

ESTTA Tracking number: **ESTTA29649**

Filing date: **04/04/2005**

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

<b>Proceeding</b>	92043900
<b>Party</b>	Defendant DIE GEM CO., INC., THE DIE GEM CO., INC., THE P.O. BOX 8033 MAPLE VALLEY STATION AKRON, OH 44320
<b>Correspondence Address</b>	THE DIE GEM CO., INC. P.O. BOX 8033, MAPLE VALLEY STATION AKRON, OH 44320
<b>Submission</b>	Motion to Quash
<b>Filer's Name</b>	James R Adams
<b>Filer's e-mail</b>	JRA@die-gem.com
<b>Signature</b>	/James R Adams/
<b>Date</b>	04/04/2005
<b>Attachments</b>	05.pdf ( 2 pages ) 225.pdf ( 1 page ) 050020.pdf ( 1 page ) 050018.pdf ( 1 page ) TesaDeclaration.pdf ( 1 page ) 050021.pdf ( 1 page ) 050022.pdf ( 1 page ) 050023.pdf ( 1 page )

April 3, 2005

United States Patent & Trademark Office  
Trademark Trial and Appeal board  
P O Box 1451  
Alexandria, VA 22313-1451

Registration No. 1384270  
PEEL N STICK®

CANCELLATION NO 92043900 Letter dated March 25, 2005 & Mailed

March 29, 2005 received April 1, 2005

Omnova Solutions, Inc.

Vs.

Die-Gem Co., Inc., The

The Die-Gem Co., Inc.  
P O Box 8033  
Akron, OH 44320  
James R Adams  
President  
JRA@die-gem.com

**1.**The Die-Gem Company did not receive a “notice of default” to respond notice dated February 17, 2005 or any other date with regard to this matter OF CANNCELLATION of PEEL N STICK registered mark. Proof see attachments.

The Die-Gem Company petitions the Trademark Trial and Appeal Board to stop all action and rescind any order (judgment by default) concerning the registered mark PEEL N STICK. The mark PEEL N STICK is and has been integral part of The Die-Gem Company since 1973. PEEL N STICK products have been sold in commerce in every year since 1973. On March 22, 2005 a Declaration and Application for renewal of registration of the mark PEEL N STICK registration NO 1384270 under sections 8 & 9 (15 U.S.C. 1058 & 1059) was filled via TEAS.

**2.** The Die-Gem Company petitions the Trademark Trial and Appeal Board for an extension of 30 days to fully negate the petition for cancellation NO 92043900. The proof includes CONFIDENTIAL documents.

## **An Explanation**

On February 21, 2005 The Die-Gem Company did receive an envelope from United States Patent & Trademark Office Trademark Trial and Appeal Board Concerning Opposition No 91163116. We were unaware and have nothing to do with this matter of National Life Insurance Company vs. Future Trust Insurance Company.

The Die-Gem Company in a letter Dated and Mailed on February 22, 2005 noted the error and gave full detail of Die-Gem correct address (Street & box), phone number, fax number and Email address and responsible person to notify regarding any correspondence. A copy of the letter dated February 17, 2005 and envelope dated February 18, 2005 from TT&AB were included as part of the explanation. See attachments (copies both letters) as proof that procedure was not followed and that judgment by default should be rescinded.

No response of any nature has ever been received from TT&AB..

Feb. 22, 2005

Ms Pauline Stewart Legal Assistant  
United States Patent & Trademark Office  
P O Box 1451  
Alexandria, VA 22313-1451

Dear Ms Stewart:

We have received the enclosed notification of Trust Insurance Co. vs Lincoln National Life Ins. Co. This seems to be in error.

We have received no other notification from you.

Please advise me, James Adams, if there is some notification we should be aware of with regard to this matter or any other.

You may contact me as listed below.

Thank You

James R Adams  
President  
The Die-Gem Co., Inc.  
P O Box 8033  
Akron, OH. 44320

The Die-Gem Co., Inc.  
One The Die-Gem Way  
Akron, OH. 44312

330 784-7400 Fax 7542

E-mail JRA@die-gem.com

United States Patent and Trademark Office  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA, 22313-1451  
If Undeliverable Return in Ten Days

OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE, \$300

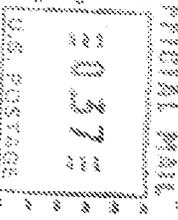
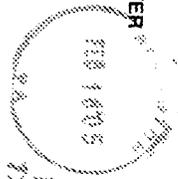
*100-110*

