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

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

TRIGON TURF SCIENCES, LLC,

Opposer,

v.

JRM, INC.,

Applicant.

Opposition No. 91255001

Serial No. 88649876

Mark: SAMURAI TINE

APPLICANT'S RESPONSE TO OPPOSER'S MOTION FOR SUMMARY JUDGMENT

Date: October 1, 2021

Respectfully submitted,

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I. INTRODUCTION

After being twice previously denied, Opposer Trigon Turf Sciences, LLC (“Opposer”) now moves the Trademark Trial and Appeal Board (the “Board”) to grant summary judgment in its favor and against Applicant JRM, Inc. (“Applicant”). In so doing, Opposer relies on the same arguments previously rejected by this Board. They should be rejected once again.

For the third time, Opposer attempts to argue Applicant’s pending registration, for the mark SAMURAI TINES in standard character form (the “Samurai Tines Mark”) in connection with metal turf aeration tines is too similar its own design mark containing the words NINJA TINES below a highly stylized image of a helmet or faceplate (the “Ninja Tines Mark”) in connection with metal turf aeration tines. In so arguing, Opposer has no choice but to ignore the sheer dissimilarity between the two marks, instead contending that while the marks are nothing alike in appearance, sound, connotation, or commercial impression, they are somehow “legally identical.” Such argument rests on a flawed and contorted reading of Federal Circuit precedent and this Board’s prior decisions. When looked at in their totality, the relevant *Dupont* factors in this matter weigh strongly in Applicant’s favor that there is no likelihood of confusion between the Ninja Tines Mark and the Samurai Tine Mark.

Accordingly, Opposer’s third bite at the apple fares no better than its first two and the Board should deny Opposer’s motion and grant Applicant’s cross-motion for summary judgment.

II. OPPOSER’S NINJA TINES MARK IS NOT INHERENTLY DISTINCTIVE¹

Opposer’s argument that its Ninja Tines Mark is inherently distinctive ignores the connections commonly made in connection with ninjas and sharp and piercing blades. As Opposer states, an arbitrary mark is a mark “that does not directly describe the qualities of a product to which it applies.” *See, e.g., Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1372, 73 U.S.P.Q.2d 1689, 1692 (Fed. Cir. 2005) (VEUVE – meaning WIDOW in English – held to be “an arbitrary term as applied to champagne and sparkling wine, and thus conceptually strong as a trademark”); *Nautilus Grp., Inc. v. Icon Health & Fitness, Inc.*, 372 F.3d 1330, 1340, 71 U.S.P.Q.2d 1173, 1180 (Fed. Cir. 2004) (defining an arbitrary mark as “a known word used in an unexpected or uncommon way”).

A suggestive mark is one when applied to the goods or services at issue, require imagination, thought, or perception to reach a conclusion as to the nature of those goods or services. A suggestive term differs from a descriptive term, which immediately tells something about the goods or services. *See In re George Weston Ltd.*, 228 U.S.P.Q. 57 (TTAB 1985) (SPEEDI BAKE for frozen dough found to fall within the category of suggestive marks because it only vaguely suggests a desirable characteristic of frozen dough, namely, that it quickly and easily may be baked into bread); *In re The Noble Co.*, 225 U.S.P.Q. 749 (TTAB 1985) (NOBURST for liquid antifreeze and rust inhibitor for hot-water-heating systems found to suggest a desired result of using the product rather than immediately informing the purchasing public of a characteristic, feature, function, or attribute).

By contrast, a descriptive mark describes an ingredient, quality, characteristic, function,

¹ Rather than restating the facts in this matter for a second time, Applicant refers the Board to the Procedural and Factual Background set out in Applicant’s Motion for Summary Judgment. (TTABVue Dkt #34, Applicant’s Motion for Summary Judgment, (hereafter, “App.’s S.J. Mot.”), pp. 2- 6).

feature, purpose, or use of the specified goods or services which it covers. *See In re TriVita, Inc.*, 783 F.3d 872, 114 U.S.P.Q.2d 1574 (Fed. Cir. 2015) (NOPALEA held descriptive of dietary and nutritional supplements); *In re Gyulay*, 820 F.2d 1216, 3 U.S.P.Q.2d 1009 (Fed. Cir. 1987) (APPLE PIE held merely descriptive of potpourri); *In re Bed & Breakfast Registry*, 791 F.2d 157, 229 U.S.P.Q. 818 (Fed. Cir. 1986) (BED & BREAKFAST REGISTRY held merely descriptive of lodging reservations services); *In re MetPath Inc.*, 223 U.S.P.Q. 88 (TTAB 1984) (MALE-P.A.P. TEST held merely descriptive of clinical pathological immunoassay testing services for detecting and monitoring prostatic cancer); *In re Bright-Crest, Ltd.*, 204 U.S.P.Q. 591 (TTAB 1979) (COASTER-CARDS held merely descriptive of a coaster suitable for direct mailing). Similarly, a mark is considered merely descriptive if it immediately conveys knowledge of a quality, feature, function, or characteristic of an applicant's goods or services. *In re Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 U.S.P.Q.2d 1217, 1219 (Fed. Cir. 2012); *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963-64, 82 U.S.P.Q.2d 1828, 1831 (Fed. Cir. 2007).

Here, Opposer contends that its Ninja Tines Mark “is, by its very nature, afforded the highest degree of protection from infringement because it is an arbitrary mark.” (TTABVue Dkt. # 32, Opposer’s Motion for Summary Judgment (hereafter “Opp.’s S.J. Mot.”), p.8). In support of this conclusory determination, Opposer states that the Ninja Tines Mark is arbitrary because “it does not directly describe the qualities of the metal turf aeration tines provided by Opposer and has no connection to the goods whatsoever.” (*Id.*, pp. 8-9). This is not accurate.

By their very nature, aeration tines are blade-like devices which are used to puncture the soil on various grassy surfaces, like golf courses, to core the turf. High-quality tines must be both sharp and durable. Opposer contends that the Ninja Tines Mark “connotes and gives the

impression of a Japanese warrior.” (*Id.*, p. 9). In popular culture, the term “ninja” typically connotes an assassin, trained in martial arts, and typically associated with sharp blades, such as ninjato swords, shuriken “throwing stars,” and kunai knives. Thus, far from being arbitrary, the Ninja Tines Mark conveys the sharp and piercing quality of the Ninja Tines products covered by the mark by creating an association and connotation using the word NINJA. The Ninja Tines Mark is more appropriately classified as a descriptive mark as the word NINJA, as discussed above, can describe the quality or characteristic of the goods—the sharp and piercing nature of the tine products. Even if NINJA is not deemed to directly describe aspects of the goods at issue, the Ninja Tines Mark is, at best, merely suggestive as the connotation of the word NINJA needs little imagination to reach quality conclusions about the goods themselves. Either way, the Ninja Tines Mark is not entitled to “the highest degree of protection” as suggested by Opposer.

III. APPLICANT’S MARK AND OPPOSER’S MARK ARE ENTIRELY DISSIMILAR AND SUMMARY JUDGMENT SHOULD NOT BE GRANTED IN OPPOSER’S FAVOR.

Regardless of the degree of protection to which Opposer’s Ninja Tines Mark is entitled, Opposer’s motion for summary judgment should be denied and Applicant’s motion should be granted because of the sheer dissimilarity between the two marks in regard to their appearance, sound, connotation, and commercial impression. As set out in Applicant’s Initial Brief, a registration should only be refused where the trademark:

Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.

15 U.S.C. § 1052(d). Whether “a likelihood of confusion exists between an applicant’s mark and a previously registered mark is determined on a case-by-case basis, aided by application of the

thirteen *DuPont* factors.” *Omaha Steaks International, Inc. v. Greater Omaha Packing, Co.*, 908 F.3d 1315, 1319, 128 U.S.P.Q.2d 1686, 1689 (Fed. Cir. 2018). To determine whether a likelihood of confusion exists, a decision maker must consider the factors enumerated by the Court of Customs and Patent Appeals in *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 1360-62, 177 U.S.P.Q. 563, 566-67 (C.C.P.A. 1973).

Here, the first *DuPont* factor, the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation, and commercial impression, is the most important factor at issue, and should be dispositive in this matter. *See e.g., Kellogg Co. v. Pack'em Enterprises, Inc.*, 951 F.2d 330, 333, 21 U.S.P.Q.2d 1142, 1145 (Fed. Cir. 1991). As set out in Applicant’s initial Summary Judgment Brief, the Ninja Tines Mark and the Samurai Tine Mark are entirely dissimilar. (App.’s S.J. Mot., pp. 9-13).

In arguing that the marks are confusingly similar, Opposer tellingly fails to address the noticeably apparent differences as to appearance and sound. The marks look nothing alike. Opposer’s Ninja Tines Mark contains both a textual and graphic component:



The Ninja Tines Mark prominently features the words “NINJA TINES” in capital letters with the word “NINJA” appearing in large font in the center of the Ninja Tines Mark and the

word “TINES” appearing below “NINJA” in slightly smaller font. The words “NINJA TINES” sit below a highly stylized image of a helmet or faceplate. The word “SAMURAI” does not appear in the Ninja Tines Mark at all. By contrast, Applicant’s Samurai Tine Mark contains no graphic component and consists of the words “SAMURAI TINE” as a standard character mark. The use of the word “TINE” in both marks is disclaimed.

When a mark “consists of both words and a design, the verbal portion of the mark is the one most likely to indicate the origin of the goods to which it is affixed.” *Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1371, 116 U.S.P.Q.2d 1129, 1134 (Fed. Cir. 2015). Viewed in its entirety, the text of the word “NINJA” is clearly the dominant portion of the Ninja Tines Mark, featured in larger font and drawing the eye to the term. *See Omaha Steaks*, 908 F.3d at 1326-27, 128 U.S.P.Q.2d at 1695 (placing additional weight on the first words in the Defendant’s mark which were visibly larger than the others). By contrast, the Samurai Tine Mark’s appearance consists of only the words SAMURAI TINE. Thus, given the entirely different words making up the two marks, and the specific emphasis put on the word NINJA in the Ninja Tines Mark, it cannot be said that the marks have a similar appearance.

