

ESTTA Tracking number: **ESTTA1140198**

Filing date: **06/14/2021**

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

Proceeding	92077339
Party	Plaintiff Baidu Online Network Technology (Beijing) Co., Ltd.
Correspondence Address	BEN NATTER HAUG PARTNERS LLP 745 FIFTH AVENUE NEW YORK, NY 10151 UNITED STATES Primary Email: bnatter@haugpartners.com Secondary Email(s): mharris@haugpartners.com, docket@haugpartners.com No phone number provided.
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Ben Natter
Filer's email	bnatter@haugpartners.com
Signature	//Ben Natter//
Date	06/14/2021
Attachments	Cancelation 0614.pdf(49596 bytes ) Exhibit A.pdf(119650 bytes )

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

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Baidu Online Network Technology (Beijing)	:	
Co., Ltd.,	:	
	:	
Petitioner,	:	Cancellation No. 92077339
	:	
v.	:	
	:	
Apollo Automobile Ltd.,	:	
	:	
Registrant.	:	

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**PETITIONER’S MOTION TO AMEND PETITION & COVER SHEET**

Petitioner, Baidu Online Network Technology (Beijing) Co., Ltd. (“Petitioner”), by and through its attorneys, hereby moves to amend its June 8, 2021 Consolidated Petition for Cancellation and Modification (the “Petition”), and Cover Sheet thereto, in accordance with Section 507 of the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) and Rule 15 of the Federal Rules of Civil Procedure. “Pleadings in a cancellation proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court.” 37 C.F.R. § 2.115. Federal Rule of Civil Procedure 15 governs amendments to pleadings and provides that a party may amend the pleading once “as a matter of course” within “21 days after serving it.” Fed. R. Civ. P. 15(a)(1)(A); *see* TBMP § 507.02. Moreover, “a proposed amendment need not set forth a new claim or defense; a proposed amendment may serve simply to amplify allegations already included in the moving party’s pleading.” TBMP § 507.02.

Petitioner submits that it filed its Petition on June 8, 2021. Accordingly, Petitioner may amend its Petition, and the Cover Sheet thereto, as a matter of course. Due to an error in the

Board's electronic filing system, Petitioner was, at the time of filing its Petition, unable to select the proper bases for filing its Petition. As such, the filing bases reflected on the Cover Sheet attached to the Petition do not accurately reflect the bases for cancellation asserted in the Petition. The proper grounds for cancellation, as asserted in the Petition and for which Petitioner seeks amendment of its Petition and Cover Sheet, is "other," with the following description:

1. No bona fide intent to use the marks in commerce at the time of filing the applications which matured into the subject registrations. *Saddlesprings, Inc. v. Mad Croc Brands, Inc.*, 104 U.S.P.Q. 2d 1948 (T.T.A.B. 2012), and *Sandro Andy S.A. v. Light, Inc.*, Civil Action No. 12 Civ. 2392 (HB) (S.D.N.Y. Dec. 27, 2012).
2. Petitioner seeks relief under Section 18 of the Lanham Act, 15 U.S.C. § 1068, requiring Apollo Automobile Ltd. ("Registrant") to modify and/or limit the goods and services specified in the Subject Registrations.

Petitioner submits that the above amendment to the Petition and Cover Sheet attached thereto will "amplify [the] allegations already included in [Petitioner's] pleading," and respectfully requests that the Board amend the Petition and Cover Sheet to reflect the above asserted grounds for cancellation. Petitioner attaches hereto as Exhibit A its proposed amended Petition and Cover Sheet.

Dated: New York, NY  
June 14, 2021

Respectfully submitted,

By: /s/ Ben Natter  
Ben Natter, Esq.  
Haug Partners, LLP  
745 Fifth Avenue  
New York, NY 10151  
(212) 588-0800  
email: bnatter@haugpartners.com

*Attorneys for Petitioner*

Certificate of Service

The undersigned hereby certifies that, on June 14, 2021, a copy of the foregoing PETITIONER'S MOTION TO AMEND PETITION & COVER SHEET was served on Plaintiff by mailing a copy to the following address:

