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INTELLECTUAL PROPERTY LAW

April 20, 2016

**VIA HAND DELIVERY**

COMMISSIONER FOR TRADEMARKS  
P.O. Box 1451  
Alexandria, VA 22313-1451

#86150835

Re: INTERNATIONAL BEAUTY EXCHANGE, INC. v. K & N DISTRIBUTORS  
Registration No. 4,941,822  
Attorney Reference: C16681825

Dear Commissioner:

On behalf of INTERNATIONAL BEAUTY EXCHANGE, INC., please acknowledge receipt of the following:

1. PETITION FOR CANCELLATION
2. Authorization to charge the LADAS & PARRY LLP Deposit account #120423 the amount of \$300.00 for the government filing fee
3. Copy of cover letter to be date stamped by the U.S. Patent and Trademark Office and returned as a receipt of filing

If there are any questions, please contact the undersigned.

Respectfully submitted,

By:   
Donald L. Dennison  
Attorney for Petitioner

DLD/py  
Enclosures: As stated

# TTAB

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

INTERNATIONAL BEAUTY EXCHANGE, ]  
INC., ]  
] ]  
Petitioner, ]  
] Cancellation No.: \_\_\_\_\_  
v. ]  
] Registration No. 4,941,822  
K & N DISTRIBUTORS, ]  
] ]  
] ]  
Registrant. ]  
\_\_\_\_\_ ]

### PETITION FOR CANCELLATION

Petitioner, International Beauty Exchange, Inc., a corporation of Florida, by and through its attorneys noted herein, hereby moves this Honorable Board to Cancel the above-identified registration 4,941,822 which was granted on April 19, 2016 to K & N Distributors, a Limited Liability Company of Florida. This registration covers the mark **AFRICAN CLAIR FORMULA PLUS** as applied to cosmetics in Class 3.

~~04/22/2016 DJEFFCD 00000012 120423 4941822~~

~~01 FC:6401 300.00 DA~~

1

04/25/2016 DJEFFCD 00000001 120423 4941822

01 FC:6401 300.00 DA



\*04-20-2016\*

U.S. Patent and Trademark Office #72

Petitioner believes that it is being and will continued to be damaged by the registration of this mark in Class 3 for the reasons as set forth below and therefore seeks relief from the Board to cancel this registration.

1. Petitioner, International Beauty Exchange, Inc., is a corporation organized and existing under the laws of the State of Florida and maintains its principal office at 5810 NW 163<sup>rd</sup> Street, Miami Lakes, Florida 33014.

2. The trademark here sought to be cancelled covers the mark **AFRICAN CLAIR FORMULA PLUS** as applied to cosmetics in Class 3. The Registration here sought to be cancelled was registered by the United States Patent and Trademark Office on April 19, 2016.

3. Petitioner since long prior to the filing date of the application which has matured into the registration here sought to be cancelled, or the alleged date of first use in commerce of the mark (June 1, 2015), has been engaged in the business of developing, manufacturing and marketing, a full

line of cosmetic products, and other goods which are covered by the registration in issue.

4. The trademark **AFRICAN FORMULA** was adopted by Petitioner as a trademark for its high quality line of cosmetics at least as early as April 1992, twenty-four years ago and has been used in commerce on such goods uninterrupted to date.

5. Petitioner is the owner of United States trademark Reg. 2,822,282, **AFRICAN FORMULA**, registered March 16, 2004 for skin care products, namely, toilet soap, facial cream, and skin lotion; and hair care products, namely, shampoo, conditioner, straightener and mousse in Class 3. This registration is in full force and effect and is incontestable under Section 15 of the Trademark Act. a copy of the same is attached as Exhibit "A".

6. Petitioner's mark, as noted supra, is prominently displayed on Petitioner's goods by printing the same on labels attached to containers for the goods, printing on cartons containing containers for the goods and is prominently displayed in printed catalogs and on Petitioner's website and by using the mark on many types of advertising materials and otherwise in manners customary in the trade.

7. The mark of the Registrant, **AFRICAN CLAIR FORMULA PLUS** and the mark **AFRICAN FORMULA** of Petitioner are of course nearly identical in appearance, pronunciation, and have the same meaning, so as to cause possible confusion in the minds of the purchasers as to the source of the goods. Registrant has indicated in the prosecution of its application for registration that the word "CLAIR" is translated as "CLEAR" and has disclaimed "AFRICAN" and "FORMULA".

8. The goods of the Registrant as set forth in its registration are the same as the goods sold and manufactured by Petitioner under its registered mark. Petitioner's goods are sold through the same channels of trade and to the same consumers as Registrant and accordingly constitute merchandise

of the same descriptive properties and therefore confusion as to source or origin is likely to result.

