

ESTTA Tracking number: **ESTTA630465**

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

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

Notice of Opposition

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

Opposer Information

Name	Kai LLC
Granted to Date of previous extension	10/01/2014
Address	3806 Cross Creek Road, Suite F Malibu, CA 90265 UNITED STATES
Attorney information	Shaun Murphy Slovak Baron Empey Murphy & Pinkney LLP 1800 East Tahquitz Canyon Way Palm Springs, CA 92262 UNITED STATES murphy@sbemp.com, m3btmks@me.com Phone:7603222275

Applicant Information

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


Goods/Services Affected by Opposition


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


Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

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

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

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

Attachments	76134334#TMSN.png(bytes) 85038236#TMSN.png(bytes) 85038229#TMSN.png(bytes) Notice of Opposition Final.pdf(683918 bytes)
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Certificate of Service

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

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

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

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

NOTICE OF OPPOSITION

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

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

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

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

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

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

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

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

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

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