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

Ryan

MAILED: February 9, 2004
Cancellation No. 92080750 (parent) ^{75/049,511}
Cancellation No. 92030763 ^{75/248,849}
Sierra Systems Group, Inc.

v.

Sierra Systems, Inc.



02-19-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

Karyn K. Ryan, Interlocutory Attorney
Trademark Trial and Appeal Board:

It has come to the attention of the Board that respondent has permitted Reg. No. 2,023,950, the registration involved in Cancellation No. 92030750 ("the '750 case" which is the parent case herein) 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 as 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 in the '750 case, as provided by Trademark Rule 2.134(a). In the absence of a showing of

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good and sufficient cause, judgment may be entered against respondent in the '750 case. 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 '750 cancellation proceeding, or to have the '750 cancellation proceeding dismissed without prejudice as moot¹. See *C. H. Guenther & Son Inc. v. Whitewing Ranch Co.*, 8 USPQ2d 1450 (TTAB 1988) and TBMP § 602.02(b).

Reviewing the record for this proceeding, it appears that respondent's copy of our November 19, 2003 order was returned by the U.S. Postal Service as undeliverable. We note further that respondent's correspondence address identified in the certificate of service attached to petitioner's November 6, 2003 motion to extend differs from respondent's address of record.

It is the responsibility of a party to a Board proceeding to ensure that the Board has the party's current correspondence address. TBMP §117.07 (2d Edition, June 2003). If a party fails to notify the Board of a change of address, with the result that the Board is unable to serve

¹ Note, the registration involved in the child case, Cancellation No. 92030763, has not been cancelled under Section 8 of the Act; as such, that proceeding may go forward in any event.

correspondence on the party, default judgment may be entered against the party. Therefore, if respondent's address has changed, it is strongly recommended that respondent file a proper change of correspondence address notice with the Board. See Trademark Rule 2.18.

Absent a proper change of address, the Board will continue to forward respondent's copies of Board communications to Howard Silverman at the Law Offices of Dick and Harris, 181 W. Madison Street, Suite 3800, Chicago, IL 60602. Notwithstanding, in order to expedite matters and as a courtesy, we are mailing copies of this order, our November 19, 2003 order, and petitioner's November 6, 2003 motion to Mr. Silverman at the Greenberg Traurig address set forth in the aforementioned certificate of service. However, the Board will not undertake duplicate correspondence in the future.

These consolidated proceedings otherwise are **suspended** until further written notice by the Board.

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Notice Regarding TTAB Electronic Resources and New Rules

- TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.
- Parties should also be aware of changes in the rules affecting trademark matters, including rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003) Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes are available at www.uspto.gov.
- The second edition of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at www.uspto.gov/web/offices/dcom/ttab/tbmp/.