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

Mailed: July 3, 2002

Damani Dada Enterprises, Inc.
377 Brightseat Road
Capital Heights, MD 20785

Reg. No. 2074086
Cancellation No. 92040714

Matthew J. Cuccias
Jacobson & Holman, PLLC
400 Seventh Street, N.W.
Washington, DC 20004

Dada Corporation

v.

Damani Dada Enterprises, Inc.

02 JUL 12 AM 8:33
TRADEMARK TRIAL AND
APPEAL BOARD

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

Cancellation No. 920 40,714

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:	July 23, 2002
Discovery period to close:	January 19, 2003
30-day testimony period for party in position of plaintiff to close:	April 19, 2003
30-day testimony period for party in position of defendant to close:	June 18, 2003
15-day rebuttal testimony period for plaintiff to close:	August 02, 2003

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.

Cancellation No. 920 40,714

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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06-24-2002

U.S. Patent & TMO/TM Mail Rpt Dt: #22

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

DADA CORPORATION,

Petitioner,

v.

KYARRA INSPIRES, INC.

Respondent.

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TRADEMARK TRIAL AND
APPEAL BOARD

PETITION FOR CANCELLATION

In the matter of trademark Registration No. 2,074,086, issued June 24, 1997, in the name of Kyarra Inspires, Inc., for the mark DAMANI DADA, the Petitioner, Dada Corporation, believes it will be damaged by the continued registration of said alleged trademark and hereby petitions to cancel same. The grounds for cancellation are as follows:

1. The Petitioner, Dada Corporation (hereinafter "Dada"), is a corporation duly organized and existing under the laws of the Republic of Korea and having its place of business at DADA CENTER, 790-4 Yeoksam-Dong, Kangnam-Ku, Seoul, KOREA. Petitioner markets, distributes and sells clothing including, without limitation hats and caps, in commerce with the United States.

2. Commencing prior to the date of first use alleged in the registration sought to be cancelled herein, Petitioner has, and is now, engaged in the marketing, distribution and sale of clothing, in commerce with United States, bearing the trademark **DADA per se, DADA & Design** and/or referencing or in connection with the trade name Dada Corporation (hereinafter collectively "Petitioner's **DADA** mark and name"). Petitioner Dada continuously has used said Petitioner's

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DADA mark and name, in commerce in connection with clothing, marketed, advertised, offered for sale, and sold by Dada, and to identify and designate same, and to distinguish those goods and Petitioner's business from those of others.

3. On May 30, 1995, the United States Patent and Trademark Office issued to Petitioner Registration No. 1,896,120 for the **DADA** mark in connection with "clothing, namely belts, night caps, hats, socks, athletic uniforms, night gowns, pajamas, night clothes, swimming hats, swimming suits, sport shirts, sweaters, jumpers, rain coats, coats, jackets, men's suits; children's clothing, namely infantwear; work clothing, namely pants, shirts, boots, coats, jackets, overalls, and gloves; and student clothing, namely jeans, pants, shorts, skirts, T-shirts, caps, belts, socks, sweats and jackets; and pocket squares." Petitioner Dada has used and is using the **DADA** mark in commerce in connection with "night caps, hats, swimming hats, caps, shirts and T-shirts" marketed, advertised, offered for sale, and sold by or for Dada, and to identify and designate same, and to distinguish such goods from those of others.

4. Petitioner Dada is the owner of, and will rely herein upon, Registration No. 1,896,120. Said registration is valid and subsisting, and constitutes conclusive evidence of Petitioner Dada's ownership of Petitioner's **DADA** mark, and exclusive right to use same in commerce in connection with the goods set forth in said registration, namely, "night caps, hats, swimming hats, caps, shirts and T-shirts."

5. Since Petitioner's initial use of Petitioner's **DADA** mark and name, Dada has used, and advertised, marketed and offered its goods under and in connection with said mark to the public, through various channels of trade, and in commerce, with the result that Petitioner's customers and the public in general have come to know and recognize said mark and name of

Petitioner and associate same with Petitioner and/or the goods marketed, advertised, marketed, distributed, and sold directly or indirectly by Petitioner Dada.

6. On September 6, 1996, Respondent filed an application to register the DAMANI DADA mark, based on actual use of said mark. On June 24, 1997, Registration No. 2,074,086 issued on said application, identifying the goods as "clothing, namely, hats, tops, bottoms, underwear, socks, and shoes".

7. On February 10, 2000, Respondent Kyarra Inspires, Inc. (hereinafter "Respondent" or "Kyarra") filed a Petition to cancel Petitioner's Registration No. 1,896,120. Kyarra alleged that it owned Applications for Serial Nos. 75/606,168; 75/079,249 and; 75/606/169 for DADA-formative marks which had been refused under Section 2(d) of the Lanham Act based on confusing similarity with Dada's registration.

8. The DAMANI DADA mark which is the subject of Kyarra's registration is a colorable imitation of, and is confusingly similar to, Petitioner's prior and aforesaid DADA mark and name.

9. Upon information and belief, the goods set forth in the registration sought to be cancelled herein are identical and/or related to the goods with which Dada uses Petitioner's DADA mark and name, and are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Dada's products are marketed and/or sold.

10. The DAMANI DADA mark, as set forth in the registration sought to be cancelled, is likely to cause confusion, mistake, and/or to deceive as to the origin, sponsorship, and/or association of Respondent's goods sold and/or to mislead purchasers of Respondent's and/or

Petitioner's goods, and/or the public in general, into believing that Respondent's goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with Dada, and/or Petitioner's **DADA** mark and name, or products or business, or vice versa, to the damage and detriment of Dada.

11. By virtue of the foregoing, Dada believes it will be damaged by the continued registration by Respondent of the DAMANIDADA mark, as set forth in U.S. trademark Registration No.2,074,086.

12. If Respondent continues to enjoy the rights as conferred under the Principal Register of the Trademark Act of 1946, Respondent will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946, to the detriment and harm of Petitioner.

WHEREFORE, this Petitioner, Dada Corporation, believes and alleges that it will be damaged by U.S. trademark Registration No. 2,074,086 of the DAMANIDADA mark, as aforesaid, and prays that:

- A. judgment in the present cancellation action be entered in favor of Petitioner;
- B. the present cancellation action be sustained; and
- C. trademark Registration No. 2,074,086 be cancelled.

Respectfully submitted,

DADA CORPORATION



Date: June 24, 2002

By:

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06-24-2002

U.S. Patent & TMO/c/TM Mail Rpt Dt. #22



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June 24, 2002

Assistant Commissioner for Patent and Trademarks
U.S. Patent and Trademark Office
2900 Crystal Drive
Arlington, VA 22202

Re: Registration No. 2,074,086
Mark: DAMANI DADA
Kyarra Inspires, Inc.
Our Reference: I-4677

Sir:

We enclose the following for filing in the Patent and Trademark Office:

X Petition for Cancellation (in Duplicate)

Also enclosed is our check for the required filing fee in the amount of \$300.00.
Should this check become detached, or the amount be insufficient, please charge our Deposit
Account No. 06-1358.

Respectfully submitted,

JACOBSON HOLMAN PLLC

by
Simor L. Moskowitz / Matthew C...
Simor L. Moskowitz

SLM/MJC/ssh

Enclosures

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