ESTTA Tracking number:

ESTTA1256863

Filing date:

12/28/2022

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

Proceeding no.	91274154
Party	Plaintiff Jieke Trading (Shenzhen) Co., Ltd
Correspondence address	P. JAY HINES MUNCY, GEISSLER, OLDS & LOWE, P.C. 4000 LEGATO ROAD, SUITE 310 FAIRFAX, VA 22033 UNITED STATES Primary email: mailroom@mg-ip.com Secondary email(s): arc@mg-ip.com, jh@mg-ip.com 703-621-7140
Submission	Plaintiff's Notice of Reliance
Filer's name	Roman Campos
Filer's email	mailroom@mg-ip.com, arc@mg-ip.com, jh@mg-ip.com
Signature	/Roman Campos/
Date	12/28/2022
Attachments	2022-12-28 GAMAKAY RELIANCE 4894-9964-4997 v.1.pdf(160065 bytes ) EXHIBITS.pdf(2527706 bytes )

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

In the Matter of Application Serial No. 90/6496 For the mark: GAMAKAY Published: January 18, 2022	No. 90/649647	
	X	
JIEKE TRADING (SHENZHEN) CO., LTD.	:	
	:	Opposition No. 91274154
Opposer,	:	
	:	
V.	:	
	:	
CHONGQING LEIQUANKEJI YOUXIANGONGSI,	:	
	:	
Applicant.	:	
	$-\mathbf{X}$	

#### **OPPOSER'S NOTICE OF RELIANCE**

Pursuant to Rule 2.120(k) of the Trademark Rules of Practice, 37 C.F.R. § 2.120(j), and TBMP §[§] [704.10/704.11], Jieke Trading (Shenzhen) Co., Ltd. hereby makes of record and notifies Chongqing Leiquankeji Youxiangongsi, of its reliance on the following:

#### 1. FEDERAL TRADEMARK APPLICATION

Opposer hereby makes of record pursuant to 37 C.F.R. § 1.122(d)(1) copies of the following United States Trademark Application showing the current status and title of the application:

Mark	App. Number	Date Filed	Goods
GAMAKAY	90/698345	May 8, 2021	Headphones; Computer keyboard keycaps; Computer keyboards; Computer mice; Computer peripheral devices; Mouse pads; Wrist rests for use with computers

Status and title copy of this Application prepared by the USPTO after filing of the Notice of Opposition are marked and submitted as Opposer's Trial Exhibit 1.

#### 2. INTERNET DOCUMENTS

Pursuant to *Safer v. OMS Investments*, 94 USPQ2d 1031 (TTAB 2010), and TBMP § 704.08(b), Opposer relies on and makes of record the following documents:

True and accurate copies of Opposer's website <a href="https://gamakay.com/">https://gamakay.com/</a> (marked and submitted as Opposer's Trial Exhibit 2);

True and accurate copies of internet printouts showing Opposer's AliExpress's posting at <a href="https://www.aliexpress.us/item/3256803504992139.html?spm=a2g0o.store\_pc\_allProduct.8148356.1.2f233be0RMu8nM&gatewayAdapt=glo2usa4itemAdapt&\_randl\_shipto=US"; <a href="https://www.aliexpress.us/item/3256803002001698.html?spm=a2g0o.store\_pc\_allProduct.8148356.1.74b4736dNdBllW&gatewayAdapt=glo2usa4itemAdapt&\_randl\_shipto=US" (marked and submitted as Opposer's Trial Exhibit 3);</a>

True and accurate copies of internet printouts from Opposer's Amazon posting at <a href="https://www.amazon.com/GK-GAMAKAY-MK61-Mechanical-">https://www.amazon.com/GK-GAMAKAY-MK61-Mechanical-</a>
<a href="Programmable/dp/B098R5XT3D/ref=sr\_1\_1\_sspa?crid=L79PO1VXF2N&keywords=G">https://www.amazon.com/GK-GAMAKAY-MK61-Mechanical-</a>
<a href="Programmable/dp/B098R5XT3D/ref=sr\_1\_1\_sspa?crid=L79PO1VXF2N&keywords=G">https://www.amazon.com/GK-GAMAKAY-MK61-Mechanical-</a>
<a href="Programmable/dp/B098R5XT3D/ref=sr\_1\_1\_sspa?crid=L79PO1VXF2N&keywords=G">https://www.amazon.com/GK-GAMAKAY-MK61-Mechanical-</a>
<a href="Programmable/dp/B098R5XT3D/ref=sr\_1\_1\_sspa?crid=L79PO1VXF2N&keywords=G">https://www.amazon.com/GK-GAMAKAY-MK61-Mechanical-</a>
<a href="mailto:large-left-started-left-start

True and accurate copies of a third-party websites featuring Opposer's products at <a href="https://www.banggood.com/search/gamakay.html?from=nav">https://www.banggood.com/search/gamakay.html?from=nav</a> (marked and submitted as Opposer's Trial Exhibit 5);

#### 3. OPPOSER'S FOREIGN REGISTRATIONS

Pursuant to 37 C.F.R. §2.122(e) of the Trademark Rules of Practice and Section 704.03(b)(1)(A) of the TBMP, Opposer hereby makes of record in connection with this proceeding its Chinese registration which is relevant because many of Respondent's consumers are Chinese-American and Mainland Chinese consumers. Also, Opposer makes of record the registration from the EU, UK, Brazil and Australia. True and correct copies of this documents are attached as Exhibit 6.

#### 4. OPPOSER'S TESTIMONIAL DECLARATION

Opposer relies on and makes of record the trial testimony and Exhibits to the testimonial Declaration of the following witness:

Mr. Li Weidong, President of Jieke Trading (Shenzhen) Co., Ltd. (marked and submitted as Opposer's Trial Exhibit 7).

#### 5. <u>APPLICANT'S EVIDENCE</u>

Opposer may rely on documents or declarations identified by Applicant as its trial evidence or in its notice of reliance, to the extent they are admissible into evidence.

Respectfully submitted, Jieke Trading (Shenzhen) Co., Ltd.

A. Roman Campos (NY Bar member 5888870) P. Jay Hines (VA Bar member 34772)

Attorneys for Opposer

Dated: December 28, 2022 Muncy, Geissler, Olds & Lowe, P.C. 125 S. Royal St.