Likewise, the two marks are not similar at all in terms of sound. As explained in Applicant’s initial brief, the word NINJA and the word SAMURAI have a different number of syllables, with entirely different phonetics or sounding consonants making up each word.

Seeming to recognize that on their face, the two marks are entirely dissimilar, Opposer attempts to string together a series of different legal conclusions in an effort to justify an argument that the Ninja Tines Mark and the Samurai Tine Mark are “legally identical.” However, in so doing, Opposer ignores clear precedence from the Federal Circuit and this Board.

Opposer's argument should be rejected in its entirety.

A. *The Stylized Graphic in the Ninja Tines Mark is an Image of a Helmet or Faceplate, Not an Image of a Samurai.*

Opposer conclusory asserts that there is no genuine dispute of fact that the graphical portion of the Ninja Tines Mark is a samurai. Opposer is mistaken. Indeed, the evidence is clear that this is not an image of a samurai – it is a highly stylized image of a helmet or faceplate, which at best could be characterized as a piece of armor sometimes, but not exclusively, worn by a samurai.

While “the proper test is not a side-by-side comparison of the marks,” it is critical to determine whether “the marks are sufficiently similar in terms of their commercial impression such that persons who encounter the marks would be likely to assume a connection between the parties.” *In re i.am.symbolic, llc*, 866 F.3d 1315, 123 U.S.P.Q.2d 1744, 1748 (Fed. Cir. 2017). Critically, where an image is highly stylized, such that it would not be immediately discerned and the connection with the textual equivalent is not readily evoked, then that is not evidence of the marks being similar. *In re Serac*, 218 U.S.P.Q. 340, 341-42 (T.T.A.B. 1983). The critical question then, is whether Applicant's use of the word samurai in its own mark would “produce a likelihood that buyers would assume a common source for [A]pplicant's and [Opposer's] [] products.” *Id.* Opposer points to its own description of the Ninja Tines Mark as evidence that the image is a samurai, yet such arguments run contrary to this Board's long-standing precedent. *Id.* at 342. Indeed, Opposer's attempts to selectively choose portions of the Ninja Tines Mark's description as evidence to support its contentions should be rejected.

Despite describing the image as a “stylized image of a samurai” in the description of its Ninja Tines Mark, (TTABVue Dkt. #1 – Notice of Opposition, Ex. A), Opposer now takes the position that the image “is not a highly stylized or abstract pictorial representation.” (Opposer's

S.J. Mot., p. 13). However, the graphical portion of the Ninja Tines Mark is indisputably a highly stylized image. To the extent that it is a representation of a helmet sometimes worn by samurai, great artistic liberty is taken, with the left half of the faceplate completely missing from the image and large portions of the helmet appearing to vanish into the background. The image is disconnected from any human body, does not appear to be sitting atop a human head, and is not associated with any other piece of traditional “samurai” armor. In its own briefing, Opposer necessarily acknowledges this point, breaking down – without any supporting evidence – “five readily and identifiable and distinct components” of the Ninja Tines Mark’s graphical mark. (Opposer’s S.J. Mot., pp. 14-15). Each component identified by Opposer is identified as a piece of “a samurai *helmet*” – not as a part of a samurai. (*Id.*) (emphasis added). In the same way that an individual looking at a stylized image of a firefighter’s helmet would not say “this is an image of a firefighter,” so too is it that this stylized image of a helmet cannot be said to be an image of an actual samurai.

Opposer’s reliance on *In re Dead Bird Brewing, LLC* in making this point is misplaced. In *Dead Bird Brewing*, an applicant sought registration for two marks on the Principal Register for use in connection with beer – one for the mark DEAD BIRD BREWING COMPANY in standard characters with “Brewing Company” disclaimed and one for the design mark corresponding to the following image:



Serial Nos. 87140389, 87140417, 2018 BL 254696 at *1 (T.T.A.B. 2018). The second mark contained no words accompanying the image. The opposer in that case previously registered the

mark DEADBIRD in standard character for wine. *Id.* As to the first mark, DEAD BIRD BREWING COMPANY, the Board determined that the close similarity between DEAD BIRD and DEADBIRD would cause confusion for consumers. *Id.* at *2. As to the mark for the graphic, the Board explained that “consumers who are familiar with or have been exposed to Applicant’s mark are very likely to use the words ‘the dead bird design (or mark or logo)’ when describing the mark to others, and are very likely to use the words ‘dead bird beer’ when requesting or ordering Applicant’s beer.” *Id.* at *3. Based on those specific details, the Board concluded that “the similarity between the marks is very strong.” *Id.*

By contrast, here, the Ninja Tines Mark contains both a stylized image of what could be construed as a piece of armor sometimes worn by a samurai as well as the prominent placement of the word NINJA directly below the image. Unlike consumers ordering “dead bird beer,” there is no indication—or evidence in the record--that consumers would (or have) ever described the products covered by the Ninja Tines Mark as samurai tines or the mark as “the samurai logo.” Additionally, in *Dead Bird*, the mark was made up of the entire image of a dead bird, as opposed to a single element such as a beak or a wing. That is unlike the case here, where the Ninja Tines Mark’s graphical component at best is a representation of a single piece of armor which was, at times, worn by members of the samurai class.

Finally, in denying Opposer’s second motion for summary judgment, this Board noted that “Opposer has failed to meet its initial burden of establishing that there is no genuine dispute that purchasers, who normally retain a general rather than a specific recollection of trademarks,” would perceive Opposer’s complete pleaded registered mark – NINJA TINES and design in the

following form,  -- as incorporating a samurai design.” (TTABVue Dkt. #29,

Denial of Opposer’s Motion for Partial Summary Judgment, pp. 2-3). The Board continued, “[i]ndeed, given that there is nothing in the record to suggest that ‘ninja’ and ‘samurai’ are synonymous, such a perception would appear to be at odds with the wording in the pleaded mark.” (*Id.*, p.3). Opposer’s efforts to correct that fatal deficiency fail.

Unable to produce any evidence that the words “ninja” and “samurai” are synonymous, Opposer instead proffers a two-paragraph expert report from Dr. Michael Wert, who conclusorily states that “[t]his image, supplied to me by Uradnik Law Firm PC, clearly depicts a samurai” and then goes on to state, without any supporting evidence that “[i]n popular usage, a ‘samurai’ refers to any type of warrior in Japan, including warriors who might not wear armor and masks like the one here.” (Opp.’s S.J. Mot., Ex. C). Thus, by his own testimony, Dr. Wert contradicts himself by stating that the image “clearly depicts a samurai” while simultaneously stating that the term samurai is often used to refer to a wider range of warriors in Japan than just those who wear helmets and faceplates – which would necessarily include those who do not. Further, Dr. Wert’s testimony offers no evidence that samurai and ninja are synonymous. Accordingly, Dr. Wert’s testimony offers no relevant evidence as to what the image in question actually represents.

By contrast, Dr. Robert Hellyer, an Associate Professor of History and Director of the East Asian Studies Interdisciplinary Minor at Wake Forest University, explains in his declaration that masks and helmets like the one represented by Opposer’s mark were not “key means of characterizing the samurai.” (Ex. 1, Declaration of Robert Hellyer, Ph.D (hereafter, “Hellyer Report”, ¶ 11). Explaining the historical overview of the samurai, Dr. Hellyer states that:

[I]t is my professional opinion, informed by my years of study and teaching Japanese history and culture, that the image referred to as the Ninja Mark is not synonymous with a samurai. As I described above, the ornamental trappings of the samurai headpiece is but a small part of the overall historical understanding of

the samurai, and the fractional representation displayed in the Ninja Mark is insufficient to harken the rich and full historical understanding of the samurai.

(*Id.*, ¶ 19). Continuing, Dr. Hellyer notes that:

[T]he inclusion of the “Ninja” text in the Ninja Mark is in jarring contrast to not only the military and cultural tenets that the samurai stood for during their ascendancy, but also how historians of today generally interpret the samurai. In my professional opinion, this creates a strange and problematic misappropriation of Japanese culture that has the great potential to confuse anyone with even a passing familiarity with Japanese history.

(*Id.*, ¶ 20). Thus, Dr. Hellyer makes clear that graphical portion of the Ninja Tines Mark does not represent a samurai and that the image’s placement next to the word NINJA creates a jarring juxtaposition which further undermines Opposer’s contention that the graphical component of the Ninja Tines Mark is a samurai.

Dr. Hellyer’s report further crystallizes the point made by this Board in its previous denial of Opposer’s motion for partial summary judgment: the terms ninja and samurai are not synonymous. His report explains that the term samurai is applied to a “definitive social class, which meant that all members of a family, including women in a household were samurai” and that the samurai were a ruling class “who possessed not only martial skills, but also an appreciation of literature, poetry, and the arts.” (*Id.*, ¶ 14). By contrast, the term ninja refers to a much more nebulous collection of individuals who had “special skills of espionage or the ability to covertly enter buildings as a means to gain an edge over an opponent,” (*Id.*, ¶ 17), and who “became more of a group of legend . . . in part because their reputed secret lives were so different from the very public ones of the men and women of the ruling samurai class.” (*Id.*, ¶ 18).

Thus, it is clear from the evidence in the record that the graphical portion of the Ninja Tines Mark is not an image of a samurai. Accordingly, Opposer’s argument as to the similarity of the two marks fails, and summary judgment should be denied as to Opposer and granted as to

Applicant.

B. Opposer’s Argument that the Samurai Tines Mark is Encompassed by the Ninja Tines Mark Ignores the Board’s Admonitions Not to Improperly Dissect a Mark.

Even if the Board determines that the image portion in the Ninja Tines Mark is of a samurai, there is still no likelihood of confusion as to the two marks. In asserting that the two marks at issue are similar, Opposer argues that Applicant’s Samurai Tine Mark is encompassed by the Ninja Tines Mark, attempting to tie two distinct legal propositions together in a way that ignores this Board’s clear guidance that marks are not to be dissected and must be looked at in the whole. *See e.g., In re Nat’l Data Corp.*, 753 F.2d 1056, 1058, 224 U.S.P.Q. 749, 751 (Fed. Cir. 1985) (explaining that marks must be compared in their entirety and that “likelihood of confusion cannot be predicated on dissection of a mark, that is, on only part of a mark”).