APOLLO AUTOMOBILE LIMITED  
AFRICA HOUSE, 70 KINGSWAY  
LONDON, WC2B 6AH  
UNITED KINGDOM

/s/ Ben Natter

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Ben Natter

# EXHIBIT A

ESTTA Tracking number: **ESTTA1138821**

Filing date: **06/08/2021**

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

**Petition for Cancellation**

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

**Petitioner Information**

Name	Baidu Online Network Technology (Beijing) Co., Ltd.		
Entity	Limited Company	Citizenship	China
Address	BAIDU CAMPUS NO. 10 SHANGDI 10TH STREET HAIDIAN DISTRICT, BEIJING, 100085 CHINA		
Attorney information	BEN NATTER HAUG PARTNERS, LLP 745 FIFTH AVENUE NEW YORK, NY 10151 UNITED STATES Primary Email: bnatter@haugpartners.com Secondary Email(s): mharris@haugpartners.com, docket@haugpartners.com No phone number provided.		
Docket Number	A693-1.2		

**Registrations Subject to Cancellation**

Registration No.	6035838 & <u>6066221</u>	Registration date	04/21/2020
International Registration No.	NONE	International Registration Date	NONE
Registrant	Apollo Automobile Limited AFRICA HOUSE 70 KINGSWAY LONDON WC2B 6AH UNITED KINGDOM		

**Goods/Services Subject to Cancellation**

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Sports cars; Parts and fittings for sports cars and racing cars, namely, engines and brakes; Automobiles, namely, racing cars
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**Grounds for Cancellation**

<del>The mark is merely descriptive</del> <u>Other: see below.</u>	<del>Trademark Act Sections 14(1) and 2(e)(1)</del>		
Registration No.	6066221 & <u>6035838</u>	Registration date	06/02/2020
International Registration No.	NONE	International Registration Date	NONE
Registrant	Apollo Automobile Limited AFRICA HOUSE 70 KINGSWAY		

No bona fide intent to use the marks in commerce at the time of filing the applications which matured into the subject registrations. Saddle Springs, Inc. v. Mad Croc Brands, Inc., 104 U.S.P.Q. 2d 1948 (T.T.A.B. 2012), and Sandro Andy S.A. v. Light, Inc., Civil Action No. 12 Civ. 2392 (HB) (S.D.N.Y. Dec. 27, 2012).

	UNITED KINGDOM
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## Goods/Services Subject to Cancellation

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## Grounds for Cancellation

<del>Priority and likelihood of confusion</del> <a href="#">Other: see below.</a>	<del>Trademark Act Sections 14(1) and 2(d)</del> <a href="#">Trademark Act Section 18</a>
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[Petitioner seeks relief under Section 18 of the Lanham Act, 15 U.S.C. § 1068, requiring Apollo Automobile Ltd. \("Registrant"\) to modify and/or limit the goods and services specified in the Subject Registrations.](#)

Attachments	Consolidated Petition for Cancellation and Modification 0608.pdf(80213 bytes )
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Signature	//Ben Natter//
Name	Ben Natter
Date	06/08/2021

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

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Baidu Online Network Technology (Beijing) Co., Ltd.,	:	
	:	
Petitioner,	:	Cancellation No.
	:	
v.	:	
	:	
Apollo Automobile Ltd.,	:	
	:	
Registrant.	:	

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**CONSOLIDATED PETITION FOR CANCELLATION AND MODIFICATION**

Petitioner, Baidu Online Network Technology (Beijing) Co., Ltd. (“Petitioner”), believes that it has been and will continue to be damaged by U.S. Trademark Registration Nos. 6,035,838 and 6,066,221 for the marks A APOLLO (plus design) and APOLLO (stylized) (collectively, the “Subject Registrations”), and hereby petitions to cancel the same. Alternatively, Petitioner seeks relief under Section 18 of the Lanham Act, 15 U.S.C. § 1068, requiring Apollo Automobile Ltd. (“Registrant”) to modify and/or limit the goods and services specified in the Subject Registrations.

As grounds for partial cancellation and/or modification, Petitioner alleges as follows:

1. Petitioner is a Chinese Company having an address at Baidu Campus, no.10, Shangdi 10th Street, Haidian District, Beijing, China 100085.
2. Petitioner owns Application Serial Nos. 87/515,109, 88/177,266, and 87/514,209 for the marks APOLLO (stylized), APOLLO CYBER RT, and BAIDU APOLLO, respectively,



which have been refused because of a likelihood of confusion with the marks in the Subject Registrations.