Alexandria, VA, 22314 Phone: 703-621-7140 Fax: 703-621-7 155 mailroom@mg-ip.com

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 28th day of December 2022, a true and correct copy of the foregoing was served by electronic mail to the following: *smu@whitewoodlaw.com* 

Shengmao Mu Whitewood Law PLLC 57 West, 57<sup>th</sup> Street, 3<sup>rd</sup> and 4<sup>th</sup> floors New York, New York 10019

/s/ Roman Campos

Roman Campos

Generated on: This page was generated by TSDR on 2022-12-28 11:30:01 EST

Mark: GK GAMAKAY



US Serial Number: 90698345 Application Filing May 08, 2021

Date:

Filed as TEAS Yes Currently TEAS Yes Plus: Plus:

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status: An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file,

click on the Trademark Document Retrieval link at the top of this page.

Status Date: Sep. 02, 2022

#### **Mark Information**

Mark Literal GK GAMAKAY

Elements:

Standard Character No

Claim:

Mark Drawing 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Type:

Description of The mark consists of the stylized letters "GK" above the stylized wording "GAMAKAY".

Mark:

Translation: The wording GK, GAMAKAY has no meaning in a foreign language.

#### **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: Headphones; Computer keyboard keycaps; Computer keyboards; Computer mice; Computer peripheral devices; Mouse pads; Wrist

rests for use with computers

International 009 - Primary Class U.S Class(es): 021, 023, 026, 036, 038

Class(es):

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 05, 2021 Use in Commerce: Jan. 05, 2021

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

Filed Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Currently 66A: No

Filed 66A: No Currently No Basis: No

Filed No Basis: No

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

Owner Name: Jieke Trading (Shenzhen) Co., Ltd

Owner Address: 816, No. 250, laowei Third Dist, Zhucun

Xikeng community, Fucheng st Longhua Dist, Shenzhen CHINA 518000

Legal Entity Type: limited company (ltd.) State or Country CHINA

Where Organized:

#### **Attorney/Correspondence Information**

#### Attorney of Record - None Correspondent

**Correspondent** Jieke Trading (Shenzhen) Co., Ltd **Name/Address:** Xikeng community, Fucheng st

816, No. 250, laowei Third Dist, Zhucun Longhua Dist, Shenzhen CHINA 518000

Correspondent e- miriip@miriip.com Correspondent e- Yes mail: mail Authorized:

**Domestic Representative - Not Found** 

#### **Prosecution History**

Date	Description	Proceeding Number
Sep. 02, 2022	NOTICE OF SUSPENSION SENT - PENDING REVIEW	
Sep. 02, 2022	LETTER OF SUSPENSION E-MAILED	
Jul. 29, 2022	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	88889
Jun. 28, 2022	WITHDRAWAL OF ATTORNEY GRANTED	
Jun. 28, 2022	TEAS WITHDRAWAL OF ATTORNEY RECEIVED	
Jan. 27, 2022	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jan. 27, 2022	LETTER OF SUSPENSION E-MAILED	6332
Jan. 27, 2022	SUSPENSION LETTER WRITTEN	94648
Jan. 12, 2022	ASSIGNED TO EXAMINER	94648
Aug. 10, 2021	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 12, 2021	NEW APPLICATION ENTERED IN TRAM	

#### **TM Staff and Location Information**

#### TM Staff Information

TM Attorney: FLEBBE, KEVIN ROBERT Law Office LAW OFFICE 110

Assigned:

Filing Date: Jan 25, 2022

File Location

Current Location: TMO LAW OFFICE 110 Date in Location: Jul. 29, 2022

#### **Proceedings**

#### Summary

Number of 1 Proceedings:

#### Type of Proceeding: Opposition

Proceeding 91274154

Number:

Status: Pending Status Date: Jan 26, 2022

Interlocutory ANDREW P BAXLEY

Attorney:

#### Defendant

Name: Chongqing leiquankeji youxiangongsi

Correspondent SHENGMAO MU

Address: WHITEWOOD LAW PLLC 57 WESTWOOD LAW PLLC

NEW YORK NY UNITED STATES, 10019

Correspondent e- smu@whitewoodlaw.com

mail:

Associated marks		
Mark	Application Status	Serial Registration Number Number
GAMAKAY	Opposition Pending	<u>90649647</u>
	Plaintiff(s)	

Name: Jieke Trading (Shenzhen) Co., Ltd

Correspondent P. JAY HINES

Address: MUNCY, GEISSLER, OLDS & LOWE, P.C. 4000 LEGATO ROAD, SUITE 310 FAIRFAX VA UNITED STATES, 22033

 $\textbf{Correspondent e-} \quad \underline{ mailroom@mg\text{-ip.com}} \,, \, \underline{ arc@mg\text{-ip.com}} \,, \, \underline{ jh@mg\text{-ip.com}} \,$ 

mail:

