

ESTTA Tracking number: **ESTTA87472**

Filing date: **06/28/2006**

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

Proceeding	76396701
Applicant	Armada Art, Inc.
Applied for Mark	PAPER SHAPERS
Correspondence Address	LUDOMIR A. BUDZYN HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791 UNITED STATES lbudzyn@hoffmannbaron.com
Submission	Applicants Request for Remand and Amendment
Attachments	Request for Remand.pdf ( 2 pages )(74274 bytes ) Communication and Consent Agreement.pdf ( 5 pages )(150094 bytes )
Filer's Name	Ludomir A. Budzyn
Filer's e-mail	lbudzyn@hoffmannbaron.com
Signature	/Ludomir A. Budzyn/
Date	06/28/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Armada Art, Inc.

Trademark Law Office: 114

Serial No.: 76/396,701

Filed: April 16, 2002

Examining Attorney: Alex S. Keam

International Class: 008

Mark: PAPER SHAPERS

Docket: 690-8

Dated: June 28, 2006

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Attn: Trademark Trial and Appeal Board

**REQUEST FOR REMAND**

Madam:

Pursuant to TBMP §1209.04, Applicant hereby requests remand of the application to the Examining Attorney for consideration of the attached Communication and Consent Agreement.

As indicated in TBMP§1209.04, a request for remand may be made to have additional evidence be made of record. TBMP §1209.04 also indicates that the request for remand must include a showing of good cause. With reference to TBMP §1207.02, good cause is presented with the submission of a Consent Agreement. As indicated at TBMP §1207.02,

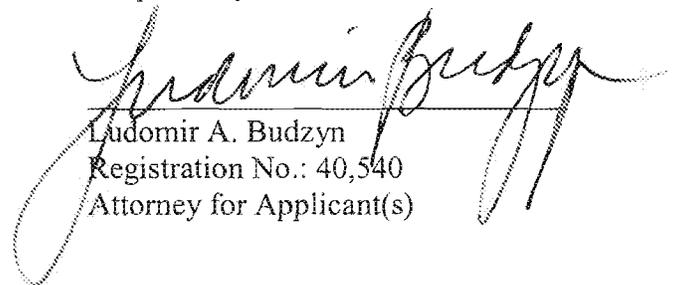
In addition, because a consent agreement offered in response to a refusal to register under Section 2(d) of the Act, 15 U.S.C. §1052(d) is inherently difficult and time-consuming to obtain, and may be highly persuasive of registrability, the Board will grant a request to suspend and remand for consideration of a consent agreement if the request, accompanied by the consent agreement, is filed at any time prior to the rendering of the Board's final decision on the appeal.

(Footnote omitted).

To present, the Board has not rendered a final decision on this appeal. Moreover, the only issue on appeal is a refusal to register under Section 2(d). Pursuant to TBMP §§1207.02 and 1209.04, remand to the Examining Attorney is respectfully requested for consideration of the attached Communication and Consent Agreement.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,



Ludomir A. Budzyn  
Registration No.: 40,540  
Attorney for Applicant(s)

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(973) 331-1700

TRADEMARK

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**COMMUNICATION**

Madam:

Please reconsider the registrability of the above-identified application in view of the following Remarks and attached Consent Agreement.

## REMARKS

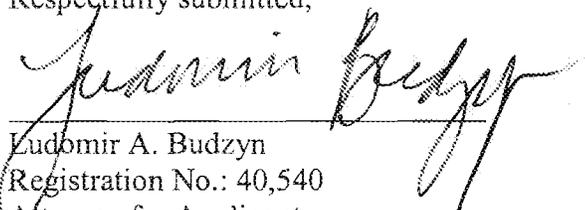
Attached hereto is a Consent Agreement executed by the Applicant of the subject application, Armada Art, Inc., and by EK Success Ltd. EK Success Ltd. is the owner of U.S. Trademark Registration No. 2,397,552, which is the only mark being applied in refusing registration of the Applicant's mark under Section 2(d).

