

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

Kuhlke

Mailed: April 30, 2003

Cancellation Nos. 29,773
29,864

Nutro Products, Inc.

v.

M.I. Industries, Inc.

On October 23, 2002, the Board issued an order inquiring as to the status of the civil action which occasioned the suspension of this proceeding. On October 28, 2002, petitioner filed a response to this order. As a preliminary matter, we note that the response was not served on counsel for respondent as required by Trademark Rule 2.119(a). In order to expedite matters, a copy of the response is forwarded herewith.

By its response, petitioner states that Registration No. 2,229,094, the subject of Cancellation No. 29,773, has been assigned to petitioner. Included in petitioner's response, is a stipulated dismissal without prejudice of Cancellation No. 29,773. The assignment of Registration No. 2,229,094 is recorded at reel/frame number 2066/0009.

Cancellation Nos. 29,773 and 29,864

In addition, petitioner indicated that respondent has voluntarily surrendered its Registration No. 2,200,560, the subject of Cancellation No. 29,864, and petitioner requests that Cancellation No. 29,864 be dismissed as moot.

Petitioner submitted a copy of respondent's voluntary surrender of the registration, which includes a signature block for petitioner's written consent. Although petitioner did not sign the voluntary surrender, the Board construes petitioner's response, signed by petitioner's attorney, as written consent to the voluntary surrender.

In view of the assignment to petitioner of Registration No. 2,229,094, the registration involved in Cancellation No. 29,773, Cancellation No. 29,773 is dismissed as moot.

In view of the voluntary surrender of Registration No. 2,200,560, the registration involved in Cancellation No. 29,864, Cancellation No. 29,864 is dismissed without prejudice in accordance with Trademark Rule 2.134(a), and the registration file for Registration No. 2,200,560 is forwarded to the Office of the Commissioner for Trademarks for cancellation under Section 7(e) of the Trademark Act.

***By the Trademark Trial
and Appeal Board***