Jan. 25,<br>2011 | PREVIOUS ALLOWANCE COUNT WITHDRAWN           |       |
| Jan. 07,<br>2011 | WITHDRAWN FROM PUB - OG REVIEW QUERY         | 60756 |
| Dec. 27,<br>2010 | LAW OFFICE PUBLICATION REVIEW COMPLETED      | 68552 |
| Dec. 27,<br>2010 | ASSIGNED TO LIE                              | 68552 |
| Dec. 03,<br>2010 | APPROVED FOR PUB - PRINCIPAL REGISTER        |       |
| Dec. 02,<br>2010 | TEAS/EMAIL CORRESPONDENCE ENTERED            | 88889 |
| Dec. 02,<br>2010 | CORRESPONDENCE RECEIVED IN LAW OFFICE        | 88889 |
| Dec. 02,<br>2010 | TEAS RESPONSE TO OFFICE ACTION RECEIVED      |       |
| Aug. 26,<br>2010 | NOTIFICATION OF NON-FINAL ACTION E-MAILED    | 6325  |
| Aug. 26,<br>2010 | NON-FINAL ACTION E-MAILED                    | 6325  |

|                  |   |       |
|------------------|---|-------|
| Aug. 26,<br>2010 | NON-FINAL ACTION WRITTEN                                | 82095 |
| Aug. 26,<br>2010 | NOTIFICATION OF NON-FINAL ACTION E-MAILED               | 6325  |
| Aug. 26,<br>2010 | NON-FINAL ACTION E-MAILED                               | 6325  |
| Aug. 26,<br>2010 | NON-FINAL ACTION WRITTEN                                | 82095 |
| Aug. 25,<br>2010 | ASSIGNED TO EXAMINER                                    | 82095 |
| May 18,<br>2010  | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED<br>IN TRAM |       |
| May 17,<br>2010  | NEW APPLICATION ENTERED IN TRAM                         |       |

## **TM Staff and Location Information**

TM Staff Information - None

File Location

Current Location:

PUBLICATION AND ISSUE SECTION

Date in Location:

Nov. 19, 2012

## **Proceedings**

Summary

Number of Proceedings:

2

## **Type of Proceeding: Opposition**

Proceeding Number:

[91211865](#)

Filing Date:

Aug 03, 2013

Status:

Terminated

Status Date:

Nov 20, 2013

Interlocutory Attorney:

BENJAMIN U OKEKE

**Defendant**

Name:  
Intrawest Honua Kai Hospitality Management LLC  
Correspondent Address:  
IAN L SAFFER  
KILPATRICK TOWNSEND & STOCKTON LLP  
1400 WEWATTA ST STE 600  
DENVER CO , 80202  
UNITED STATES  
Correspondent e-mail:  
[denverteas@kilpatricktownsend.com;dacke](mailto:denverteas@kilpatricktownsend.com;dacke)

**Associated marks**

| Mark             | Application Status                      | Serial Number            | Registration Number |
|------------------|---|--------------------------|---------------------|
| SPA HONUA<br>KAI | Abandoned - After Inter-Partes Decision | <a href="#">85779409</a> |                     |

**Plaintiff(s)**

Name:  
Kai, LLC  
Correspondent Address:  
SHAUN MURPHY  
SLOVAK BARON EMPEY MURPHY & PINKNEY  
1800 E TAHQUITZ CANYON WAY  
PALM SPRINGS CA , 92262  
UNITED STATES  
Correspondent e-mail:  
[murphy@sbemp.com](mailto:murphy@sbemp.com) , [m3btmks@me.com](mailto:m3btmks@me.com)

**Associated marks**

| Mark               | Application Status | Serial Number            | Registration Number     |
|--------------------|--------------------|--------------------------|-------------------------|
| KAI                | Renewed            | <a href="#">76134334</a> | <a href="#">2638344</a> |
| KAI                | Registered         | <a href="#">85038236</a> | <a href="#">4522188</a> |
| KAI BY GAYE STRAZA | Registered         | <a href="#">85038229</a> | <a href="#">4264957</a> |
| KAI TERRE BY GAYE  | Fifth Extension -  | <a href="#">85317593</a> |                         |

STRAZA

Granted

**Prosecution History**

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Aug 03, 2013 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Aug 03, 2013 | Sep 12, 2013 |
| 3            | PENDING, INSTITUTED                      | Aug 03, 2013 |              |
| 4            | NOTICE OF DEFAULT                        | Oct 02, 2013 |              |
| 5            | BD DECISION: SUSTAINED                   | Nov 20, 2013 |              |
| 6            | TERMINATED                               | Nov 20, 2013 |              |

**Type of Proceeding: Opposition**

Proceeding Number:

[91205425](#)

Filing Date:

Jun 04, 2012

Status:

Terminated

Status Date:

Jul 23, 2013

Interlocutory Attorney:

JENNIFER KRISP

**Defendant**

Name:

Harmony Green America, Inc.