Opposer’s argument begins with the proposition that in certain cases, likelihood of confusion can be found “where the entirety of one mark is incorporated by the other” and then cites to a series of cases in which the marks at issue dealt with marks comprised of *substantially similar words* (e.g., “CAREER IMAGE” versus “CREST CAREER IMAGES” for women’s clothing, “PRECISION” versus “PRECISION DISTRIBUTION GOODS” for irrigation equipment and sprinklers), and concludes that because an image of a samurai is legally identical to the word samurai, the Samurai Tine Mark is encompassed by the Ninja Tines Mark and therefore, similar in connotation and overall commercial impression. Such analysis does not withstand scrutiny.

Opposer attempts to draw a far broader holding from those cases, arguing that because the Ninja Tines Mark contains an image of a samurai, the Samurai Tine Mark is “legally identical” to the Ninja Tines Mark. But the cases cited by Opposer are much narrower in their

holdings. In *Hunter Industries, Inc. v. The Toro Company*, for example, the opposer objected to applicant's attempt to register PRECISION in standard character mark for irrigation equipment where the opposer had a mark for PRECISION DISTRIBUTION CONTROL for irrigation sprinklers. 110 U.S.P.Q.2d 1651, 11652-53 (T.T.A.B. 2014). There, the Board concluded that there was a likelihood of confusion because consumers were "likely to view applicant's PRECISION mark as a variation or shortened version of opposer's PRECISION DISTRIBUTION CONTROL, with both marks indicating a single source for the goods. *Id.* at 1661 ("To the extent PRECISION is suggestive of a uniform and accurate spray pattern, as applicant contends with regard to its sprinklers, this term also has the same meaning for opposer's sprinklers.")

By contrast, here, Opposer has put forward zero evidence that consumers would mistake the source of each party's respective aeration tines based on Applicant's use of the word samurai. As Opposer has previously acknowledged, the Ninja Tines Mark is used in connection with two lines of products, Ninja Tines and Ninja Tines XL. Opposer admits that it knows of no person ever inquiring as to whether Opposer's goods or services are or were affiliated with, connected to, sponsored by, or otherwise related to Applicant, Applicant's Samurai Tine Mark, or Applicant's goods and services. (App.'s S.J. Mot., Declaration of Blake P. Hurt (hereafter, "Hurt Decl."), Ex. 1, Interrogatory No. 19). Accordingly, Opposer's reliance on the line of cases discussed in *Hunter Industries* is misplaced in this matter.

Further, in making its arguments related to the purported samurai image, Opposer again improperly dissects its own mark, contrary to the precedent of this Board and the Federal Circuit and ignoring the Board's previous discussion on this issue. In denying Opposer's previous summary judgment motion, the Board addressed this issue, explaining that "Opposer improperly

dissects its pleaded mark into design and word portions TTABVue Dkt. #29, Denial of Opposer’s Motion for Partial Summary Judgment, p. 2). Nonetheless, Opposer now repeats that same argument.

In analyzing the degree of similarity, it “is improper to dissect a mark” and the “mark must be viewed in its entirety” *Coach Services, Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 U.S.P.Q.2d 1713, 1721 (Fed. Cir. 2012) (cleaned up). A mark that has both a graphic and textual element should be viewed in its entirety. *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 U.S.P.Q.2d 1905, 1908 (Fed. Cir. 2012). However, where a mark “consists of both words and a design, the verbal portion of the mark is the one most likely to indicate the origin of the goods to which it is affixed.” *Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. v. New Millennium Sports, S.L.U.*, 797 F.3d 1363, 1371, 116 U.S.P.Q.2d 1129, 1134 (Fed. Cir. 2015).

As explained in Applicant’s initial Motion for Summary Judgment, this case is far more analogous to *Jack Wolfskin* than the cases cited by Opposer. (App.’s S.J. Mot., pp. 11-12). In that case, the applicant sought to register the following mark for use with its clothing, footwear, and accessory products:



797 F.3d at 1366-67, 116 U.S.P.Q.2d at 1131. The opposer argued that applicant’s mark would create confusion with its own mark, which included a paw print and the word KELME, for use with a variety of products, including clothing products:



Id. After the Board concluded there was a likelihood of confusion, the Federal Circuit reversed, explaining that the Board had failed to account “for the presence of the literal, KELME component of the New Millennium Mark” reiterating that “the touchstone of this factor is consideration of the marks in total” and that “the verbal portion of the mark is the one most likely to indicate the origin of the goods to which it is affixed.” *Id.* at 1372, 116 U.S.P.Q.2d at 1134.

Here, the marks are even more dissimilar than in *Jack Wolfskin*, as the two marks feature entirely different verbal portions, and the Samurai Tine Mark contains no graphic component which could be confused with the graphic component of the Ninja Tines Mark. *Id.* at 1371, 116 U.S.P.Q.2d at 1134-35. Where “substantial and undisputed differences” between the marks make clear that the marks are sufficiently dissimilar, summary judgment is warranted in favor of the applicant, regardless of the other factors. *See Kellogg Co. v. Pack'em Enterprises, Inc.*, 951 F.2d 330, 332-33, 21 U.S.P.Q.2d 1142, 1144-45 (Fed. Cir. 1991) (holding that where “the only similarity between the marks is that one begins with the word ‘FROOT’ and the other with the word ‘FROOTEE’”, the marks were sufficiently different such that “the first *duPont* factor simply outweighs all of the others which might be pertinent to this case.”).

Opposer attempts to circumvent this clear deficiency by contending that the two marks’ “overall connotation and commercial impression” are identical because they both connote “a Japanese warrior.” (Opp.’s S.J. Mot., p. 17). As discussed in Section III(A) above, the clear differences between a samurai and a ninja render this argument baseless. The overall connotation and commercial impression of the Samurai Tine Mark and the Ninja Tines Mark are

entirely dissimilar. Accordingly, this factor weighs so heavily in Applicant's favor, it should be dispositive and summary judgment should be granted in Applicant's favor and denied as to Opposer.

IV. THE BALANCE OF THE APPLICABLE DUPONT FACTORS WEIGH IN APPLICANT'S FAVOR.

While the sheer dissimilarity between the two marks in this matter makes the first factor so important as to be dispositive in this case, the remaining applicable factors collectively weigh in Applicant's favor, as set out in Applicant's initial Motion for Summary Judgment. (App.'s S.J. Mot., pp. 13-24).

In addition to the similarity of the marks, Opposer points to factors 2, 3, 4, and 7 in arguing that the *Dupont* factors weigh in favor of finding a likelihood of confusion. These factors do not establish such a finding. While Applicant concedes that the goods at issue are similar, with both being metal aerification tines used in landscaping purposes, the similarity of the goods does not overcome the entire lack of similarity between the marks.

As to the third factor – the channels of trade – Opposer contends that the “because the goods are legally identical, they must be presumed to travel in the same channels of trade.” (Opp.'s S.J. Mot., p. 11). However, Opposer ignores that this is a rebuttable presumption. *See Zheng Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1372, 127 U.S.P.Q.2d 1797, 1801 (Fed. Cir. 2018). Unlike the cases cited by Opposer, *see In re Viterra, Inc.*, 671 F.3d 1358, 101 U.S.P.Q.2d 1905, 1908 (Fed. Cir. 2012), “where there was no evidence regarding the channels of trade[,]” here there is no dispute as to the channels of trade used by both Applicant and Opposer and that there is no overlap in those channels. Opposer has identified the following channels of trade by which its goods move: (1) its own website, www.ninjatines.com, its direct sales team in Florida, its distribution companies mainly located outside of Florida, and responding to direct consumer

requests. (App.'s S.J. Mot., Hurt Decl., Ex. 1, Interrogatory No. 4). By contrast, Applicant sales its aerification tines through the following channels: (1) Applicant's website, www.jrmonline.com; (2) Applicant's direct sales team, which services North and South Carolina, Virginia, Maryland, and Tennessee; (3) Applicant's third-party dealer network throughout all six inhabited continents; (4) requests made directly to Applicant; (5) Applicant's annual product catalog; and (6) direct sales to certain original equipment manufacturers ("OEMs"). (App.'s S.J. Mot., Declaration of James R. Merritt (hereafter, "Merritt Decl."), ¶ 11). Thus, here there is undisputed evidence that the channels of trade for the products covered by each parties' respective mark do not overlap, and accordingly the presumption should be rebutted and this factor found to weigh in Applicant's favor.

On the fourth factor, the "conditions under which buyers and buyers to whom sales are made", Opposer's misapprehends the Board's guidance as to the sophistication of the consumer at issue. Opposer cites the statement of law that "the applicable standard of care for a likelihood-of-confusion analysis is that of the least sophisticated consumer" while failing to offer even a scintilla of evidence as to who makes up the groups of consumers purchasing metal aerification tines. (Opp.'s S.J. Mot., p. 12). The appropriate analysis is not on some nebulous, undefined "unsophisticated purchaser" detached from the realities of who is actually buying the product. Instead, the focus should be on the least sophisticated consumer within the specific buyer's class. *Electronic Design & Sales Inc. v. Electronic Data Systems Corp.*, 954 F.2d 713, 718, 21 U.S.P.Q.2d 1388, 1392 (Fed. Cir. 1992) (cleaned up) ("There is always less likelihood of confusion where goods are expensive and purchased after careful consideration"). "Where the relevant buyer class is composed solely of professional, or commercial purchasers, it is reasonable to set a higher standard of care than exists for consumers. Many cases state that where

the relevant buyer class is composed of [such] buyers familiar with the field, they are sophisticated enough not to be confused by trademarks that are closely similar.” *In re: Inspired Technologies, Inc.*, Ser. No. 7727899, 2011 WL 526096 (T.T.A.B. Jan. 19, 2011) (internal citations omitted).

