



07-02-2001

U.S. Patent & TMO/TM Mail RcptDt. #57

**MAILED**

**MAY 29 2001**

**PAT. & T.M. OFFICE**

*FIAB*

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

Reg. No. 1,466,581

Cancellation No. 31,990

Plaintiff's attorney:  
William D. O'Neill  
Senniger, Powers, Leavitt & Roedel  
One Metropolitan Square  
16<sup>th</sup> Floor  
St. Louis, Missouri 63102

Defendant's Attorney:  
First Delaware Life Insurance Company  
9777 Wilshire Blvd.  
Beverly Hills, California 90212-1987

General American Life  
Insurance Company

v.

First Delaware Life Insurance  
Company

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof. (See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64. A copy of the recent amendments to the Trademark Rules, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

*Tm*

**Discovery and testimony periods are set as follows:**

Discovery period to open:	June 18, 2001
Discovery period to close:	December 15, 2001
30-day testimony period for party in position of plaintiff to close:	March 15, 2002
30-day testimony period for party in position of defendant to close:	May 14, 2002
15-day rebuttal testimony period for plaintiff to close:	June 28, 2002

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.



Pauline Nelson  
Legal Assistant,  
Trademark Trial and  
Appeal Board  
(703) 308-9300, ext. 235

GNA 1830  
TRADEMARK/SERVICE MARK

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

In re Reg. No. 1,466,581  
Mark: DESTINY  
International Class: 36  
Issued: November 24, 1987



05-22-2001

U.S. Patent & TMO/TM Mail RptDt #7C

General American Life )  
Insurance Company )  
Petitioner )  
v. ) Cancellation No.:  
First Delaware Life )  
Insurance Company )  
Registrant )

BOX TTAB FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

PETITION FOR CANCELLATION

General American Life Insurance Company, a corporation organized and existing under the laws of Missouri, located and doing business at 700 Market Street, St. Louis, Missouri 63166, has filed an application in the U.S. Patent and Trademark Office to register DESTINY for computer software in the field of insurance administration, insurance administration services, insurance underwriting services, and providing information in the field of insurance via a global computer network; believes that it will be damaged by Registration No. 1,466,581 in Class 36, registered November 24, 1987, for life insurance underwriting services; and hereby petitions for cancellation of the same. To the

best of Petitioner's knowledge, the name and address of the current owner of Reg. No. 1,466,581 are as follows:

First Delaware Life Insurance Company  
9777 Wilshire Blvd.  
Beverly Hills, California 90212-1987

Petitioner has investigated the status of the Registrant, and it appears that on April 1, 1998, Registrant First Delaware Life Insurance Company was purchased by Life Re Corporation, 969 High Ridge Road, Stamford, Connecticut 06905. It further appears that on December 1, 1998 Life Re Corporation merged with Swiss Re America Holding Corporation, a Delaware corporation and a wholly owned subsidiary of Swiss Reinsurance Corporation, Mythenquai 50/60, CH-8022 Zurich, Switzerland. It does not appear that any assignment of Reg. No. 1,466,581 was ever recorded in the U.S. Patent and Trademark Office.

As grounds for cancellation, it is alleged that:

1. Registration No. 1,466,581 is for the mark DESTINY for life insurance underwriting services.
2. Registration No. 1,466,581 has a filing date of April 13, 1987 and asserts a date of first use in commerce of March 2, 1987.
3. Registration No. 1,466,581 should be canceled in accordance with Trademark Act Section 14(3), because the mark has been abandoned. From Petitioner's investigation, it appears that Registrant is no longer using DESTINY in connection with "life insurance underwriting services."
4. Petitioner is likely to be damaged by continuance of said registration in that the continued existence of the registration casts a cloud upon Petitioner's

GNA 1830  
TRADEMARK/SERVICE MARK

title to its mark. Registration No. 1,466,581 was cited in an Office action as a basis of refusing registration of Petitioner's application Serial No. 76/132,980. Petitioner's continued and legal use of its mark will be impaired by the continued registration of said mark of Registrant.

WHEREFORE, Petitioner prays that Reg. No. 1,466,581 be canceled.

\* Two extra copies of this Petition for Cancellation and the fee required under §2.6 are enclosed.

Respectfully submitted,



William D. O'Neill  
Paul I. J. Fleischut, Reg. No. 35,513  
SENNIGER, POWERS, LEAVITT & ROEDEL  
One Metropolitan Square  
16th Floor  
St. Louis, Missouri 63102  
(314) 231-5400

Attorneys for Petitioner

GNA 1830  
TRADEMARK/SERVICE MARK

CERTIFICATE OF MAILING

I certify that this Petition for Cancellation is being deposited with the United States Postal Service as Express mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on this 16<sup>th</sup> day of May, 2001.

Mona K. Smith  
Mona K. Smith

\*Enclosures  
(Two Extra Copies of Petition; Fee)

TAB

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: September 23, 2001

Cancellation No. 92031990

GENERAL AMERICAN  
LIFE INSURANCE COMPANY

v.

FIRST DELAWARE LIFE  
INSURANCE COMPANY

**Rochelle Ricks, Paralegal**

The notice instituting this proceeding and a copy of the petition to cancel were forwarded to registrant but were returned by the Postal Service as undeliverable.

The Office has ascertained a more recent address, and that service upon registrant could be effected when documents are mailed as follows:

First Delaware Life Insurance Company  
9777 Wilshire Blvd.  
Beverly Hills, CA 90212-1987.

Accordingly, the above notice, with enclosure, is remailed as indicated above.

Registrant is allowed until forty days from the mailing date of this order in which to inform this Office of its correct address in order that all records may be amended.

Compliance with Patent and Trademark Rule 1.4(c) and Trademark 2.119(a) is required.

If there has been any transfer of interest in the involved registration, registrant must so advise the Board and registrant must submit copies of the appropriate documents. See Section 10 of the Trademark Act and Patent and Trademark Rules 3.71 and 3.73.

In view of the circumstances, **the time for filing an answer to the petition to cancel is extended to forty days from the mailing date of this order.** Any discovery requests or notices served that remain unanswered as of the mailing date of this order must be reserved in accordance with the rules, unless otherwise agreed to by the parties.

In accordance with the Trademark Rules of Practice, discovery is open, and the close of discovery and testimony dates are set as indicated below. In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Discovery period to close: **March 30, 2002**

Testimony period for party in position of plaintiff to close: **June 30, 2002**  
(opening thirty days prior thereto)

Testimony period for party in position of defendant to close: **August 29, 2002**  
(opening thirty days prior thereto)



Rebuttal testimony period to close: **October 10, 2002**  
(opening fifteen days prior thereto)

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.