Co. vs Lincoln

should be aware of

AN EQUAL OPPORTUNITY EMPLOYER

1996  
OCT 13



92043900

THE DIE GEM CO., INC.  
P.O. BOX 8033, MAPLE VALLEY STATION  
AKRON, OH 44320

1422040033-33 0001

We  
Plea  
with  
You m  
Thank

James R A  
President  
The Die-Gem  
P O Box 8033  
Akron, OH. 4

The Die-Gem C  
One The Die-Ge  
Akron, OH. 4431

330 784-7400 Fa

E-mail JRA@die-g

*3900 on envelope*

The Die-Gem Co., Inc  
One TheDie-Gem Way  
Akron, Oh 44312

47043990

Ms Pauline Stewart, Legal Assistant  
United States Patent & Trademark Office  
Trademark Trial and Appeal Board  
P O Box 1451  
Alexandria, VA 22313-1451

92043900

**From:** TEAS@uspto.gov  
**To:** <JRA@die-gem.com>  
**Date:** Tuesday, March 22, 2005 10:30 PM  
**Subject:** Received Your Trademark Combined Sections 8 & 9 Declaration/Application for registration number 1384270

<NAME> PHIL N SPICK

We have received your Combined Sections 8 and 9 Declaration/Application for registration number 1384270. A summary of your submission is listed below. If you determine that you made an error in the information you entered, DO NOT request via e-mail that we correct your filing. The TEAS staff cannot make any changes. You may file an amendment IMMEDIATELY (if still within the statutory period), via a hard paper copy, not electronically, listing your mark and registration number, and stating your proposed correction, to the following address:

Commissioner for Trademarks  
PO Box 1451  
Alexandria, VA 22313-1451

To avoid lateness due to mail delay, it is recommended that you include the following CERTIFICATE OF MAILING language as part of your submission:

I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner for Trademarks, PO Box 1451, Alexandria, VA 22313-1451, and:

Date of Deposit \_\_\_\_\_  
Signature \_\_\_\_\_  
Name \_\_\_\_\_

REGISTRATION NUMBER: 1384270

REGISTRATION DATE: 03/25/1999

\* Registrant Information:

The owner, DIE GEM CO., INC., THE, residing at P.O. BOX 8013 MAPLE VALLEY STATION AERON OR OR 94320, is using the mark in commerce on or in connection with the goods and/or services as follows:

\* Classification and Listing of Goods/Services:

For international class 017, the owner is using or is using through a related company or licensee the mark in commerce on or in connection with all goods and/or services listed in the existing registration.

The owner is submitting one specimen for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) 10 catalog page for window weather stripping; 2 instruction for installing door weatherstripping .

\* Fees

A fee payment in the amount of \$500 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

*Walter O'S*

Date: February 27, 2008  
Application No. 8112214  
The Lincoln National Life Insurance Company

Patent Trust Insurance Co.

Patent Trust Legal Assistant

On February 2, 2008, applicant filed an answer to the opposition and a counterclaim to cancel opponent's granted registrations. Applicant filed the proper fee.

Opposer and counterclaim defendant, The Lincoln National Life Insurance Company, is advised that ENTRY DATE from the mailing date of this Order to file an answer to the counterclaim. See Trademark Rules 1.102(a)(1)(i) and 2.102(a)(1).

In accordance with the Trademark Rules of Practice, discovery is open, and the time of discovery and testimony dates are set as indicated below. In each instance, a copy of the transcription of testimony, together with copies of any exhibits, must be served on the adverse party

92073900

WATKIN shall have after completion of the taking of testimony Trademark Rule 2.120.

THE PERIOD FOR DISCOVERY TO CLOSE: February 3, 2005

75 day exclusion period for party in possession of evidence in the opposition to close: May 3, 2005

30-day exclusion period for party in possession of defendant in the opposition and plaintiff in the counterclaim to close: July 9, 2005

30-day exclusion testimony period for plaintiff in the opposition and defendant in the counterclaim to close: August 31, 2005

10-day rebuttal testimony period for plaintiff in the counterclaim to close: October 15, 2005

Notices shall be due as follows: **See Trademark Rule 2.128(a)(2):**

Notice for Plaintiff in the opposition shall be due: December 14, 2005

Notice for defendant in the opposition and plaintiff in the counterclaim shall be due: January 13, 2006

Notice for defendant in the counterclaim and reply list, if any, for plaintiff in the opposition shall be due: February 14, 2006

Reply list, if any, for plaintiff in the counterclaim shall be due: February 27, 2006

If the parties stipulate to any extension of these dates, the papers should be filed in triplicate and should set forth

92048900

See also the court order in this matter. See STARDEN  
RULE 2.131(a).

An oral hearing shall be set after upon request filed as  
provided by STANDARD 2.114.