The expense of the goods at issue and the professional nature of purchasers support a finding of no likelihood of confusion exists. Applicant’s Samurai Tines are sold in sets of 30 or 60 at a market price of \$630.00 or \$1,260.00, and are sold exclusively to professional lawn maintenance individuals such as golf course managers, landscapers; sports field managers; college and university purchasing officials; vineyard managers; and hotel and resort managers; and related personnel, who devote substantial consideration to selecting the products for use in maintaining the grass and lawns under their supervision. (App.’s S.J. Mot., Merritt Decl., ¶¶ 18, 4-5, 28-31). Accordingly, these buyers take great care in making careful purchases on behalf of their employers. (*Id.*) The Board has previously explained as much, stating in *The Toro Company v. ToroHead, Inc.*, “golf course superintendents, golf course architects, sports field groundskeepers, municipal facility managers of large resorts and office buildings, and landscape contractors” are professionals who “would clearly be sophisticated purchasers,” and accordingly, such purchasers or potential purchasers would support a finding of no likelihood of confusion. 61 U.S.P.Q.2d 1164, 2001 WL 1734485, at *4 (T.T.A.B. 2001) (finding no likelihood of confusion, even where there was some similarity between the marks). Thus, given that the purchasers of Applicant’s and Opposer’s products are sophisticated buyers that would not be rushing into impulsive purchases for the products covered by the respective marks, this factor weighs heavily in favor of Applicant and against a finding of a likelihood of confusion.

Finally, Opposer attempts to put forward two conversations alleged to have occurred

through Twitter, with two unverified users. (Opp.'s S.J. Mot., pp. 18-19). As a threshold matter, Applicant renews its objection to consideration of these two Twitter direct message ("DM") conversations on the grounds that they constitute inadmissible hearsay under Federal Rule of Evidence 802. Fed. R. Evid. 802. *See also* Fed. R. Evid. 801 (defining hearsay to be a statement that a "declarant does not make while testifying" and that "a party offers to prove the truth of the matter asserted in the statement."). The alleged conversations are with two unauthenticated and unverified Twitter users, and thus the actual identities of the purported declarants cannot be confirmed. Further, each of these statements is being offered to prove the truth of the matter asserted, that the alleged speakers were actually confused. Yet, Opposer has not attempted to offer any evidence directly from such consumers, in form of sworn statements or testimony. Accordingly, the comments alleged to have been made by these Twitter users to Mr. Tenorio should not be considered. *See The Brooklyn Brewer Corporation v. Brooklyn Brew Shop, LLC*, 2020 WL 4673282, at *5 (T.T.A.B. Aug. 10, 2020) ("With regard to the hearsay objection, we agree that the circulation and media impression statistics are hearsay, and we have not considered them.")

Additionally, even if considered, these alleged conversations do not show actual confusion in the marketplace. This Board has previously rejected this same evidence as insufficient when previously proffered by Opposer. *See* (TTABVue Dkt. #23, Denial of Opposer's Motion for Summary Judgment, p. 6) ("Further, the two instances of actual confusion cited by Opposer, 16 TTABVUE 56-50, are insufficient to establish that there is no genuine dispute that confusion between the marks is likely.").

Evidence of actual confusion that is vague or ambiguous is generally entitled to little or no weight. *See, e.g., Jordache Enters., Inc. v. Hogg Wyld, Ltd.*, 828 F.2d 1482, 1487, 4

U.S.P.Q.2d 1216, 1220 (10th Cir. 1987) (“Although Ornstein’s testimony [as to inquiries about affiliation] was admissible, the district court correctly gave it little weight.”); *Fisher Stoves, Inc. v. All Nighter Stove Works, Inc.*, 626 F.2d 193, 195, 206 U.S.P.Q. 961, 963 (1st Cir. 1980) (“While plaintiff claimed incidents of actual confusion, the court found this evidence ambiguous.”); *Wynn Oil Co. v. Thomas*, 839 F.2d 1183, 1188, 5 U.S.P.Q.2d 1944, 1948 (6th Cir. 1988) (noting that “evidence of actual confusion is . . . frequently discounted as unclear or insubstantial”). In both alleged Twitter DM conversations initiated by Opposer, Opposer only asks whether the Twitter users had ever used Ninja Tines before. (TTABVue Dkt. # 32, Exhibit B, Declaration of Oscar Tenorio, Exs. 1-2.) When each customer responded in the affirmative, Opposer asked where the customer purchased the Ninja Tines product. (*Id.*). Curiously, both customers respond “JRM I believe.” (*Id.*). However, neither conversation illustrates that the customers encountered the Samurai Tine Mark, encountered the Ninja Tines Mark, or were confused based on any source identifier. (*Id.*). Indeed, despite initiating these conversations, Opposer makes no effort to ascertain whether either Twitter user was even aware of either mark.

By contrast, it is undisputed that neither party has ever been contacted by any person to inquire whether its goods sold under its respective mark is affiliated with the other party or its mark. (App.’s S.J. Mot., Merritt Dec., ¶ 33; Hurt Decl., Ex. 1, Interrogatory No. 19). Given the clear lack of any meaningful evidence of consumer confusion between the sources of the Samurai Tine Mark and the Ninja Tines Mark, this factor weighs in Applicant’s favor.

Thus, when viewed in their totality, the relevant *Dupont* factors weigh decisively in Applicant’s favor and summary judgment should be granted as to Applicant’s motion for summary judgment and denied as to Opposer’s motion for summary judgment.

V. CONCLUSION

For the reasons stated in this response and in Applicant's Motion for Summary Judgment, summary judgment should be granted in Applicant's favor and denied as to Opposer.

This the 1st day of October, 2021.

Respectfully submitted,

/s/ Alan B. Felts _____

Blake P. Hurt

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USPTO Reg. No. 67181

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Attorneys for Applicant JRM, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2021, a copy of Applicant's Response to Opposer's Motion for Summary Judgment and accompanying exhibits were served via email on Opposer's attorney of record as of this date:

Joseph A. Uradnik
Uradnik Law Firm P.C.
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Email: joe@iplawspot.com

/s/ Alan B. Felts

Alan B. Felts
Attorney for Applicant

EXHIBIT 1

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

JRM, INC.)	Opposition No.: 91255001
)	
Applicant,)	Serial No.: 88/649,876
)	
v.)	Filing Date: 10 October 2019
)	
TRIGON TURF SCIENCES, LLC)	Published: 25 February 2020
)	
Opposer,)	Mark: SAMURAI TINE

DECLARATION OF ROBERT HELLYER, Ph.D.

I. INTRODUCTION

1. Robert Hellyer, pursuant to 28 U.S.C. § 1746, swears on this date, under penalty of perjury, that the foregoing is true and correct.

2. I am currently an Associate Professor of History at Wake Forest University in Winston-Salem, North Carolina, a role I have held since July 2011. Since October 2013, I have also held the position of Director of the East Asian Studies Interdisciplinary Minor at Wake Forest University.

3. My qualifications for forming the conclusions set forth in this declaration are summarized here and explained in more detail in my curriculum vitae, which is attached as Exhibit A. Briefly, I received a Ph.D. (2001) and a Master of Arts (1995) in History from Stanford University, as well as a B.A. (1989) in History from Claremont McKenna College. During graduate school, I specialized in early modern and modern Japanese history with a secondary field of focus in early modern and modern East Asian history. I was previously an Assistant Professor of History at Wake Forest University where I taught courses in Japanese, East Asian, and World

History. I held that role from July 2005 through June 2011. From July 2001 to June 2005, I was Assistant Professor of History at Allegheny College.

4. In my role at Wake Forest University, I teach courses on all periods of Japanese history, as well about East Asian and world history. I have researched and published peer-reviewed books and articles examining Japan from circa 1600 to 1950. At Wake Forest and at my previous position at Allegheny College, I taught undergraduates about Japan for a total of sixteen years. Beginning during my time at Allegheny, I taught: “Samurai and Geisha: Fact, Film, and Fiction,” a course through which I have become familiar with research on the samurai. I also teach about the samurai in detail in my survey courses on Japan: Japan before 1600 and Japan since 1600 (all three courses of which I have taught numerous times).

5. I am the author of two monographs: *Defining Engagement: Japan and Global Contexts, 1640-1868* (Harvard University Asia Center, 2009) and *Green with Milk and Sugar: When Japan Filled America's Tea Cups* (Columbia University Press, 2021). I am also the co-editor of two edited volumes: Robert Hellyer and Harald Fuess, eds., *The Meiji Restoration: Japan as a Global Nation* (Cambridge University Press, 2020) and Robert Fletcher and Robert Hellyer, eds. *Westerners in Nineteenth-Century East Asia: Lives, Linkages and Imperial Connections*. SOAS Studies in Modern and Contemporary Japan (under contract with Bloomsbury, expected to be published in 2022). In addition to numerous journal articles and chapters in edited volumes, I have also written op-eds about Japanese history in the *Los Angeles Times* (2015) and *Washington Post* (2018).

6. I am retained as an expert by JRM, Inc. (“JRM”) in connection with the above-captioned opposition, in part to provide a rebuttal opinion to the Testimony Report of Michael Wert, Ph.D., a retained expert for Trigon Turf Sciences, LLC (“Trigon”).

7. I have personal knowledge of the matters set forth in this declaration. My analysis and conclusions are based on my review of the Testimony Report of Michael Wert, Ph.D. as well

as the entirety of the prosecution history and subsequent registration of U.S. Registration No. 5,600,255 (the “Ninja Mark”), my professional experience, and my expertise in the field of Japanese history and my extensive experience teaching about Japanese history to undergraduates. A full list of the materials I considered in forming my analysis and conclusions are provided in Exhibit B.

8. I am being compensated at my customary rate of \$100.00 per hour for my work in connection with this case. My compensation is not dependent on the contents of this declaration, the substance of any further analyses, conclusions or testimony that I may give, or the outcome of this case.

