

FOR THE 'KINDER' TRADEMARK REQUEST

The other three founders are no longer involved with the Kinder Goat Breeders Association, so following is the information for the testimony of Patricia L Showalter, member in good standing of the Kinder Goat Breeders Association, and the individual who is making the request for the Kinder Goat Breeders Association.

ORIGIN

The Kinder goat had its beginnings with the birth of three little does in June and July, 1986, on Zederkamm Farm. They generated more than usual interest because 1) they were unusually beautiful and personable kids, and 2) their dams were registered Nubians, and their sire was a registered Pygmy – combining to make striking small goats that proved to have a long list of very positive traits.

Art and Pat Showalter, owners of Zederkamm Farm, decided to keep one of the kids, Zederkamm Liberty. The other two kids, Tia and Briar Rose, were sold to two other interested parties – one a goat breeder, and the other a 4-H family.

Interest continued as the doelings grew and developed, and Pat Showalter and Teresa Hill (the goat breeder who purchased Tia) drew in two more women to the project, Daralyn Hollenbeck and Kathy Gilmore. The group decided to work toward developing this cross into a breed, a project which included forming a breed association. The name 'Kinder' didn't come about until at least a year after the first kids were born, and more people were encouraged to deliberately breed Nubians to Pygmies. The group of founders thought and researched for over a year before finding just the right name for their new breed. 'Kinder' (German for 'child') was their final choice because it fit their sweet and playful dispositions and small size.

KGBA CONTROL OF DESIGNATION

The newly formed Kinder Goat Breeders Association created a rule in the very beginning that the name 'Kinder' could be applied only to goats resulting from the breeding of registered Nubians to registered Pygmy Goats for the first cross. Several years later, upon the advice of Harvey Considine, internationally known and respected dairy goat judge and livestock evaluator, the rules were refined following a membership vote, to require that following the original Nubian/Pygmy cross, consequent breedings must be Kinder to Kinder in order to produce kids acceptable for registration.

'KINDER' NOT A GENERIC TERM IN THE INDUSTRY

Because the Kinder Goat Breeders Association (by-laws adopted 3/09/89) carefully protected the name from the beginning by incorporating under the laws of the State of Washington, the goat called 'Kinder' has remained distinct and separate in the industry.

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November 25, 2010

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3368 Plymale Branch Road
Huntington, WV 25704

Re: Kinder Goat Breeders Association
P.O. Box 1575
Snohomish, WA 98291

To Whom It May Concern:

Kinder Goat Breeders Association has asked this office to write to you regarding your usage of the KINDER mark.

As you should be aware, Kinder Goat Breeders Association has utilized the KINDER trademark in conjunction with its breed services since 1988. Specifically, Kinder Goat Breeders Association originated the KINDER breed, established the breed standard, maintains the breed registry, and promotes the breed throughout the country. Only those breeders who register their goats with Kinder Goat Breeders Association may use the KINDER mark.

Kinder Goat Breeders Association hereby demands that you cease and desist from all present or future usage of the KINDER mark, whether for products or services, including but not limited to any advertising of such products and services on your business storefront, at conferences or meetings, in print or telephone directory listings, or on the radio or Internet.

If your usage of the KINDER mark was inadvertent, Kinder Goat Breeders Association respectfully requests that you discontinue any further use of the mark within 10 days.

If your usage of the KINDER mark was intentional, such use constitutes flagrant and willful infringement of Kinder Goat Breeders Association's federal common law trademark.

In either case, your usage of a strikingly similar mark is likely to cause confusion, mistake or deception in a marketplace already familiar with Kinder Goat Breeders Association's mark and services. In addition to the potential infringement claims, your actions may also be deemed as false designation of origin under Section 1125 of the Trademark Act and/or as unfair competition under Section 43(a) of the Lanham Act.

Please provide written assurance that you will comply with this request within 10 days of your receipt of this letter so that litigation may be avoided. Time is of the essence.

Your response should be sent directly to Kinder Goat Breeders Association at the above-listed address. Thank you for your anticipated cooperation in this matter.

Sincerely yours,

LOMBINO • MARTINO

"sent without signature to avoid delay"

Larry S. Spokoiny
