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

AMERICAN APPAREL, L.L.C., and )  
Petitioner, )  
v. )  
ROOCHI TRADERS, INC. )  
Registrant. )



05-20-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #34

Cancellation No. \_\_\_\_\_

U.S. REG. NO. 2,359,401  
U.S. REG. NO. 2,063,013

CONSOLIDATED PETITION FOR CANCELLATION

Petitioner believes that it will be damaged by Registration Nos. 2,359,401 and 2,063,013 in their present form, and hereby petitions for cancellation of the registrations.

As grounds therefor, it is alleged that:

1. American Apparel, L.L.C., a California limited liability company, having a principal place of business at 747 Warehouse Street, Los Angeles, California 90021 and its predecessor(s) in interest (hereinafter referred to as "Petitioner"), has been using the mark AMERICAN APPAREL since at least as early as 1989 for various articles of clothing, including without limitation shirts.

2. Petitioner has sold over 1 million units of clothing bearing the mark every year since 1989. In addition, Petitioner has spent considerable sums of money promoting and advertising its goods featuring the mark. Accordingly, Petitioner has created and enjoys substantial consumer recognition and secondary meaning in connection with the mark.

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*[Handwritten mark]*

3. Petitioner has sought registration of the mark AMERICAN APPAREL in connection with the articles of clothing, including without limitation shirts. Petitioner filed its application for U.S. registration of the mark on or about April 9, 2001 under Serial No. 76/238,626 (hereinafter "Petitioner's application"), and said application is currently pending at the U.S. Patent & Trademark Office.

4. The Examining Attorney at the U.S. Patent & Trademark Office has refused registration of the mark in Petitioner's application on the basis that confusion is likely to result with Registrant's marks (i) ALL AMERICAN APPAREL for use in connection with "clothing, namely, t-shirts, shorts, denim shirts and denim pants, exercise and sports clothing namely, sweatshirts, sweatpants, leotards, and unitards" in Registration No. 2,359,401; and (ii) ALL AMERICAN APPAREL and Design for use in connection with "apparel, namely t-shirts, sweatshirts, sweat pants, and shorts" in Registration No. 2,063,013 (collectively referred to as "Roochi's Apparel Marks").

5. Registrant is the owner of Registration No. 2,359,401 for the mark ALL AMERICAN APPAREL which issued on June 20, 2000.

6. Registrant is also the owner of Registration No. 2,063,013 for the mark ALL AMERICAN APPAREL and Design which issued on May 20, 1997.

7. Upon information and belief, Petitioner has an earlier first use date than Registrant's.

8. Upon information and belief, Registrant knew of Petitioner's use of AMERICAN APPAREL prior to filing for either of the above referenced registrations.

9. Registrant has recently made claims that Petitioner's use of AMERICAN APPAREL is likely to cause confusion with the Roochi's Apparel Marks.

10. If the Registrant is permitted to retain the registrations and assert unfounded claims, a cloud will be placed on Petitioner's title in and to its trademark AMERICAN APPAREL and on its right to enjoy the free and exclusive use thereof in connection with its articles of clothing.

11. If the Registrant is permitted to maintain its registrations with its present identifications of goods, it may be deemed incontestable after five (5) years from the date of the registration, and Registrant would thereby obtain an incontestable right to use of its mark in commerce. Such registration would thus be a source of damage and injury to the Petitioner.

12. A duplicate copy of this Petition and the fee required in 37 C.F.R. Section 2.6(a)(1), namely \$600.00 is enclosed herewith. Please charge any additional charges to our Deposit Account No. 02-2666.

WHEREFORE, the Petitioner prays that Registration Nos. 2,359,401 and 2,063,013 be cancelled and that this Consolidated Petition for Cancellation be sustained in favor of Petitioner.

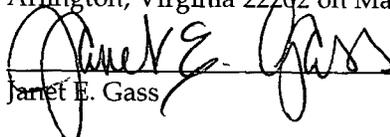
American Apparel, LLC

Dated: May 20, 2002 By:   
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN  
Willmore F. Holbrow III  
Counsel for Petitioner

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EM560342037US addressed to: BOX TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202 on May 20, 2002.

 May 20, 2002  
Janet E. Gass Date