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**UNITED STATES PATENT AND TRADEMARK
OFFICE**
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 6, 2001

DIABLO RESEARCH COMPANY LLC
825 STEWART DRIVE
SUNNYVALE, CA 94086

Reg. No. 1655878
Cancellation No. 92040036

LINDA A. HEBAN
JONES DAY REAVIS & POGUE
77 W WACKER DR
CHICAGO, IL 60601-1692

Harman-Kardon, Incorporated

V.

DIABLO RESEARCH COMPANY LLC

JUAN M. PORTER, LEGAL ASSISTANT

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64. A copy of the recent amendments to the Trademark Rules, as

well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

Discovery and testimony periods are set as follows:

Discovery period to open:	September 26, 2001
Discovery period to close:	March 25, 2002
30-day testimony period for party in position of plaintiff to close:	June 23, 2002
30-day testimony period for party in position of defendant to close:	August 22, 2002
15-day rebuttal testimony period for plaintiff to close:	October 06, 2002

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the

pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

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

U.S. PATENT & TRADEMARK OFFICE

Harman-Kardon, Incorporated,)
Petitioner,)
vs.)
Whisper Communications, Inc.)
Respondent.)

07-26-2001

U.S. Patent & TMO/TM Mail Rpt Dt. #11

Cancellation No. _____
Registration No. 1655878

Commissioner for Trademarks
BOX TTAB - FEE
2900 Crystal Drive
Arlington, Virginia 22202.3513

I hereby certify that this correspondence is
being deposited with the U. S. Postal Service as
first class mail in an envelope addressed to the
Commissioner of Trademarks, 2900 Crystal Drive,
Arlington, VA 22202-3513

on July 23, 2001
[Signature]

PETITION FOR CANCELLATION

Petitioner, Harman-Kardon, Incorporated, a California corporation, having a place of
business at 8500 Balboa Boulevard, Northridge, California 91329, believes that it is and will
continue to be damaged by Registration No. 1655878, issued September 3, 1991 and now owned
(by assignment) by Whisper Communications, Inc, a California corporation, located at 825
Stewart Drive, Sunnyvale, California 94086 ("Respondent"), for the mark HOMENET covering
"electronic automation products, namely, gateways in the nature of electronic signal, message
and format converters, nodes in the nature of electronic elements for sending or receiving
messages, and bridges/routers in the nature of electronic elements for transferring signals from
one medium to another, all for electronic communication, control, monitoring and scheduling
purposes," and hereby petitions for cancellation of this Registration, under 15 U.S.C. §1064
(1986).

The grounds which justify cancellation are as follows:

07/31/2001 JHARLEY 00000097 1655878
01 FC:377 300.00 OP

[Handwritten mark]

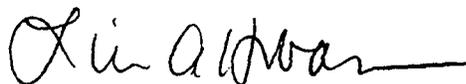
1. Upon information and belief, Respondent has abandoned the registered mark by discontinuing use with no intent to resume use.

2. Petitioner is and will continue to be damaged by the continuance of said registration because Petitioner has filed Application Serial No. 75/293682, which has been refused in light of said registration, and because Petitioner's use of its mark may be impaired by the continued registration of Respondent's mark.

WHEREFORE, Petitioner hereby requests that this Petition be sustained in favor of Petitioner and that Registration No. 1655878 be canceled. The filing fee of \$300. is enclosed herewith; the Commissioner is hereby authorized to charge Deposit Account No. 10-1202 for any deficiency in the payment of required fees.

Petitioner hereby appoints Linda A. Heban, Ronald A. Sandler, David L. Witcoff, and Joseph Golant, all of Jones Day Reavis & Pogue, 77 West Wacker, Chicago Illinois, 60601.1692, telephone 312.782.3939, as its attorneys with full powers of substitution and revocation in the matter of the cancellation above-identified, to transact all business in the Patent and Trademark Office in connection therewith, and to receive all communications relating thereto.

Respectfully submitted,



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ATTORNEYS FOR PETITIONER
HARMAN-KARDON, INCOPORATED

July 17, 2001