Associated marks

Mark

Application Status

Serial Number

Registration Number

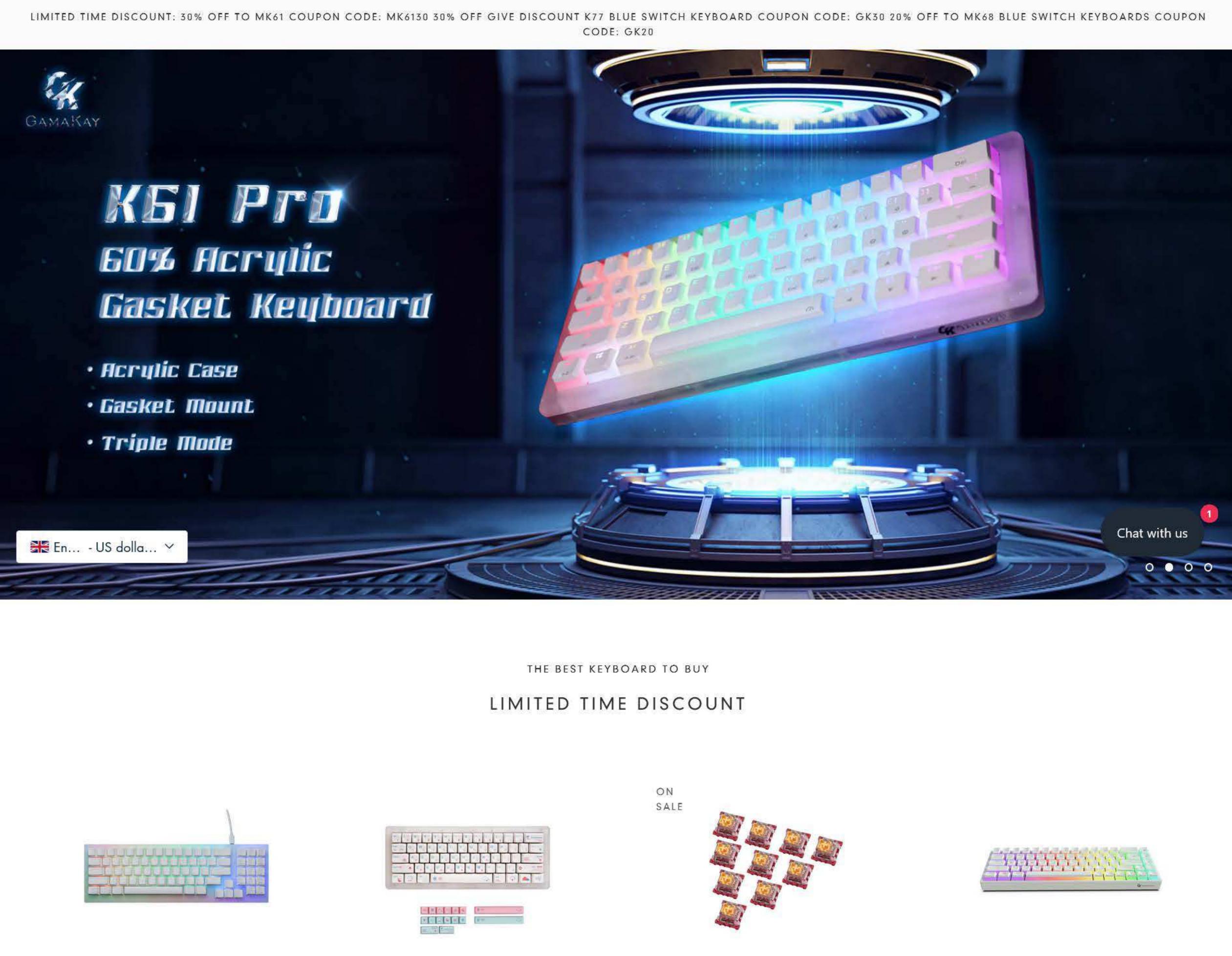
GK GAMAKAY

Suspension Letter - Mailed

90698345

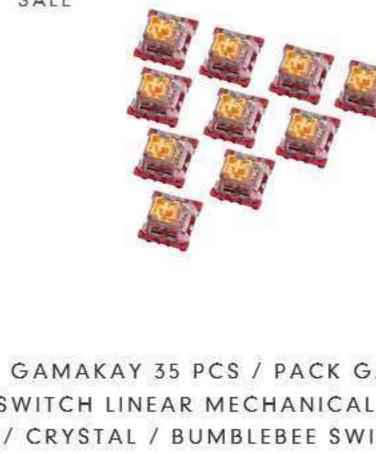
	Prosecution History		
Entry Number	History Text	Date	Due Date
10	P APPEARANCE / POWER OF ATTORNEY	Sep 28, 2022	
9	D APPEARANCE / POWER OF ATTORNEY	Sep 23, 2022	
8	P APPEARANCE / POWER OF ATTORNEY	Mar 30, 2022	
7	P CHANGE OF CORRESP ADDRESS	Mar 30, 2022	
6	D CHANGE OF CORRESP ADDRESS	Mar 01, 2022	
5	ANSWER	Mar 01, 2022	
4	D APPEARANCE / POWER OF ATTORNEY	Mar 01, 2022	
3	INSTITUTED	Jan 26, 2022	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 26, 2022	Mar 07, 2022
1	FILED AND FEE	Jan 25, 2022	

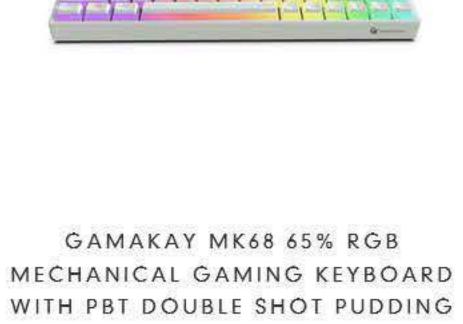












ON SALE

GAMAKAY 35 PCS / PACK GAMAKAY SWITCH LINEAR MECHANICAL PHOENIX / CRYSTAL / BUMBLEBEE SWITCH PRE-LUBED SWITCH FOR DIY MECHANICAL GAMING KEYBOARDS \$12.99 \$16.99 ON SALE