As indicated in the Consent Agreement, both parties acknowledge the existence of the License Agreement, portions of which have been previously discussed and submitted. Also, at paragraph 2, it explicitly states that the "parties recognize and agree that compliance with the provisions of the License Agreement will prevent conflict between the respective usage of the marks and preclude a likelihood of confusion." Further, at paragraph 4, it explicitly states that "EK consents to ARMADA's registration of the Trademark Application." Finally, at paragraph 5, the Agreement states that "the parties will cooperate to take steps necessary to prevent customer confusion."

In view of the foregoing, the attached Consent Agreement clearly indicates that the parties do not perceive a likelihood of confusion in their concurrent use of the "PAPER SHAPERS" mark. Accordingly, the refusal to register under Section 2(d) should be withdrawn

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examining Attorney is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,



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Ludomir A. Budzyn  
Registration No.: 40,540  
Attorney for Applicant

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(973) 331-1700

## CONSENT AGREEMENT

This Agreement made this 30<sup>th</sup> day of May, 2006, by and between Armada Art, Inc., a New Jersey corporation having a place of business at 142 Berkeley Street, Boston, Massachusetts 02116 (hereinafter referred to as "ARMADA"), and EK Success, Ltd., a New York corporation having a place of business at 125 Entin Road, Clifton, New Jersey 07014 (hereinafter referred to as "EK"). The parties acknowledge and agree as follows:

WHEREAS, ARMADA is the owner of Trademark Application No. 76/396,701 for "PAPER SHAPERS" in conjunction for use with scissors (hereinafter referred to as "the Trademark Application"), and has been using the trademark in association with scissors since at least April 13, 1998;

WHEREAS, EK has obtained U.S. Trademark Registration No. 2,397,552, issued October 24, 2000, for "PAPER SHAPERS" in conjunction with paper hole punch devices which make fanciful shapes (hereinafter referred to as "the Registration"); and,

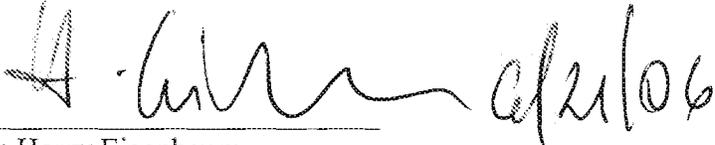
WHEREAS, on September 27, 2002, EK entered a license agreement with ARMADA, whereby ARMADA granted EK exclusive rights to use the "PAPER SHAPERS" trademark solely in conjunction with paper hole punch devices which make fanciful shapes (hereinafter referred to as "the License Agreement").

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ARMADA and EK agree as follows:

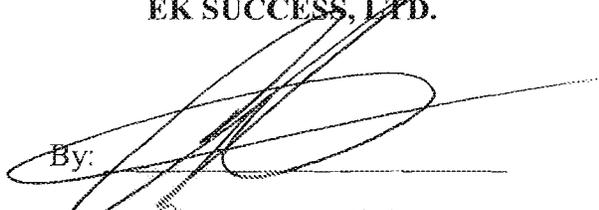
1. The License Agreement prevents ARMADA from using the "PAPER SHAPERS" trademark in conjunction with paper hole punch devices which make fanciful shapes.
2. The parties recognize and agree that compliance with the provisions of the License Agreement will prevent conflict between the respective usage of the marks and preclude a likelihood of confusion.
3. ARMADA consents to the continued maintenance of the Registration by EK and the continued use of the "PAPER SHAPERS" trademark per the terms of the License Agreement.
4. EK consents to ARMADA's continued use of the "PAPER SHAPERS" trademark per the terms of the License Agreement. Also, EK consents to ARMADA's registration of the Trademark Application.
5. Should the need arise, the parties will cooperate to take steps necessary to prevent customer confusion.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth herein above.

**ARMADA ART, INC.**

By:   
Name: Harry Eisenbaum  
Title: President

**EK SUCCESS, LTD.**

By:   
Name: CHRIS SKINNER  
Title: CEO 5/30/06