9. In the following, I am speaking for myself and not on behalf of my employer, Wake Forest University.

II. SUMMARY OF ANALYSES AND CONCLUSIONS

10. I have reviewed the opinions of Dr. Wert contained in his Testimony Report (hereinafter “Wert Report”), who has opined that the image portion of the Ninja Mark, reproduced below, depicts a samurai:



11. Specifically, Dr. Wert has stated: “in popular usage, a ‘samurai’ refers to any type of warrior in Japan, including warriors who might not wear armor and masks like the one here.” (Wert Report, pp. 1-2). However, I believe first, that by noting the role of armor and particularly helmets and masks in helping to define the samurai, Prof. Wert gives the perception that such equipment was often a key means of characterizing the samurai. I respectfully disagree.

12. In Japanese history the samurai were defined through a broad range of attributes, of which battle armor and masks were only small determining factors, especially during Japan’s last feudal age, the Edo period (1600-1868).

13. Dr. Wert further states: “their historical existence is much debated, although the Japanese-Portuguese dictionary of 1603 does list a ‘shinobi,’ another name for a ninja, as a type of spy active in times of war.” (Wert Report, p. 2). It appears Prof. Wert, drawing on perceptions of “popular usage” leaves the impression that the ninja were considered warriors and thus samurai, a conclusion for which I believe there is limited historical evidence. In fact, there is strong evidence to show that samurai would eschew the secretive espionage practices for which the ninja are well-known in popular usage and perceptions today. Also because Japan was marked by peace during the Edo period, there was limited need for the battlefield spying and covert activities for which the ninja were known.

14. A little historical perspective may be helpful. During the Heian Period (794-1185), the emperor and the court nobility were the definitive rulers of Japan. In 1185, a samurai government (shogunate) emerged for the first time, setting up a dual governing system of warriors and the court that would exist for several more centuries. During the fourteenth century, the imperial court and the shogunate battled for political ascendancy, with the latter emerging triumphant. In these battles of the thirteenth and fourteenth centuries, samurai, who

more often used bows than swords in battle, could receive land and other rewards for their service in a conflict. The samurai were also emerging as a definitive social class, which meant that all members of a family, including women in a household, were samurai. In addition, samurai embraced the idea of being men or women who possessed not only martial skills, but also an appreciation of literature, poetry, and the arts. Beginning in the late fifteenth century, the shogunate's position as a central government weakened, and samurai lords (daimyo) gained increasing power in the provinces. Japan became a patchwork of feudal domains, each independently governed by a samurai lord who led a band or house of samurai followers.

15. In the sixteenth century, Japan entered a "warring states" period in which lords aggressively competed to expand their territories. They therefore built larger castles and adopted new weapons, using swords more in combat but also guns, which after being introduced by the Portuguese in the 1540s, were manufactured in Japan. Lords also competed to display greater elegance than their peers; they wore colorful kimono made of imported Chinese silk and collected expensive tea ware to use when partaking in the tea ceremony, then a new practice but now a famous part of Japanese culture. Lords also wore elegant armor, often embellished with imported luxuries, such as deerskins from Southeast Asia. The rank and file samurai of the lords' houses possessed more rudimentary armor and helmets to wear in the near constant battles that waged inside Japan until the 1580s, which was followed by two unsuccessful Japanese invasions of Korea in the 1590s. During the Edo period, Japan was remarkable in the world as a land of peace: after 1600 Japan witnessed only a handful of short-term wars and internal rebellions, in stark contrast to Europe where interstate wars were the norm. Japan also became more urbanized with new cities emerging around the castles of lords; Edo (the location of present day Tokyo) grew into a metropolis. Around 1600, samurai families moved off their lands and

began to reside in Edo, the shogun's capital, and the towns forming around the castles of their lords. The samurai class was placed atop the status system, meaning that roughly six percent of the population dominated the majority commoners. Samurai families in cities could show a mark of their status by wearing two swords in public and lived on annual stipends—salaries granted by their lords in return for performing administrative duties. Samurai families with smaller stipends operated schools; women in many samurai households sewed garments and *tabi* (split-toed socks made from closely woven cloth) to make ends meet. In a time of extended peace, armor and helmets became relics, stored away in boxes and brought out to display in homes on holidays and worn only during occasional parades to the lord's castle.

16. Because they became family heirlooms, samurai helmets, armor and swords were kept, almost always stored in private, over generations. In the late nineteenth and twentieth centuries many families began to sell or donate equipment that had been used only ceremonially during the final two and half centuries of the existence of the samurai, a class which was abolished in the 1870s.

17. In the present day, historians continue to debate the historical presence of the ninja in Japanese history. There is little evidence to explain the exact origins of the term ninja although the term *shinobi* was used as early as the eighth century to describe a person who fulfilled specialized tasks such as collecting or relaying information. A person who today might be termed a ninja would have been most prevalent during the sixteenth-century warring states period when lords sought means to gain advantages during a period of near constant battles. A lord probably employed men with special skills of espionage or the ability to covertly enter buildings as means to gain an edge over an opponent who might otherwise be evenly matched on the battlefield. Because such tasks required stealth, we can conclude that a person who might be

termed a ninja today would not have worn armor, including a helmet, to accomplish covert tasks for his lord.

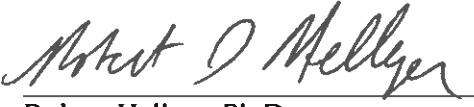
18. The long peace of the Edo period reduced the need and interest to maintain the covert battlefield practices that people we term a ninja today had perfected. The ninja became more a group of legend, and tales about their fantastic powers grew popular, in part because their reputed secret lives were so different from the very public ones of the men and women of the ruling samurai class. The cultural and social ideals of the samurai—predicated on the mastery of martial skills and cultural knowledge—dominated Japan. The ninja, never a prominent part of Japanese military history, faded from memory and grew in popular interest thanks especially to films of the 1960s.

19. Turning now to the Ninja Mark reproduced above, it is my professional opinion, informed by my years of study and teaching Japanese history and culture, that the image referred to as the Ninja Mark is not synonymous with a samurai. As I described above, the ornamental trappings of the samurai headpiece is but a small part of the overall historical understanding of the samurai, and the fractional representation displayed in the Ninja Mark is insufficient to harken the rich and full historical understanding of the samurai.

20. Additionally, or in the alternative, the inclusion of the “Ninja” text in the Ninja Mark is in jarring contrast to not only the military and cultural tenets that the samurai stood for during their ascendancy, but also how historians of today generally interpret the samurai. In my professional opinion, this creates a strange and problematic misappropriation of Japanese culture that has the great potential to confuse anyone with even a passing familiarity with Japanese history.

[SIGNATURE ON THE NEXT PAGE]

Executed on this the 12th day of July, 2021.

A handwritten signature in cursive script, reading "Robert D. Hellyer", written in black ink on a white background.

Robert Hellyer, Ph.D.

EXHIBIT A

Robert I. Hellyer

Department of History, Wake Forest University
Box 7806, 1834 Wake Forest Road
Winston-Salem, NC 27109 USA
P 336-758-3955, F 336-758-4591, hellyer@wfu.edu

Ph.D. in History - Stanford University, 2001
Master of Arts in History - Stanford University, 1995
Specialization: Early modern and modern Japan
Secondary Field: Early modern and modern East Asia

Bachelor of Arts, Claremont McKenna College, 1989
History (with honors)/ Philosophy, Politics, and Economics Program

ACADEMIC EMPLOYMENT

Wake Forest University

Winston-Salem, North Carolina

Associate Professor of History, July 2011-

Director, East Asian Studies Interdisciplinary Minor, October 2013-

Assistant Professor, July 2005-June 2011

Teach courses in Japanese, East Asian, and World History [Personal Website](#)

Allegheny College

Meadville, Pennsylvania; August 2001–August 2005

Assistant Professor of History / International Studies

Develop & instruct 10 courses in Chinese, Japanese, East Asian, & World History

University of Tokyo

Tokyo, Japan; March 1998–February 2000

Faculty Research Associate (Assistant Professor), Institute of Social Science

Editor-in-chief, [Social Science Japan](#)

Manage content & production of the institute's 40-page newsletter

RESEARCH POSITIONS

International Research Center for Japanese Studies (Nichibunken)

Kyoto, Japan; July 2017-August 2018

Visiting Researcher (July 2017-September 2017); **Visiting Research Fellow** (October 2017-February 2018), **Hakuhodo Foundation Fellow** (March 2018-August 2018)

Complete research and writing of book manuscript, "Green with Milk and Sugar: When Japan Filled America's Tea Cups"

Sainsbury Institute for the Study of Japanese Arts and Cultures

Norwich, UK; May 2014-August 2014

Robert and Lisa Sainsbury Fellow

Research and write book manuscript, "Green with Milk and Sugar: When Japan Filled America's Tea Cups"

Newberry Library

Chicago, Illinois; August 2012-August 2013

National Endowment for the Humanities Fellow

Conduct archival research on US tea consumption circa 1850 to 1950

University of Tokyo

Tokyo, Japan; June 2010–August 2010

Visiting Researcher, Graduate School of Interdisciplinary Information Studies

Conduct research at Tokyo area archives on Japanese tea exports to the US circa 1850 to 1950
(Supported by *Northeast Asia Council Research Travel Grant*, Association for Asian Studies)

Keio University

Tokyo, Japan; June 2009-January 2010

Visiting Assistant Professor, Faculty of Economics

Complete edits on monograph, *Defining Engagement: Japan and Global Contexts, 1640-1868*.

University of Tokyo

Tokyo, Japan; September 2007-August 2008

Visiting Researcher (Japan Foundation Fellow), Historiographical Institute

Conduct archival research on Japanese tea exports to the US circa 1850-1950

Smithsonian Institution

Washington, DC, June-August 2007

Postdoctoral Fellow, Freer & Sackler Galleries and National Museum of American History

Research Japanese art & photographs concerning tea in Japan; US business archives relating to import and consumption of Japanese tea in the US, circa 1850-1950

Harvard University

Cambridge, Massachusetts; September 2004–June 2005

Postdoctoral Fellow, Reischauer Institute of Japanese Studies

Conduct research on 18th and 19th century Japanese foreign relations

Associate in Research July 2005-

PEER-REVIEWED MONOGRAPHS & EDITED VOLUMES

Robert Fletcher and Robert Hellyer, eds. *Westerners in Nineteenth-Century East Asia: Chronicling Lives, Linkages, and Imperial Connections*. SOAS Studies in Modern and Contemporary Japan. Bloomsbury Academic, March 2022.

