

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

Mailed: March 4, 2003

Cancellation Nos. 27,054  
27,133

1-800-Plumber, Inc.

v.

Alan D. Cline The  
Administrator of the  
Estate of Beth E. Cline

Karen Kuhlke, Attorney:

Substitution

On August 8, 2002, the Board allowed respondent's representative to file a motion to substitute Alan D. Cline, the Administrator of the Estate of Beth E. Cline, as party defendant. On August 30, 2002, Alan D. Cline, respondent's personal representative, filed a motion to substitute himself as party defendant accompanied by documents evidencing his interest in the proceeding. Petitioner filed no response.

Inasmuch as Alan D. Cline has complied with the August 8, 2002 order, he is hereby substituted as party defendant. See, Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 1956.

**Cancellation No. 27,054 and 27,133**

Section 8 Cancellation

It has come to the attention of the Board that respondent has permitted Registration No. 1,961,193 involved in Cancellation No. 27,054 to be cancelled under Section 8 of the Trademark Act.

In view thereof, respondent is allowed until **thirty days** from the mailing date of this order to show cause why such cancellation should not be deemed to be the equivalent of a cancellation by request of respondent without the consent of the adverse party, and should not result in entry of judgment against respondent as provided by Trademark Rule 2.134(a). In the absence of a showing of good and sufficient cause, judgment may be entered against respondent. See Trademark Rule 2.134(b).

If, in response to this order, respondent submits a showing that its failure to file a Section 8 affidavit was the result of inadvertence or mistake, judgment will not be entered against it. In that case, petitioner will be given time in which to elect whether it wishes to go forward with the cancellation proceeding, or to have the cancellation proceeding dismissed without prejudice as moot. See *C. H. Guenther & Son Inc. v. Whitewing Ranch Co.*, 8 USPQ2d 1450 (TTAB 1988) and TBMP § 602.02(b).

These consolidated proceedings herein are otherwise suspended pending possible response to this order. Upon

**Cancellation No. 27,054 and 27,133**

resumption, petitioner's time to file a response to the summary judgment motion filed in Cancellation No. 27,133 will be reset.

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