KEYCAPS \$64.99

GAMAKAY MK61 60% RGB MECHANICAL GAMING KEYBOARD WITH PBT DOUBLE-SHOT PUDDING KEYCAPS FROM \$59.99

MECHANICAL GAMING KEYBOARD WITH XDA PROFILE PBT KEYCAPS \$76.99 \$82.99 VIEW ALL PRODUCTS

GAMAKAY TK68 65% TRIPLE MODE RGB

GAMING KEYBOARD WITH GATERON SWITCH CRYSTALLINE BASE \$59.99 \$62.99

GAMAKAY K61 60% RGB MECHANICAL

GAMAKAY GK75 75% TRIPLE MODE TRANSPARENT PC CHASSIS GASKET

MOUNT KSA PUDDING KEYCAPS RGB

MECHANICAL KEYBOARD

\$139.99 \$149.99

ON

SALE

ON

SALE

OUR BEST SELLERS MECHANICAL KEYBOARD KEYBOARD CUSTOMIZED KIT

GAMAKAY K61 60% RGB MECHANICAL GAMING KEYBOARD WITH GATERON SWITCH

CRYSTALLINE BASE

\$59.99 \$62.99

ON

SALE

GAMAKAY GK75 75% TRIPLE MODE

TRANSPARENT PC CHASSIS GASKET

MOUNT KSA PUDDING KEYCAPS

RGB MECHANICAL KEYBOARD

\$139.99 \$149.99

\$89.99

GAMAKAY K61 PRO 60% TRIPLE

MODE ACRYLIC GASKET MOUNT

RGB MECHANICAL KEYBOARD

VIEW ALL PRODUCTS

GAMAKAY LK67 65% GAMAKAY

SWITCH TRIPLE MODE RGB

MECHANICAL GAMING KEYBOARD

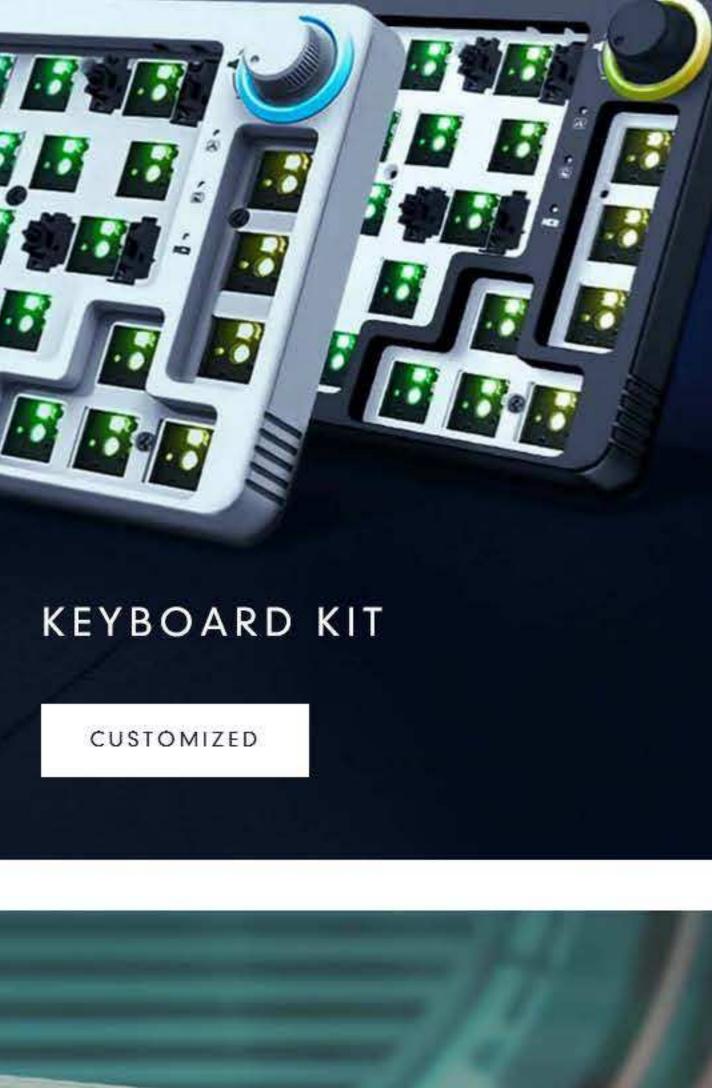
WITH PBT DOUBLE-SHOT PUDDING

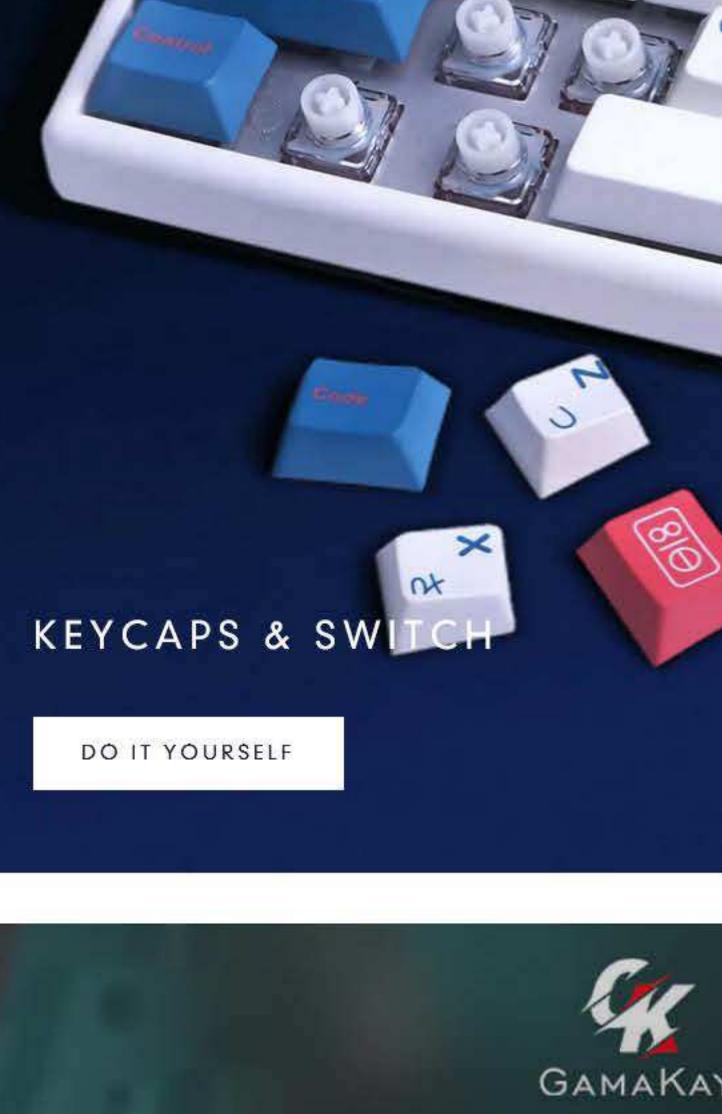
KEYCAPS

\$89.99











NEW ARRIVAL



Ctri

KEYCAPS

VIEW PRODUCTS

GAMAKAY GK75 75% TRIPLE MODE

TRANSPARENT PC CHASSIS GASKET

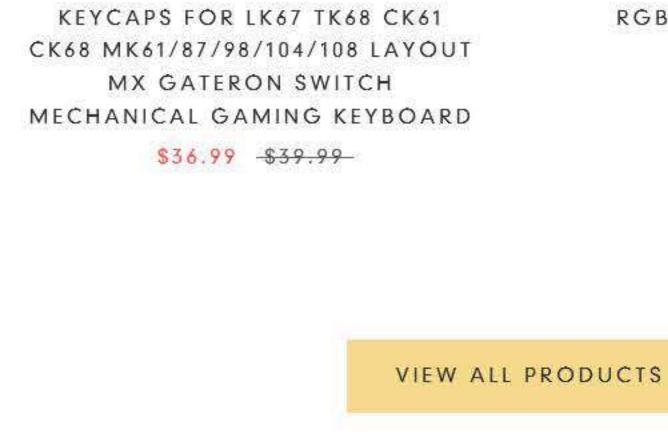
MOUNT KSA PUDDING KEYCAPS

RGB MECHANICAL KEYBOARD

\$139.99 \$149.99

ON

SALE



RESERVED ADVISOR NAMED IN SEC.