[*Green with Milk and Sugar: When Japan Filled America's Tea Cups*](#). Columbia University Press, October 2021.

Robert Hellyer and Harald Fuess, eds. [*The Meiji Restoration: Japan as a Global Nation*](#). Cambridge University Press, 2020.

[*Defining Engagement: Japan and Global Contexts, 1640-1868*](#). Harvard Univ. Asia Center, 2009.

PEER-REVIEWED ARTICLES IN SCHOLARLY JOURNALS

[“The Meiji Restoration as a Local Event—The Second Kiheitai in History and Memory”](#)

Japanese Studies, Special Issue on the Meiji Restoration at 150 38.3 (December 2018): 343-362.

[“Marrying Content and Practice: Raising Undergraduate Awareness of ‘Job Skill’ Acquisition in a History Survey Course.”](#) *The History Teacher* 52.1 (November 2018): 77-88.

[“The West, the East, and the Insular Middle: Trading Systems, Demand, and Labour in the Integration of the Pacific, 1750-1875.”](#) *Journal of Global History* 8.3 (Nov. 2013): 391-413.

“The Missing Pirate and the Pervasive Smuggler: Regional Agency in Coastal Defense, Trade, and Foreign Relations in 19th-Century Japan” *International History Review* 27.1 (March 2005): 1-24.

“Intra-Asian Trade and the *Bakumatsu* Crisis: Reconsidering Tokugawa Commercial Policies in Late Edo Japan” *International Journal of Asian Studies* 2.1 (January 2005): 83-110.

CHAPTERS IN EDITED VOLUMES

“Early Modern Japan: A State with Limited Migration,” in Catia Antunes and Eric Tagliacozzo, eds. *The Cambridge History of Global Migrations*, Volume 1. Cambridge University Press, 2023. (under contract, complete chapter submitted)

“Foreign Relations and Coastal Defense under a Mature Tokugawa Regime,” in David Howell, ed., *The New Cambridge History of Japan*, Volume 2. Cambridge University Press, 2022. (under contract, complete chapter submitted)

“Local Labor and the Trajectory of the Meiji Restoration,” in Timothy Amos and Akiko Ishii eds. *Revisiting Japan’s Restoration: New Approaches to the Study of the Meiji Transformation*. Routledge, 2022. (peer reviewed, complete chapter submitted)

“Imai Nobuo: A Tokugawa Stalwart’s Path from the Boshin War to Personal Reinvention in the Meiji Nation-State,” in Robert Hellyer and Harald Fuess eds. *The Meiji Restoration: Japan as a Global Nation*. Cambridge University Press, 2020, pp. 171-188 (peer reviewed)

“Quality as a Moving Target: Japanese Tea, Consumer Preference, and Federal Regulation on the US Market” in Kazuko Furuta and Linda Grove, eds., *Imitation, Counterfeiting and the Quality of Goods in Modern Asian History*, Springer, 2017, pp. 93-106.

“On the Dining Car, in the Station Restaurant & from the Platform Peddler: Tea on Railways in the United States and Japan, 1860-1960” in Jean-Pierre Williot, ed. *Railway Catering Between Imaginary and Consumption: Consumers, Images and Markets*. Peter Lang, 2017, pp. 267-282.

“1874: Tea and Japan’s New Trading Regime” in Helen Siu, Peter Perdue, and Eric Tagliacozzo eds., *Asia Inside Out: Trading Empires of the South China Coast, South Asia, & the Gulf Region Volume 1: Critical Times*. Harvard University Press, 2015, pp. 186-206 (peer reviewed).

“Mid Nineteenth-Century Nagasaki: Western and Japanese Merchant Communities within Commercial and Political Transitions” in Lin Yu-ju and Madeleine Zelin, eds., *Merchant Communities in Asia, 1600-1980*. Pickering and Chatto, 2014, pp. 159-176 (peer reviewed).

“Poor but Not Pirates: The Tsushima Domain and Foreign Relations in Early Modern Japan” in Robert Antony, ed. *Elusive Pirates, Pervasive Smugglers: Violence and Clandestine Trade in the Greater China Seas*. Hong Kong University Press, 2010, pp. 115-126 (peer reviewed)

“Taiheiyō ni okeru Nihon: kinsei kōki no taigai bōeki” [Japan in the Pacific: Foreign Trade in the late Early Modern Period] in Kawanishi Hidemichi, Namikawa Kenji, and David Howell, eds. *Shūhen shi kara zentai shi e—chiiki to bunka* [From Peripheral History to Total History—Regions and Cultures] Tokyo: Seibundō, 2009, pp. 126-148.

CONFERENCE PROCEEDINGS

[“Dueling Tea Rooms: Japan versus Britain for the US Market at International Exhibitions”](#) in Sano Mayuko ed. *Expos and Human History, International Research Symposium Proceedings* no. 48, International Research Center for Japanese Studies [Nichibunken] November 2017, pp. 99-108.

[“Chūgoku kara manabi, seiyō ni urikomi: bunmei kaika ni okeru chūgoku no nouhau”](#) [Learning from China to Sell to the West: Chinese Knowhow in Civilization and Enlightenment] in Hosokawa Shūhei, Yamada Shōji and Sano Mayuko, eds., *Shin ryōiki · jisedai no Nihon kenkyū, kaigai shinposhiumu hōkokusho* [New Vistas: Japanese Studies for the Next Generation: Proceedings of Overseas Symposium, 2014] International Research Center for Japanese Studies [Nichibunken] November 2016, pp. 129-136.

REVIEW ESSAYS

“The Pacific and its Place in Global History” *Review Essay* of David Armitage and Alison Bashford, eds. *Pacific Histories: Ocean, Land and People*. Palgrave Macmillan, 2014; Rainer F. Buschmann, Edward R. Slack, Jr., and James B. Tueller. *Navigating the Spanish Lake: the Pacific in the Iberian World, 1521-1898*. University of Hawai’i Press, 2014; Bronwen Douglas. *Science, Voyages, and Encounters in Oceania, 1511-1850*. Palgrave Macmillan, 2014; David Iglar. *The Great Ocean: Pacific Worlds from Captain Cook to the Gold Rush*. Oxford University Press, 2013. *Journal of Global History* 11.2 (July 2016): 295-302.

“Strange Parallels: Japan” *Review Essay* of Victor Lieberman, *Strange Parallels: Southeast Asia in Global Context, ca. 800-1830*, 2 vols. Cambridge University Press, 2003, 2009. *Journal of Asian Studies* vol. 70.4 (November 2011): 975-978.

“Historical and Contemporary Perspectives on the *Sakoku* Theme in Japanese Foreign Relations: 1600-2000” *Review Essay* of Nagazumi Yōko, ed. *Sakoku o minaosu* [Re-Visualizing Sakoku] Tokyo: Yamakawa Shuppan-sha, 1999; Kawakatsu Heita, ed., *Sakoku o hiraku* [Opening Sakoku] Tokyo: Dōbunkan, 2000; Mayumi Itoh, *Globalization of Japan: Japanese Sakoku Mentality and U.S. Efforts to Open Japan*, New York: St. Martin’s Press, 2000. *Social Science Japan Journal* 5.2 (2002): 255-259.

BOOK REVIEWS

Rebecca Corbett, *Cultivating Femininity: Women and Tea Culture in Edo and Meiji Japan*. University of Hawai'i Press, 2018. *Monumenta Nipponica* 75:1 (2020): 135-137.

Taka Oshikiri, *Gathering for Tea in Modern Japan: Class, Culture and Consumption in the Meiji Period*. Bloomsbury, 2018. *History: Reviews of New Books* (Taylor & Francis) 47.4 (June 2019): 89-90.

Noell Wilson, *Defensive Positions: The Politics of Maritime Security in Tokugawa Japan*. Harvard University Asia Center, 2015. *Journal of Military History* 80.2 (April 2016): 532-533.

Joshua Fogel, *Maiden Voyage: The Senzaimaru and the Creation of Modern Sino-Japanese Relations*. University of California Press, 2014. *American Historical Review* 120.5 (December 2015): 1872-1873.

Peter Shapinsky, *Lords of the Sea: Pirates, Violence and Commerce in Late Medieval Japan*. Center for Japanese Studies Publications, University of Michigan, 2014. *International Journal of Maritime History* 27.3 (August 2015): 612-614.

Michael S. Laver, *The Sakoku Edicts and the Politics of Tokugawa Hegemony*. Cambria Press, 2011. *Journal of Asian Studies*, 71.4 (November 2012): 1147-1149.

Peter Mauch, *Sailor Diplomat: Nomura Kichisaburō and the Japanese-American War*. Harvard University Asia Center, 2011. *International Journal of Maritime History* 24.1 (June 2012): 526-527.

David Kang, *East Asia Before the West: Five Centuries of Trade and Tribute*. Columbia University Press, 2010. *Journal of the Economic and Social History of the Orient* 55.1 (2012): 197-199.

Bettina Gramlich-Oka and Gregory Smits, eds. *Economic Thought in Early Modern Japan*. Brill, 2010. *EH.net* (Economic History Association web forum), November 2011, 2 pages.

Kris Lane, *Colour of Paradise: the Emerald in the Age of Gunpowder Empires*. Yale University Press, 2010. *Journal of Colonialism and Colonial History* (electronic journal) 11.3 (2010), 2 pages.

Peter N. Davies, *The Business, Life, and Letters of Frederick Cornes: Aspects of the Evolution of Commerce in Modern Japan, 1861-1910*. Global Oriental, 2008. *International Journal of Maritime History* 21.2 (December 2009): 377-379.