3. Petitioner’s Application Serial Nos. 87/515,109, 88/177,266, and 87/514,209 cover the following goods and services:

Application Serial No.	Class	Goods and Services
87/515,109	International Class 012	Anti-theft devices for vehicles; Autonomous cars; Camera drones, other than toys; Cars; Driverless cars; Electric vehicles, namely, automobiles, trucks, vans, sport utility vehicles; Electrically-powered motor vehicles; Motors for land vehicles
88/177,266	International Class 012	Anti-theft devices for vehicles; Autonomous cars; Camera drones, other than toys; Civilian drones
87/514,209	International Class 012	Autonomous cars; Driverless cars; structural parts for autonomous electric automobiles

4. On information and belief, Registrant is a United Kingdom Private Limited Company with an address of Africa House, 70 Kingsway, London WC2B 6AH, United Kingdom.

5. On information and belief, Registrant is a hyper-car, or high-performance supercar, manufacturer.

6. On information and belief, Registrant’s hyper-car products are not available for purchase by the general public in the U.S.

7. Registrant’s website, accessed on June 4, 2021, states that its only hyper-car product, the “Intensa Emozione,” is “a new breed of hyper-car [] born out of [Registrant’s] engineering and design precision,” which “is a car that balances form and function,” and “is a precise engineered piece of art.”

8. Media coverage of Registrant and its hyper-car products as of February 6, 2020, states that “just 10 examples [of Registrant’s Intensa Emozione] will be built up, and of these

only three will reach North America.” Earlier media coverage of Registrant and its hyper-car products states that each of Registrant’s ten example products would be sold “at a price approaching \$2.71 million.”

9. The Subject Registrations broadly cover the following goods and services:

Reg. No.	Class	Goods and Services
6,035,838	International Class 012	Sports cars; Parts and fittings for sports cars and racing cars, namely, engines and brakes; Automobiles, namely, racing cars
6,066,221	International Class 012	Sports cars; Parts and fittings for sports cars and racing cars, namely, engines and brakes; Automobiles, namely, racing cars

10. On information and belief, based upon extensive internet research, Registrant does not use the subject marks in connection with the overbroad description of goods and services in the Subject Registrations.

11. On information and belief, based upon extensive internet research, Registrant does not have a bona fide intent to use the subject marks in connection with the overbroad description of goods and services in the Subject Registrations.

12. On information and belief, based upon extensive internet research, Registrant does not have a bona fide intent to use the subject marks in connection with “Parts and fittings for sports cars and racing cars, namely, engines and brakes.” Extensive internet research provides no indication or suggestion that Registrant has a bona fide intent to introduce “Parts and fittings for sports cars and racing cars, namely, engines and brakes” into commerce.

13. On information and belief, based upon extensive internet research, Registrant only uses and/or has a bona fide intent to use the marks of the Subject Registrations, A APOLLO (plus design) and APOLLO (stylized), with the following goods and services:

Reg. No.	Class	Goods and Services
6,035,838	International Class 012	<b>hypercars</b> , namely limited and rare human operated supercars ranking in the top percentile of all automobiles in pricing, acceleration, rarity, handling, speed, sound and appearance
6,066,221	International Class 012	<b>hypercars</b> , namely limited and rare human operated supercars ranking in the top percentile of all automobiles in pricing, acceleration, rarity, handling, speed, sound and appearance

14. On information and belief, this narrower description of goods and services is commercially significant and will obviate Registration Nos. 6,035,838 and 6,066,221 being cited as bases for refusal of Petitioner's Application Serial Nos. 87/515,109, 88/177,266, and 87/514,209.

15. The Subject Registrations should be cancelled with respect to the goods as to which Registrant lacks a bona fide intent-to-use the marks of the Subject Registrations.

16. Alternatively, the goods and services of the Subject Registrations should be modified pursuant to Section 18 of the Lanham Act, 15 U.S.C. § 1068, in accordance with the above.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner requests that Registration Nos. 6,035,838 and 6,066,221 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner. Alternatively, Petitioner respectfully requests that, pursuant to 15 U.S.C. § 1068, Registrant be required to modify the goods and services of the Subject Registrations.

Dated: New York, NY  
June 8, 2021

Respectfully submitted,

HAUG PARTNERS LLP

By: /s/ Ben Natter

Ben Natter, Esq.  
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Email: bnatter@haugpartners.com

*Attorneys for Petitioner*