



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2011 MAY 20 A 11: 12

HEARINGS OFFICE

BUSINESS REGISTRATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAI'I

In the Matter of the)	TN 2010-7
)	
Trade Name)	DIRECTOR'S FINAL ORDER
)	
"HAWAI'I GOES FISHING")	
)	
)	
)	

DIRECTOR'S FINAL ORDER

On April 12, 2011, the duly appointed Hearings Officer issued her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter to the parties. The parties were provided with an opportunity to file written exceptions, however no exceptions were filed. The copy of the recommended decision sent to King of Aces LLC was returned marked "Unclaimed".

Upon review of the entire record of this proceeding, the Director adopts the Hearings Officer's proposed decision as the Director's Final Order and grants Petitioner's petition to revoke the trade name "Hawai'i Goes Fishing". Accordingly, the Director orders that Certificate of Registration No. 257491 issued to Respondent be revoked on the basis of non-use pursuant to HRS § 482-6.

DATED: Honolulu, Hawaii, May 18, 2011.

KEALI'I S. LOPEZ
Director
Dept. of Commerce
and Consumer Affairs



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2011 APR 12 A 9:45

HEARINGS OFFICE

BUSINESS REGISTRATION DIVISION
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the)	TN 2010-7
)	
Trade Name)	HEARINGS OFFICER'S FINDINGS
)	OF FACT, CONCLUSIONS OF
"HAWAII GOES FISHING")	LAW AND RECOMMENDED
)	ORDER; APPENDIX "A"
)	
)	
)	

HEARINGS OFFICER'S FINDINGS OF FACT
CONCLUSIONS OF LAW AND RECOMMENDED ORDER

I. INTRODUCTION

On August 18, 2010, Dean C. Sensui, on behalf of Hawai'i Productions Associates LLC ("Petitioner") filed a petition requesting that the certificate of registration for the trade name "Hawai'i Goes Fishing", issued by the Department of Commerce and Consumer Affairs as certificate of registration no. 257491 to King of Aces LLC ("Respondent") be revoked. The matter was set for hearing and the Petition and Notice of Hearing and Pre-Hearing Conference ("Notice") were transmitted to the parties. Respondent received a copy of the Petition and Notice by certified mail on September 4, 2010.

On January 19, 2011, a hearing was conducted by the undersigned Hearings Officer. Mr. Sensui appeared on behalf of Petitioner. Respondent failed to enter an appearance. Since proper service was made, the hearing proceeded as scheduled.

Having reviewed and considered the evidence and argument presented at the hearing, together with the entire record of this proceeding, the Hearings Officer renders the following findings of fact, conclusions of law and recommended order.

II. FINDINGS OF FACT

1. On January 28, 2002, the Department of Commerce and Consumer Affairs issued Certificate of Registration No. 257491 to Respondent for the trade name “Hawai'i Goes Fishing”. The purpose of Respondent’s business is “TV Production, Video Production, Merchandising, Consulting”. The registration expires on January 27, 2013.

2. On October 27, 2010, Respondent’s tax clearance application for “King of Aces LLC” was approved by the Department of Taxation, State of Hawai'i. Respondent stated that the tax clearance was required for “DCCA reinstatement”.

3. Petitioner was issued Certificate of Registration No. 4024126 for the trade name “Hawai'i Goes Fishing with Ben Wong” on July 8, 2004. Petitioner actively produced television programming for cable channel OC16 under the name “Hawai'i Goes Fishing with Ben Wong” until Ben Wong left in 2006.

4. Petitioner also actively and continuously used the name “Hawai'i Goes Fishing” without the appended phrase “with Ben Wong” in its television production title, website, correspondence and merchandise since August 2004. Petitioner has established a loyal following of viewers who have come to identify its production under the name “Hawai'i Goes Fishing” without the appended phrase “with Ben Wong”. Merchandise items including baseball caps, embroidered towels, coffee mugs and apparel, bear the name “Hawai'i Goes Fishing” without the appended name “with Ben Wong.”

5. Attached as Appendix “A” is a list of companies and organizations that recognize Petitioner and Dean Sensui as legitimate users of the trade name “Hawai'i Goes Fishing”.

6. Petitioner registered the domain name “HawaiiGoesFishing.com” on July 4, 2004 and has continuously maintained a website under that domain name. Petitioner also registered the domain names “Hawai'iGoesFishing.tv” and “HawaiiGoesFishing.net” on August 1, 2007.