Michael Cooper, *The Japanese Mission to Europe, 1582-1590: The Journey of Four Samurai Boys Through Portugal, Spain, and Italy*. Global Oriental, 2005. *International Journal of Maritime History* 20.2 (December 2008): 373-375.

OTHER MEDIA

Geschichte Es war einmal Tee in Amerika [History: Once Upon a Time There Was Tea in America] interviewed for SW2, German Public Radio, September 2019.

Green Tea, Commodity Flows, Industrialization and the Meiji Restoration. [Meiji at 150 podcast](#), University of British Columbia, 2018.

Robert Hellyer and David Leheny, “What Japan Can Teach Us about the Future of Nationalism: Lessons for the Future of the Nation-state on the 150th Anniversary of the Meiji Restoration,” [Washington Post](#), January 3, 2018.

“Tojo Then, Terrorists Now: How America's Idea of Justice has Changed,” [Los Angeles Times](#), September 11, 2015.

PRESENTATIONS AT PROFESSIONAL CONFERENCES

Marketing Chinese and Japanese Teas to Americans, 1890 to 1930. *Sixth International Conference on Food History and Studies*, University of Tours, France, June 2021 (virtual) [panel organizer]

Discussant, *Oceanic Japan: Environmental Histories of the Archipelago and the Sea*, Reischauer Institute of Japanese Studies, Harvard University, January 2020.

Perspectives from the ‘Border’: *Omote* and *naishō* in the Tsushima Domain. *Façade Truths in Tokugawa Japan and Beyond*, Council on East Asian Studies, Yale University, November 2019.

The Meiji Restoration at 150: Considering a ‘National’ Moment within Global Frameworks. *Symposium to Commemorate the 90th Anniversary of the Founding of Archiv orientální* (journal), Oriental Institute, Czech Academy of Sciences, Prague, Czech Republic, September 2019.

Local Labor: Insights on the Course of Nineteenth-Century Japan. *Transcultural Connections: Migration in Asia, Europe and the Americas*. Centre for Transcultural Studies, Heidelberg University, June 2019.

Sencha as Japan’s Daily Cup: Technology & Asian Connections in Japan’s Tea Industry. *Social Science Research Council Conference on InterAsian Connections VI: Hanoi*, December 2018.

Transpacific Insights on the Meiji Restoration and Japanese Everyday Culture. *Japan in the Pacific World: Rethinking Japan’s Global Emergence in the Meiji Period and Beyond*, Center for East Asian Studies and Hoover Institution, Stanford University, November 2018; *Asian Center*, University of Philippines-Diliman, December 2018.

Local Labor and the Trajectory of the Meiji Restoration. *Revisiting Japan’s Meiji Restoration Interregional, Interdisciplinary, and Alternative Perspectives* National University of Singapore, Singapore, September 2018.

Presenting a ‘Quintessential’ Japanese Product: Green Tea at the Philadelphia & Chicago World Exhibitions. *Philadelphia and Meiji Japan*, University of Pennsylvania, Philadelphia, Sept. 2018.

Japan as a Tea Exporting State: The Role of Chinese Knowhow in ‘Civilization & Enlightenment.’ *Meiji Restoration at 150*, Nankai Univ., Tianjin, China July 2018 (in Japanese).

Tea for Australia: Japanese Plans to Expand Tea Exports, 1873-1890. *22nd Biennial Conference of the Asian Studies Association of Australia*, Sydney July 2018.

Roundtable: The Meiji Restoration at 150: Researching, Commemorating, and Teaching. *Association for Asian Studies Annual Conference*. Washington, DC, March 2018 [**organizer & chair**].

The Meiji Restoration as a Local Event, 1868, 1968, 2018. *The Meiji Restoration and Its Afterlives: Social Change and the Politics of Commemoration, Critical Reflections on the 150th Anniversary of Japan's Meiji Restoration*, Yale University, September 2017.

William Alt—A Life in Japan, East Asia, and the British Empire. *Documenting Westerners in Nineteenth-Century China & Japan: New Sources and Perspectives*. Sainsbury Institute for the Study of Japanese Arts and Cultures, Norwich, UK, June 2017 [**conference co-organizer**].

Expanding Japan Studies Connections between US & SE Asian Universities. *5th Biennial International Conference of Japanese Studies in Southeast Asia*, Cebu City, Philippines, December 2016.

Japanese Castaway Narratives as Sources on Pacific History. *Merchants, Migrants, and Slaves in the Eighteenth- and Nineteenth-Century Pacific*, Panel at *7th International Congress of Maritime History*, Perth, Australia, June 2016 [**panel organizer**].

Tea Inside & Outside the Treaty Ports: Comparing Production & Export Practices in China and Japan. *Treaty Ports in East Asia, 1850-1920*. Heidelberg University, June 2016.

Framing the Asia-Pacific and the Americas in the Long 19th Century. **Keynote Address**. *Traffic, Territory, & Citizenship: Framing the Circulation of People and Goods between Asia and the Americas in the Long 19th Century*, Binghamton University, April 2016.

Dueling Tea Rooms: Japan versus Britain for the US Market at International Exhibitions. *Expos and Human History, International Symposium*, International Research Center for Japanese Studies [Nichibunken], December 2015.

Japanese Castaway Narratives as Lenses on 18th and 19th-century Pacific Networks. *Merchants, Migrants, and Slaves in the Development of a Pacific Ocean World*. Panel at *17th World Economic History Congress*, Kyoto, Japan. August 2015 [**panel co-organizer**].

How to Stop the Black Tea Wave? Information Gathering in Japan's Tea Export Trade to the U.S., 1890 to 1940. *Economic Information in Motion: Case Studies on Early Twentieth-Century East Asia*. Panel at *17th World Economic History Congress*, Kyoto, Japan. August 2015.

Choosing Sides or Focused on the Bottom Line? Western Merchants and the Trajectory of the Meiji Restoration. *Global History & the Meiji Restoration*, Cluster of Excellence: Asia and Europe in a Global Context, Heidelberg University, Heidelberg, Germany. July 2015.

From Swords to Hoes: Ex-Samurai as Tea Farmers. *The Civil Wars of Japan's Meiji Restoration & National Reconciliation: Global Historical Perspectives*. Wake Forest University, Winston-Salem, NC. January 2015 [**conference organizer**].

Tea on Railways in the United States and Japan, 1860-1960. *History of Railway Catering: A Worldwide Perspective*, Université François-Rabelais de Tours, Tours, France. December 2014.

Making Meiji Japan a Tea Exporting State: Chinese Knowhow in *Bunmei kaika*. *Bunkei kaika in Global History*, Session at Annual Symposium, International Research Center for Japanese Studies [Nichibunken]. November 2014 (in Japanese)

Japan in a Pacific “Silver Substitute Century,” 1760-1850. *Beyond East Asia: New Perspectives on Japan’s Foreign Relations in the Medieval and Early Modern Periods*, Panel at *Association for Asian Studies Annual Conference*, Philadelphia, PA, March 2014 [**panel co-organizer**]

High in Vitamin C: Marketing Japanese Green Tea to US and Japanese Consumers, 1890 to 1945. *Devouring Japan*, University of Texas, Austin, February 2014.

Mid-Nineteenth-Century Nagasaki: Western and Japanese Merchant Communities within Commercial & Political Transitions. *Dialogues between European and Asian Commercial Documents: Trade, Cultural Exchanges, and Knowledge Making in Modern East-Asia*, National Tsing Hua University, Hsinchu City, Taiwan, November 2013.

Homegrown Initiatives: Schemes and Intrigue to Recast the Asia-Pacific Tea Trade, 1800-1890. *Sea Stories: Maritime Landscapes, Cultures and Histories*, University of Sydney, Sydney, Australia, June 2013.

Choice Based on Quality or Prejudice? Japanese Tea on the US Market, 1860-1920. *16th World Economic History Congress*, Stellenbosch, South Africa, July 2012.

Japanese Tea for American Oil: The 1870s as a Pacific Commercial Watershed. *The Asia-Pacific Maritime World: Connected Histories in the Age of Empire*, Heidelberg University, Heidelberg, Germany, July 2012.

Choice Based on Quality or Prejudice? Japanese Tea on the US Market, 1860-1920. Keio/Kyoto Global COE Program, *Raising Market Quality and Integrated Design of Market Infrastructure*, Keio University, Tokyo, Japan, February 2012.

The West, the East, and the Insular Middle: Consumption and the Integration of the Pacific, 1750-1880. *Cultures of Consumption in Asia and Europe*, Heidelberg University, Heidelberg, Germany, July 2011.

How was the American Tea Cup Filled? American Demand for Tea and Pacific Maritime Trade, 1820-1845. *Encounters of Sea and Land, 6th Conference of the European Society for Environmental History*, Turku, Finland, June 2011.

The Potato and Class Ideologies in Japan & England, 1600-1800. *Food and Drink: Their Social, Political and Cultural Histories*, University of Central Lancashire, Preston, UK, June 2011.

UNIVERSITY & PUBLIC COLLOQUIA

Japanese Green Tea in Wisconsin in the late 19th and Early 20th Centuries. *Virtual Series, Center for East Asian Studies, University of Wisconsin-Madison*. November 2020.

The West, the East, and the Insular Middle: Pacific Integration During the Eighteenth and Nineteenth Centuries. *Japan Colloquium, University of Washington*, February 2020.

The Making of Japan Tea—Green Tea’s Journey Across the Pacific, 1860 to 1960. *Dept. of History, Allegheny College*, Meadville, Pennsylvania, February 2020.

Chinese-Style, Japanese Green Tea for Americans: The International Stories of Japan's Tea Export Trade, 1850 to 1950. *National Consortium for Teaching About Asia, Asian Studies Center, University of Pittsburgh*, February 2020.

Japanese Green Tea & American Sandwiches: The Marketing Activities of Jingu Eizō on the US Market, 1920-1938. *World O-CHA [Tea] Festival (Tea Industry Conference) Shizuoka, Japan*. Nov. 2019 (in Japanese)

Japan Tea’s Journey Across the Pacific. *Art Research Center, Ritsumeikan University, Kyoto, Japan*, November 2019.