9. Petitioner has over the past 24 years built up valuable good will in the trademark **AFRICAN FORMULA** and as a result the trade and consumers have come to know, recognize, and identify cosmetics bearing the trademark **AFRICAN FORMULA** as the goods of the Petitioner. If Registrant were permitted to maintain its registration for the mark **AFRICAN CLAIR FORMULA PLUS** for its cosmetic products as set forth in its registration, confusion in the trade would result by reason of the marks being nearly identical and the goods being the same. Purchasers familiar with Petitioner's **AFRICAN FORMULA** brand of cosmetics and the like would believe that Registrant's **AFRICAN CLAIR FORMULA PLUS** products were the goods of the Petitioner. Any defects or faults in the quality of Registrant's **AFRICAN CLAIR FORMULA PLUS** cosmetic products would reflect upon and seriously injure the reputation which Petitioner has established for its goods over a twenty-four year time period. This confusion would result in loss of sales to Petitioner and damage to its reputation.

**WHEREFORE**, Petitioner respectfully moves the Trademark Trial and Appeal Board to cancel registration No. 4,941,822.

The government fee filing of this Petition to Cancel in the amount of \$300 may be charged to the deposit account of Ladas & Parry, No. 120423.

Respectfully submitted,

INTERNATIONAL BEAUTY EXCHANGE, INC.

By 

Donald L. Dennison,  
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Suite 105  
1727 King Street  
Alexandria, VA 22314  
(703)837-9600 Ext. 15  
Attorneys for Petitioner  
ddennison@ladas.com

April 20, 2016

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the aforesaid Petition to Cancel was served this 20<sup>th</sup> day of April, 2016, by first class mail with proper postage affixed to the listed address of the Registrant, 1531 Wyndcliff Drive, Wellington, Florida 33414.



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Donald L. Dennison

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

Reg. No. 2,822,282

United States Patent and Trademark Office

Registered Mar. 16, 2004

TRADEMARK  
PRINCIPAL REGISTER

AFRICAN FORMULA

AINI, JACOB (UNITED STATES INDIVIDUAL)  
1805 CHURCH AVENUE  
BROOKLYN, NY 11226

FIRST USE 4-0-1992; IN COMMERCE 4-0-1993.

SEC. 2(F).

FOR: SKIN CARE PRODUCTS, NAMELY, TOILET SOAP, FACIAL CREAM, AND SKIN LOTION; AND HAIR CARE PRODUCTS, NAMELY, SHAMPOO, CONDITIONER, STRAIGHTENER AND MOUSSE, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

SER. NO. 76-432,724, FILED 7-3-2002.

ALEXANDER L. POWERS, EXAMINING ATTORNEY

EXHIBIT "A"

On April 22, 2016 TSDR will update the XML schema from version ST-96 1\_D3 to version ST-96 2.2.1. Consequently, 3rd party applications that utilize TSDR XML may not function as intended after that date. Therefore, the USPTO will make available the current XML schema at the following link: [https://tsdrsec.uspto.gov/ts/cd/casestatus/SERIAL\\_OR\\_REG\\_NUMBER/v1/info.xml](https://tsdrsec.uspto.gov/ts/cd/casestatus/SERIAL_OR_REG_NUMBER/v1/info.xml) for a period of not less than 6 months. Any 3rd party applications that currently make calls to USPTO XML should be changed to point to that link. It is highly recommended that 3rd party applications be upgraded to utilize the USPTO API's rather than the XML schema, which may change at any time rendering the 3rd party application inoperable. The link to the current API is [https://tsdrapi.uspto.gov/ts/cd/casestatus/SERIAL\\_OR\\_REG\\_NUMBER/info.xml](https://tsdrapi.uspto.gov/ts/cd/casestatus/SERIAL_OR_REG_NUMBER/info.xml). Questions may be directed to [the TSDR Mailbox](#).

STATUS DOCUMENTS MAINTENANCE

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Mark: AFRICAN FORMULA

**AFRICAN FORMULA**

US Serial Number: 76432724

Application Filing Date: Jul. 03, 2002

US Registration Number: 2822282

Registration Date: Mar. 16, 2004

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Feb. 13, 2014

Publication Date: Mar. 04, 2003

Mark Information

Goods and Services

Basis Information (Case Level)

Current Owner(s) Information

Attorney/Correspondence Information

Prosecution History

Maintenance Filings or Post Registration Information

TM Staff and Location Information

Assignment Abstract Of Title Information

Summary

Conveyance Filter

Total Assignments: 1

Registrant: Aini, Jacob

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 3299/0589

Pages: 2

Date Recorded: Feb. 08, 2006

Supporting Documents: [assignment-tm-3299-0589.pdf](#)

Assignor

Name: JACOB AINI

Execution Date: Feb. 01, 2006

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee

Name: INTERNATIONAL BEAUTY EXCHANGE, INC.

Legal Entity Type: CORPORATION

State or Country Where Organized: FLORIDA

Organized:

Address: 1592 N.W. 159TH STREET

MIAMI, FLORIDA 33169

**Correspondent**

**Correspondent Name:** DONALD L. DENNISON

**Correspondent Address:** DENNISON SCHULTZ DOUGHERTY & MACDONALD  
SUITE 105  
1727 KING STREET  
ALEXANDRIA, VA 22314

**Domestic Representative - Not Found**

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