7. Petitioner registered “Hawai'i Goes Fishing” with the United States Patent and Trademark Office on August 26, 2008. The information on the Trademark Electronic Search System states that Petitioner’s first use in commerce was on August 8, 2004 and describes the goods and services as “Production of DVDs, videotapes and television programs featuring fishing in Hawai'i and elsewhere; Television production; Entertainment in the nature of on-

going television programs in the field of fishing in Hawai'i and elsewhere; Entertainment services in the nature of an on-going reality based television program.”

8. On July 4, 2010, Respondent was “administratively terminated” by the Department of Commerce and Consumer Affairs. Annual filings for 2007, 2008 and 2009 are listed as “delinquent”.

9. Petitioner could not find any use of “Hawai'i Goes Fishing” by Respondent.

III. CONCLUSIONS OF LAW


Petitioner seeks revocation of the trade name “Hawai'i Goes Fishing” on the grounds of non-use under Hawaii Revised Statutes (“HRS”) § 482-6. In order to show non-use, Petitioner must show by a preponderance of the evidence that Respondent did not use the trade name “Hawai'i Goes Fishing” for three hundred sixty-five (365) consecutive days immediately preceding August 18, 2010, the date the petition was filed.

Petitioner could not find any evidence that Respondent used “Hawai'i Goes Fishing” for the one year prior to August 18, 2010. Accordingly, the Hearings Officer concludes that Petitioner has proven by a preponderance of the evidence that Respondent has not used the trade name “Hawai'i Goes Fishing” for three hundred sixty-five days prior to the filing of the petition.

IV. RECOMMENDED ORDER

For the reasons set forth above, the Hearings Officer recommends that the Director order that Certificate of Registration No. 257491 issued to Respondent be revoked on the bases of non-use pursuant to HRS § 482-6.

DATED: Honolulu, Hawaii, APR 12 2011.


SHERYL LEE A. NAGATA
Administrative Hearings Officer
Department of Commerce
and Consumer Affairs

Hawai'i Goes *Fishing*

Companies and organizations that recognize Hawaii Productions Associates and Dean Sensui as the legitimate users of the trade name, "Hawaii Goes Fishing".

Oceanic Time-Warner	VJ Entertainment
Alamo Hawaii	Mike May Media Services
American Savings Bank	Apex Media
Apple	Lawaia Magazine
Kikkoman	Hawaii Fishing News
Island Air	US Coast Guard
Vacations Hawaii	Hawaii State Department of Land and Natural Resources
Hagadone Printing Co.	Hawaii State Division of Aquatic Resources
Obun Hawaii	Hawaii State Film Branch
Kenjo Inc.	The City & County of Honolulu
Art & Signs	Oceanit Laboratories
AICCO	S. Tokunaga Store
ACW Group	Hammerhead Spearguns
Print Proz	Tropic Fish & Vegetable
Tape Duplicators	Garden & Valley Isle Seafood
Six Eagles Hawaii	Wahiawa Middle School
Tokumoto & Co.	
Hana Paa Fishing Supply	Pacific Islands Fisheries Group
5 Oceans 7 Seas	Hawaii Freshwater Fishing Association
Pacific Ocean Producers	Western Pacific Regional Fishery Management Group
Brookins Boatworks	Honolulu Community College Marine Education & Training Center
Da Kine Scuba Repair	Polynesian Voyaging Society
Nervous Waters Fly Fishing	Hawaiian International Billfish Tournament
Mark White Lures	Hawaii Ulua Tagging Project
Kelela Lures	Aquahunters
Sheraton Hawaii	
Island Home Building Materials	Atlapac Fishing Club
Sub-Zero/Wolf	
Izuo Brothers	Fire Hatt, Capt. Chuck Wilson
Ewalu Kai	Marlin Magic II, Capt. Marlin Parker
Hawaii Pacific Photo	Hanamana, Capt. Chip Fletcher
Aloha Island Lei	Shelter Lodge
Bluewater Multimedia	Anchor Point Lodge
Charley's Taxi	Alaska Safari Unlimited
Corrosion-X	William Aila Jr., acting DLNR Chairman
Ikaika Communication	
The Schiller Agency	

APPENDIX **"A"**

GA