“Two Potatoes, Two Island States, Two Nationalisms,” *Centre for Transcultural Studies, Heidelberg University, Germany*, July 2019.

The Making of Japan Tea—Green Tea’s Journey Across the Pacific, 1860 to 1960. *Graduate School of Asia-Pacific Studies, Waseda University, Tokyo*, March 2019.

“Adulterated” Chinese Tea on the US Market: Producer Connivance or Consumer Prejudice? *Research Center for Modern and Contemporary China, Kyoto University, Kyoto*, May 2018.

The Postwar in Japan and the United States in the 1860s, *The Meiji Restoration in Global History Thursday Seminar, Nichibunken, Kyoto*, April 2018 (in Japanese)

Selling Japanese Tea in the Nineteenth-Century United States: Marketing and Race from the Inside & Outside. *Institute of American and Canadian Studies, Sophia University, Tokyo*, April 2018.

Japan as a Competing Exporting Nation & Empire: Japanese Tea & the US Market: 1860 to 1940. *Department of Japanese Studies, Singapore National University, Singapore*, February 2018.

Tea Making & Drinking: Socio-Economic Perspectives on Late Nineteenth- and Early Twentieth-century Japan. *Kyoto Lecture Series (École Française d’Extrême-Orient EFEO, Scuola Italiana di Studi sull’Asia Orientale ISEAS)*, Kyoto, January 2018.

Chinese-Style, Japanese Green Tea for Americans: Japanese Tea Exports to the United States, 1860 to 1890. *Lunchtime Seminar Series, Hong Kong Institute for the Humanities and Social Sciences, Hong Kong University*, January 2018.

“Japan Tea” o kōchiku—Taiheiyō o wattata ryokucha [The Making of Japan Tea—Green Tea’s Journey Across the Pacific] *Nichibunken Forum, Kyoto*, December 2017 (in Japanese)

“Japan Tea” māketingu: 1860 nen kara 1930 nen made no beikoku ni okeru nihon cha no kōkoku katsudō [Marketing Japan Tea: Advertising Activities Related to Japanese Tea in the United States from 1860 to 1930] *Verkehr Shimizu Port Terminal Museum, Shizuoka*, October 2017 (in Japanese)

Japanese Tea as an American Beverage: From the Meiji Restoration to Today. *4th Ishibashi Lecture Series*, sponsored by Ishibashi Foundation, co-organized by Kyushu National Museum & Sainsbury Institute for the Study of Japanese Arts and Cultures. Kyushu National Museum, May 2017.

The Making of “Japan Tea:” Green Tea Exports to the United States & the Formation of the Japanese Nation-State. *Department of History*, University of Hawai‘i at Mānoa, February 2017.

Japanese, US, and Pacific Contexts of Commodore Biddle’s Visit to Japan (1846). *Penn Forum on Japan Colloquium—Commodore Biddle, Past and Present: Celebrating 170 Years of Trans-Pacific Ties*. University of Pennsylvania, Philadelphia, October 2016.

Tea and Meiji Japan: A Transpacific History. *Japan Forum*, Reischauer Institute of Japanese Studies, Harvard University, March 2016 **AND** *Japan History Group*, Institute of Social Science, University of Tokyo, March 2016.

From Green to Black: How Black Tea Conquered Britain & the United States and *Sencha* Japan. *Institut für Ostasienwissenschaften*, University of Vienna, November 2015.

US Consumption of Japanese Green Tea from the Meiji Restoration to the Early Shōwa Period. Public Lecture, *National Museum of Japanese History*, Tokyo, March 2015 (in Japanese)

Pacific Socio-Economic Integration since 1760: Linking Historical Trends to Today. *Asian Development Bank AND Seminar Series*, Asian Center, University of the Philippines-Diliman. Manila, November 2014.

Charting the Role of Chinese Demand: Socio-economic Perspectives on the Integration of the Pacific, 1750-1875. *21st Century China Program*, University of California-San Diego, October 2014.

Green Tea across the Pacific: Japanese Producers and American Consumers, 1870-1940. *Huntington Library*, San Marino, CA, October 2014.

From Green to Black: How Black Tea Conquered Britain and the United States and *Sencha* Japan. *Third Thursday Lecture*, Sainsbury Institute for the Study of Japanese Arts and Cultures, Norwich, United Kingdom, June 2014.

Pacific Economic Integration, 1750-1875. Weekly Seminar, *Economic History Department*, London School of Economics and Political Science. London, United Kingdom, June 2014.

Marketing Japanese Green Tea to US and Japanese Consumers, 1890 to 1945. *Oriental Institute*, University of Oxford. Oxford, United Kingdom. May 2014.

The West, the East, and the Insular Middle: Pacific Integration, 1750-1875. *East Asia: Trans-Regional Histories Workshop*, University of Chicago, Chicago, IL, April 2014.

Chicago as a Tea Center: Merchants, Midwest Consumers, and Green & Black Teas, 1880-1910. *North Central College*, Naperville, IL, April 2013 **AND** *Newberry Library*, Chicago, May 2013.

A New Pacific Relationship: The Tea Trade to the United States in the Meiji Period. *Osaka City University*, Osaka, Japan, February 2013 (in Japanese).

A Japanese-Chinese Blend of American Tea: Competition, Cooperation and US Perceptions of East Asia, 1860-1900. *East China Normal University*, Shanghai, China, January 2013.

Beyond Closed to Open: Re-conceptualizing Japan's Foreign Relations from the 17th Century to Today. *Center for Japanese Religions & Culture, University of Southern California*, Los Angeles, CA, January 2012.

TEACHING EXPERIENCE

Wake Forest University (2005-2021)

Japan Focused: Japan to 1600, Japan since 1600

Samurai & Geisha: Fact, Film, and Fiction; Japan at War and in Defeat, 1930-1960

East Asia Focused: Asia and the World, Introduction to East Asia

World History: Europe & the World in the Modern Era; We Are What We Eat: World History since 1500 through Foods & Beverages; World Economic History: Globalization, Wealth & Poverty, 1500-present; Tea in History & Art.

Research Seminar: World War II, War Crimes, and US & International Law

First Year Seminar: Cities in History, Cities Today

Allegheny College (2001-2004)

Japan Focused: Japan to 1600; Japan since 1600; The Meiji Restoration in Japan; Japan at War and in Defeat; Piracy, Trade & Diplomacy: Japan and Asia; Warriors & Entertainers in Japan (First-year Seminar)

East Asia Focused: China since 1800; Modern East Asia; East Asia and Europe: Early Modern Commercial, Cultural, & Diplomatic Encounters; Explore or Stay Home? (First-year Seminar)

MANUSCRIPT REVIEW

American Historical Review, Bloomsbury, *Critical Asian Studies*, Columbia University Press, *Early Modern Japan, Food, Culture, & Society*, Harvard University Asia Center, *Historical Research*, *International History Review*, *Japan Review*, *Japanese Studies*, *Journal of Japanese Studies*, *Journal of World History*, *Late Imperial China*, McGill-Queen's University Press, Oxford University Press, *Pacific Historical Review*, Routledge, *Social Science Japan*, *Sungkyun Journal of East Asian Studies*, UCLA Korean Classics Library, University of Hawai'i Press, *Verge: Studies in Global Asias*

PROFESSIONAL SERVICE

Editorial Board, [Archiv orientální](#), Oriental Institute, Czech Academy of Sciences, Czech Republic. 2018 to present.

Outside Review Committee, [Historiographical Institute, University of Tokyo](#), 2017-2018.

Board Member, [American Friends of the International House of Japan](#), 2017 to present

AWARDS

Hakuhodo Foundation Fellowship, International Research Center for Japanese Studies, 2018
Visiting Scholar Fellowship, International Research Center for Japanese Studies, 2017-2018
Daiwa Anglo-Japanese Small Grant (with Robert Fletcher), 2017
Robert & Lisa Sainsbury Fellowship, Sainsbury Institute, 2014
National Endowment for the Humanities Research Fellowship, Newberry Library, 2012-2013
Northeast Asia Council Research Travel Grant, Association for Asian Studies, 2010
Stroupe Award, Department of History, Wake Forest University, 2010-2011
Japan Foundation Research Fellowship, University of Tokyo, 2007-2008
Postdoctoral Fellowship, Smithsonian Institution, 2007
Postdoctoral Fellowship, Reischauer Institute, Harvard University, 2004-2005

Teaching Focused

Department Grant, Program for Leadership & Character, Wake Forest University, 2020-2021
Magnolias Curriculum Project-Sustainability in the Classroom, Wake Forest University, 2015
Teaching & Learning Center Course Development Grant, Wake Forest University, 2009
Entrepreneurship and the Liberal Arts Faculty Development Award, Wake Forest University, 2007
Academic and Community Engagement Teaching Fellowship, Wake Forest University, 2006

LANGUAGES

Japanese (Fluent speaking, reading, and writing); French (Reading)

EXHIBIT B – LIST OF MATERIALS CONSIDERED

- 1) Testimony Report of Michael Wert, Ph.D.
- 2) U.S. Trademark Registration No. 5,600,255.
- 3) Prosecution History of U.S. Trademark Registration No. 5,600,255.
- 4) Thomas Conlan, *In Little Need of Divine Intervention Takezaki Suenaga's Scrolls of the Mongol Invasions of Japan* (Ithaca, NY: East Asia Program, Cornell University, 2001).
- 5) Thomas Conlan, “The Nature of Warfare in Fourteenth-Century Japan: The Record of Nomoto Tomoyuki,” *Journal of Japanese Studies* vol. 25, 2 (Summer 1999): 299-330.
- 6) Yamakawa Kikue, trans. by Kate Wildman Nakai, *Women of the Mito Domain: Recollections of Samurai Family Life* (Stanford: Stanford University Press, 2001), 3-14, 31-38, 81.
- 7) Fabian Drixler, et al, *Samurai and the Culture of Japan's Great Peace* (New Haven: Peabody Museum of Natural History, Yale University, 2015), 30, 35-39.
- 8) The research and conclusions of Dr. Tosen (Roy) Ron available at www.ninpo.org.