GAMAKAY 138 KEYS TRANSPARENT

KEYCAPS SET PC KCA PROFILE

ON

SALE



GAMAKAY K61 PRO 60% TRIPLE

MODE ACRYLIC GASKET MOUNT

RGB MECHANICAL KEYBOARD

---



HXSJ A904 WIRED RGB GAMING

MOUSE PROGRAMMING MICE

WITH 6-LEVEL ADJUSTABLE DPI 6

RGB LIGHTING MODES

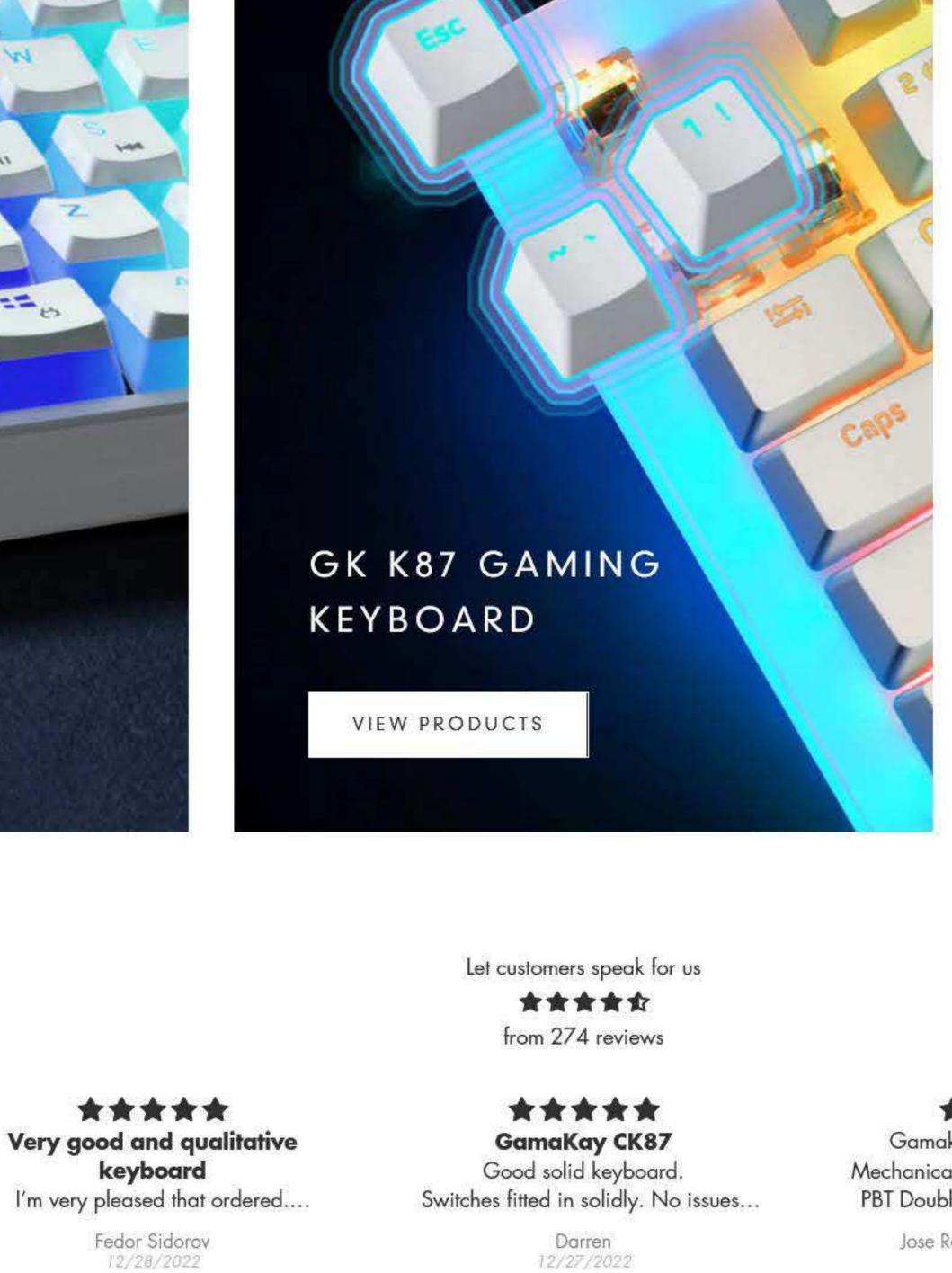
\$11.99

GK MK61 PUDDING \*\*\*\*

GamaKay K77 75% RGB Mechanical Ke...

ON

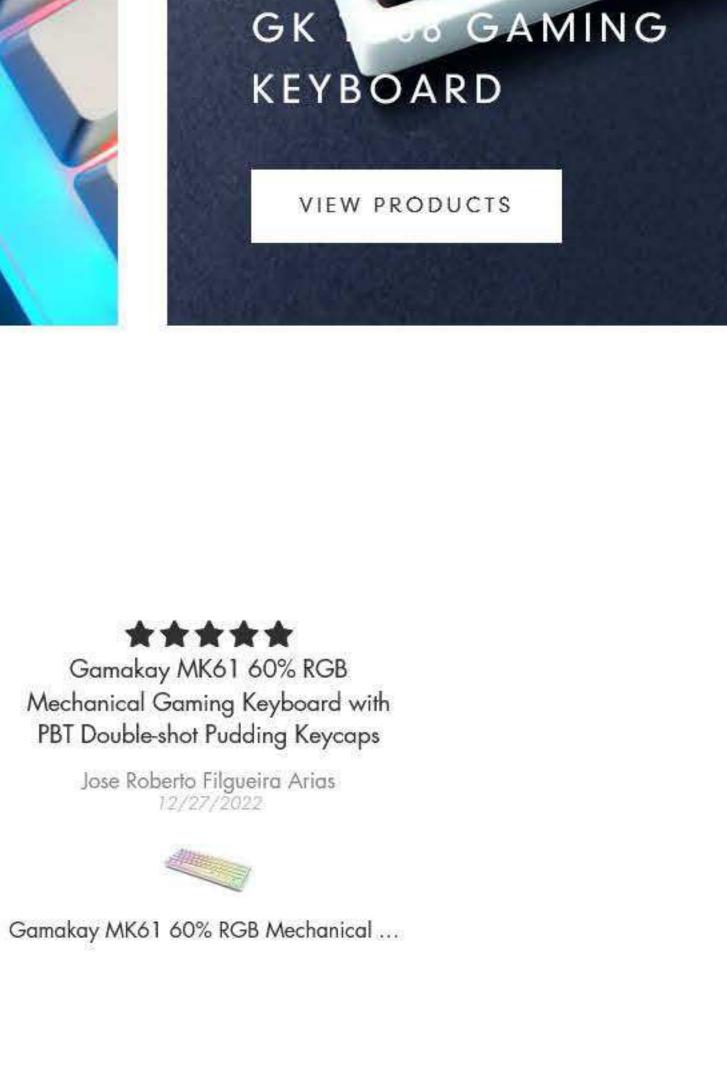
SALE



GamaKay CK87 80% Triple Mode RGB ...