Correspondent Address:

KRISTIN JORDAN HARKINS

CONLEY ROSE PC

5601 GRANITE PARKWAY, SUITE 750

PLANO TX , 75024

UNITED STATES

Correspondent e-mail:

[dallaslit@dfw.conleyrose.com](mailto:dallaslit@dfw.conleyrose.com)

**Associated marks**

|       |                                       |                          |                     |
|-------|---------------------------------------|--------------------------|---------------------|
| Mark  | Application Status                    | Serial Number            | Registration Number |
| ROKAI | Abandoned - No Statement Of Use Filed | <a href="#">85414215</a> |                     |

**Plaintiff(s)**

Name:  
Kai LLC  
Correspondent Address:  
SHAUN MURPHY  
SLOVAK BARON EMPEY MURPHY PINKNEY LLP  
1800 EAST TAHQUITZ CANYON WAY  
PALM SPRINGS CA , 92262  
UNITED STATES  
Correspondent e-mail:  
[murphy@sbelawyers.com](mailto:murphy@sbelawyers.com) , [barlow@sbemp.com](mailto:barlow@sbemp.com)

**Associated marks**

|                          |                           |                          |                         |
|--------------------------|---------------------------|--------------------------|-------------------------|
| Mark                     | Application Status        | Serial Number            | Registration Number     |
| KAI                      | Renewed                   | <a href="#">76134334</a> | <a href="#">2638344</a> |
| KAI                      | Registered                | <a href="#">85038236</a> | <a href="#">4522188</a> |
| KAI BY GAYE STRAZA       | Registered                | <a href="#">85038229</a> | <a href="#">4264957</a> |
| KAI TERRE BY GAYE STRAZA | Fifth Extension - Granted | <a href="#">85317593</a> |                         |

**Prosecution History**

| Entry Number | History Text                             | Date         | Due Date     |
|--------------|--|--------------|--------------|
| 1            | FILED AND FEE                            | Jun 04, 2012 |              |
| 2            | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Jun 05, 2012 | Jul 15, 2012 |
| 3            | PENDING, INSTITUTED                      | Jun 05, 2012 |              |
| 4            | STIPULATION FOR AN EXTENSION OF TIME     | Jul 12, 2012 |              |
| 5            | EXTENSION OF TIME GRANTED                | Jul 12, 2012 |              |
| 6            | CHANGE OF CORRESPONDENCE ADDRESS         | Sep 13,      |              |

|    |   |              |              |
|----|---|--------------|--------------|
|    |   | 2012         |              |
| 7  | D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY | Sep 13, 2012 |              |
| 8  | D'S MOT FOR EXTEN. OF TIME W/ CONSENT       | Sep 13, 2012 |              |
| 9  | EXTENSION OF TIME GRANTED                   | Sep 18, 2012 |              |
| 10 | ANSWER                                      | Oct 04, 2012 |              |
| 11 | D'S MOT FOR EXTEN. OF TIME W/ CONSENT       | Dec 03, 2012 |              |
| 12 | EXTENSION OF TIME GRANTED                   | Dec 10, 2012 |              |
| 13 | STIP TO SUSPEND PEND SETTLEMENT NEGOTNS     | Jan 16, 2013 |              |
| 14 | SUSPENDED                                   | Jan 16, 2013 |              |
| 15 | MOT TO AMEND APPLICATION                    | Apr 11, 2013 |              |
| 16 | RESPONSE DUE 30 DAYS (DUE DATE)             | Apr 25, 2013 | May 25, 2013 |
| 17 | W/DRAW OF OPPOSITION                        | Apr 26, 2013 |              |
| 18 | RESPONSE DUE 30 DAYS (DUE DATE)             | May 18, 2013 | Jun 17, 2013 |
| 19 | BD DECISION: DISMISSED W/ PREJ              | Jul 23, 2013 |              |
| 20 | TERMINATED                                  | Jul 23, 2013 |              |