ALL PRODUCTS

ALL PRODUCTS



# ON SALE



ON

SALE















GAMAKAY MK61 60% RGB MECHANICAL GAMING KEYBOARD WITH PBT DOUBLE-SHOT PUDDING USD \$ V ENGLISH V

[NEW] GK75







ALL PRODUCTS

COMPANY

KEYCAPS & SWITCH

SUPPORT

BLOG

VIEW ALL PRODUCTS

FOLLOW US

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(0)

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@ GAMAKAY

EXHIBIT 3

**AliExpress** 

Tmac Ltd. CO

92.2% Positive feedback



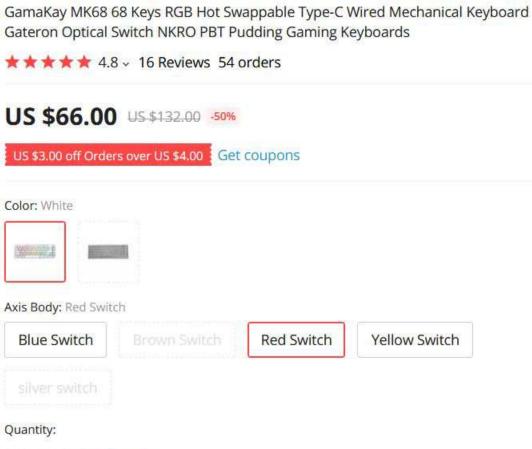
I'm shopping for...

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- 1 + Only 2 left





US \$47.99

EXHIBIT 4

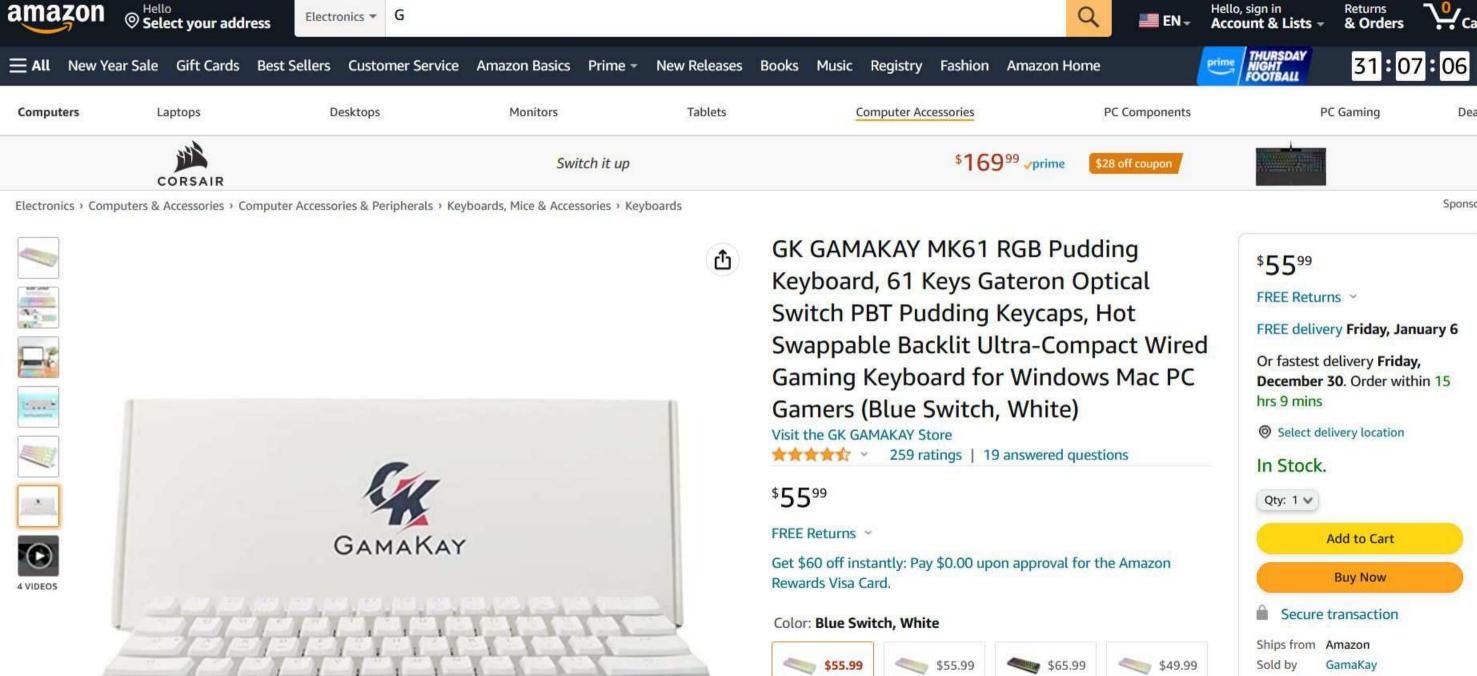
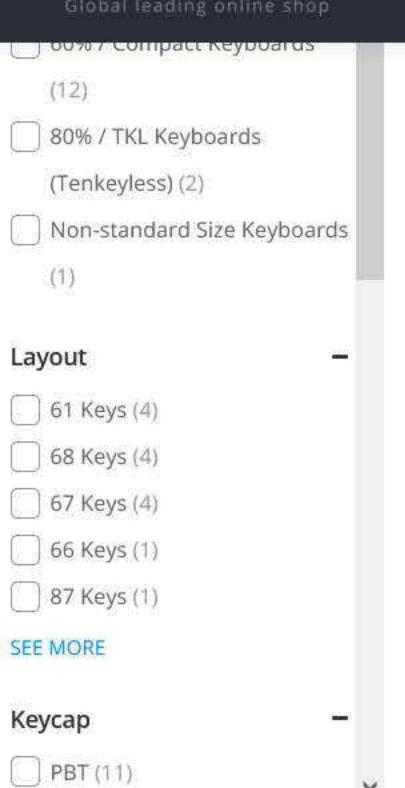
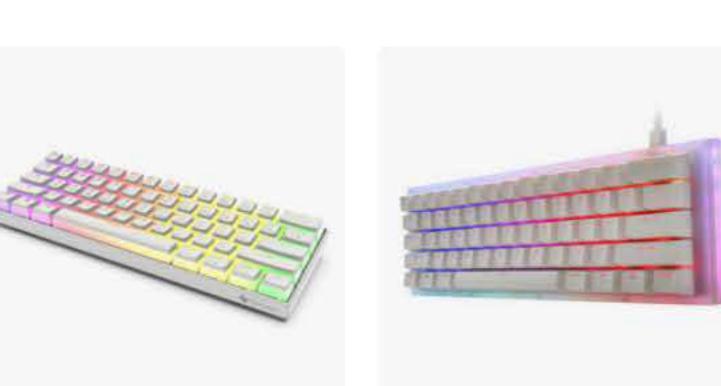


EXHIBIT 5

Price ‡

9





Ship From

Newest

Most Reviews



Upgrade deals







Free Shipping

Price min - max

Sort by

US\$62.99 US\$77.99 19% Off GamaKay K61 Mechanical Keyboard 748 reviews

US\$64.99 US\$72.99 11% Off **GAMAKAY** LK67 Keyboard 541 reviews

US\$66.99 US\$74.99 11% Off **GAMAKAY** MK68 Wired Mechanical 153 reviews



US\$81.99 US\$99.99 18% Off GAMAKAY TK68 Mechanical 319 reviews



US\$77.99

832 reviews

US\$67.99

1388 reviews

Free Shipping

US\$93.99 17% Off

**GAMAKAY K87 Mechanical** 

US\$84.99 US\$94.99 11% Off GAMAKAY LK67 Mechanical 149 reviews



US\$72.99 US\$89.99 19% Off GamaKay K77 Mechanical Keyboard 89 reviews



US\$56.99 US\$63.99 11% Off GamaKay CK61 Keyboard 24 reviews



US\$82.99 18% Off GamaKay K66 Mechanical Keyboard



US\$89.99 US\$99.99 10% Off GAMAKAY LK67 Mechanical 7 reviews



US\$69.99 US\$77.99 10% Off GamaKay CK87 Keyboard 10 reviews



US\$62.99 US\$69.99 10% Off GAMAKAY CK68 Keyboard 33 reviews



US\$62.99 US\$125.98 50% Off GamaKay LK67 Keyboard 37 reviews



US\$19.99 US\$22.99 13% Off 35Pcs GAMAKAY Wasp Mechanical 0 review



US\$19.99 US\$22.99 13% Off 35Pcs GAMAKAY Crystal Mechanical 1 review



US\$149.99 US\$166.99 10% Off **GAMAKAY** GK75 Transparent 2 reviews



US\$89.99 US\$99.99 10% Off GAMAKAY K61 PRO Mechanical 2 reviews



US\$19.99 US\$22.99 13% Off 35Pcs GAMAKAY Phenix Mechanical 2 reviews



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Locations We Ship To

Estimated Delivery Time

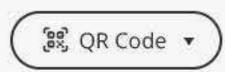
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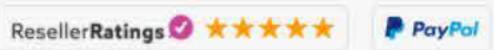






















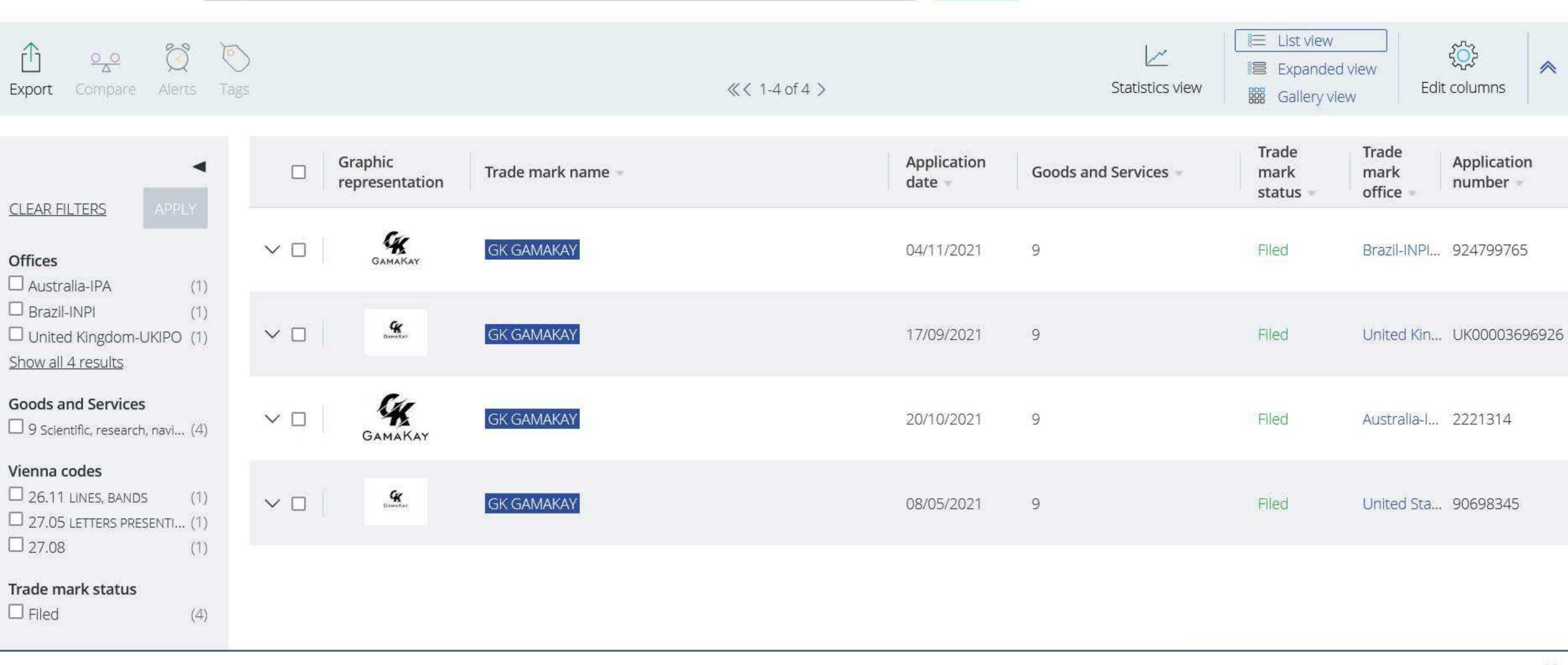








EXHIBIT 6



Trade mark name:

Is Y GK GAMAKAY

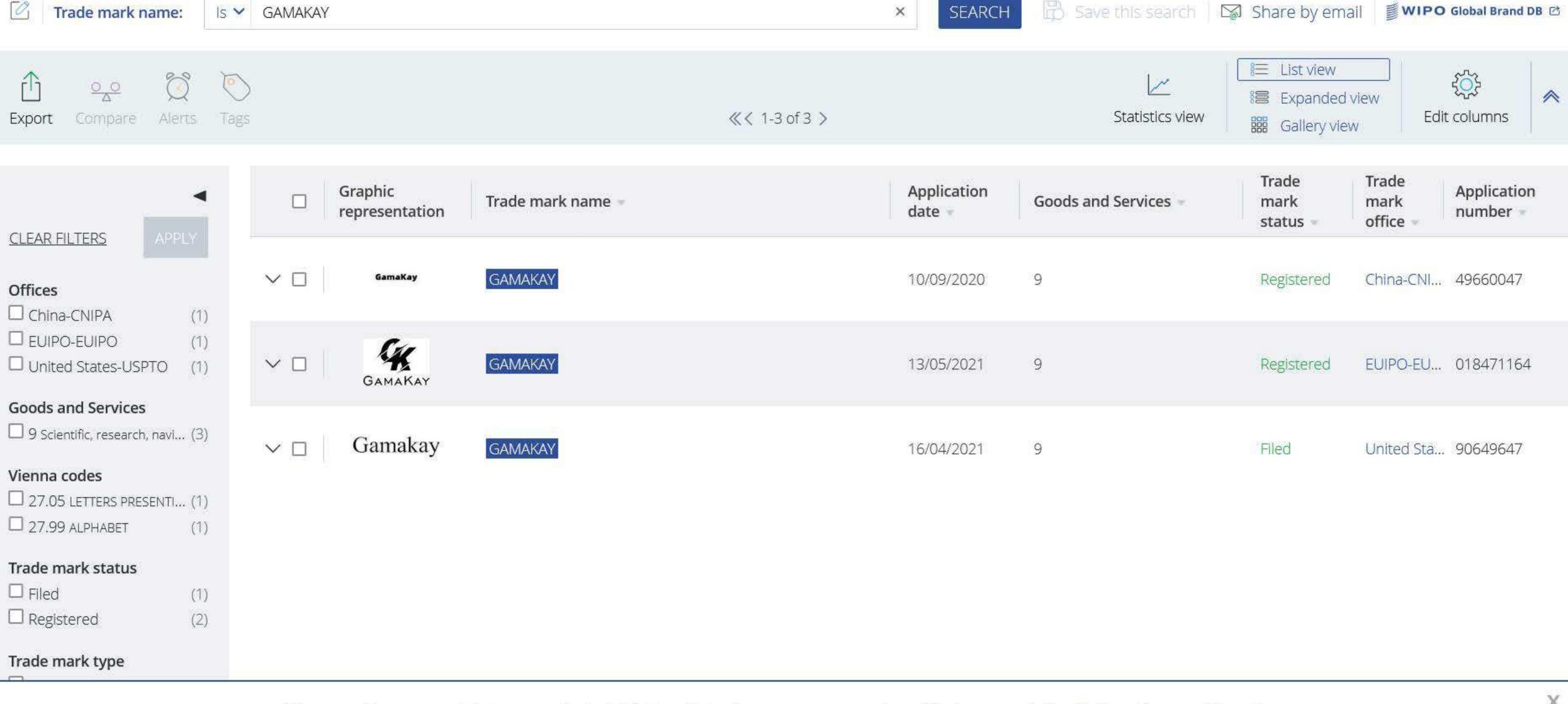
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V

# GAMAKAY

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Search for trade marks with similar images

Second language

Application reference

R1602

511 Nice classification

Acquired distinctiveness

false

Show more

### **Goods and Services**

Language:

English (Original)



Headphones; Computer keyboards; Computer mouses; Input devices for computers; Mouse pads; Wearable computer peripherals; Wireless computer peripherals; Wrist rests for use with computers; Keyboards; Multifunction keyboards.

### Vienna code

Monograms formed of intertwined, overlapping or otherwise combined letters

27.99.07 Letter G



View this trade mark in the office of origin Office of Origin case-law

Trade mark office EUIPO - EUIPO

190 Registration office EM

### Owner

Organization name Jieke Trading (Shenzhen) Co., Ltd

Applicant incorporation country code

Applicant identifier 1201270

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

In the Matter of Application Serial No. 90/6496 For the mark: GAMAKAY Published: January 18, 2022	647	
	x	
JIEKE TRADING (SHENZHEN) CO., LTD.	:	
	•	Opposition No. 91274154
Opposer,	8	
	2	
v.	•	
CHONGQING LEIQUANKEJI YOUXIANGONGSI,	ž.	
	2	
Applicant	\$	
	-X	

#### TESTIMONY DECLARATION OF MR. LI WEIDONG

I, Mr. Li Weidong, declare under penalty of perjury as follows:

- I am President of Jieke Trading (Shenzhen) Co., Ltd., (hereinafter "Jieke"), the Opposer in this administrative proceeding. Jieke is a limited company of China having its principal place of business in Shenzhen, China
- 2. The facts set forth herein are based on my personal knowledge and on information contained in Jieke's business records regularly maintained by Jieke in the normal course of business and to which I have regular access in the course of my job. Unless otherwise noted, the exhibits to

which I refer, and which are attached to this declaration are copies of documents and other materials from Jieke's business records kept in the ordinary course of business.

- 3. I submit this Declaration in support of Jieke's Complaint seeking to prevent the registration of the mark GAMAKAY by Chongqing Leiquankeji Youxiangongsi. As described more fully below, the registration and use of the disputed mark is likely to cause confusion with, and damage, Jieke's rights in the GAMAKAY Mark.
- I confirm that Jieke is the current legal owner of the following valid and subsisting U.S.
   Federal trademark application. The copy of said application has been attached as an Exhibit to the Complaint.

MARK	APP NO.	FILED
	90/698345	May 8, 2021
GAMAKAY		

- 5. Since the launch of the GAMAKAY brand, Opposer has been continuously using the GAMAKAY mark in US commerce in connection with headphones; computer keyboard keycaps; computer keyboards; computer mice; computer peripheral devices; mouse pads; wrist rests for use with computers.
- 6. On July 1, 2020, Opposer commenced use in US commerce of the mark GAMAKAY in

connection with headphones; computer keyboard keycaps; computer keyboards; computer mice; computer peripheral devices; mouse pads; wrist rests for use with computer, and since then has been using the mark continuously in connection with these goods.

- In September 2022, Opposer learned that Applicant applied to register the GAMAKAY
  mark. Opposer was not aware of the GAMAKAY mark of Applicant before this date.
- Upon learning of Applicant's application, Opposer, through local Chinese counsel,
   promptly contacted the US attorney of record that lead to the subject TTAB proceeding.
- Opposer has no business relationship with Applicant and has never authorized Applicant or otherwise permitted Applicant to use or register the GAMAKAY mark or any other mark consisting of or including the GAMAKAY mark.
- The goods identified in Applicant's application at issue in this action, namely, computer keyboard keycaps; computer keyboards; computer mice; earphones and headphones are legally related to Opposer's headphones; computer keyboard keycaps; computer keyboards; computer mice; computer peripheral devices; mouse pads; wrist rests for use with computers under the GAMAKAY mark.
- 11. If Applicant is permitted to obtain its registration for the GAMAKAY mark, not only do I expect its use of the mark to confuse consumers as to the source and/or affiliation of its products, but also, its use of the mark will devalue the Opposer's brand and cause significant

### harm to Opposer by diluting the distinctiveness of Opposer's GAMAKAY mark.

The signatory, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this submission, declares that all the statements made of [his/her] own knowledge are true, and all statements made on information and belief are believed to be true.

28th

Dated: December , 2022

Signature: Liweidong

Li Weidong