

TTAB



01-30-2002

U.S. Patent & TMO/ TM Mail Rcpt Dt. #22

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

-----	X	
<b>RENEW RITE, L.L.C.,</b>	:	
	:	
<b>Petitioner,</b>	:	<b>Cancellation No.</b>
	:	
<b>v.</b>	:	<b>Registration No. 1,201,684</b>
	:	<b>Mark: RE-NU</b>
<b>BARDAHL MANUFACTURING CORPORATION,</b>	:	
	:	
<b>Registrant.</b>	:	
-----	X	

1333-5-11-02  
1333-5-11-02

**PETITION TO CANCEL**

Assistant Commissioner for  
Trademarks  
Box TTAB  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

SIR:

In the matter of United States Trademark Registration No. 1,201,684 for the mark RE-NU, registered on July 20, 1982.

Renew Rite, L.L.C. ("Petitioner"), a limited liability company organized and existing under the laws of the State of Pennsylvania, and having an office and a place of business at RR5 Box 5282, Saylorsburg, Pennsylvania 18353, believes that it is and/or will be damaged by the above-identified registration, and hereby petitions to cancel Registration No. 1,201,684, pursuant to § 14(3) of the Trademark Act of 1946, 15 U.S.C. §1064 (3).

To the best of Petitioner's knowledge, the name and address of the current owner of United States Trademark Registration No. 1,201,684, of which cancellation is sought, are

02/04/2002 KBEACH 00000035 1201684

01 FC:376

300.00 GP

mas

Bardahl Manufacturing Corporation ("Registrant"), 1400 Northwest 52<sup>nd</sup> Street, Seattle, Washington 98107.

The grounds for cancellation are as follows:

1. Petitioner is the Applicant of United States Trademark Serial Application No. 76/137,421 for the mark RENEW-RITE. Since at least as early as October 31, 1999, Petitioner has been, and is now, using the mark RENEW-RITE in connection with the sale, in interstate commerce, of antifreeze/coolant treatments; namely, chemical additives to restore and recycle used antifreeze/coolant liquids to there original, unused condition (in International Class 001). In addition, Petitioner has a bona fide intent to use the mark RENEW-RITE in connection with the sale, in interstate commerce, of machinery utilized to restore and recycle used antifreeze/coolant liquids to there original, unused condition (in International Class 007).

2. The RENEW-RITE mark of Petitioner is symbolic of extensive goodwill and consumer recognition in International Class 001, built up by Petitioner through substantial amounts of time and effort in advertising and promotion.

3. The mark RENEW-RITE is of significant value to Petitioner as identification of its antifreeze/coolant treatments and Petitioner intends to regularly and substantially expand its use and promotion of the mark in the future. It presently maintains a bona fide intent to incorporate the RENEW-RITE mark in connection with machinery utilized to restore and recycle used antifreeze/coolant.

4. On September 29, 2000, Petitioner filed United States Trademark Serial Application No. 76/137,421 for the mark RENEW-RITE.

5. In an August 8, 2001 Office Action, the United States Patent and Trademark Office ("PTO") denied registration of Petitioner's RENEW-RITE mark in view of the existence,

on the Principal Register, of United States Trademark Registration No. 1,201,684 for the mark RE-NU in connection with the sale of "chemical additives to improve and replace composition of new and used motor oil" in International Class 001.

6. Upon information and belief, the RE-NU mark as shown in United States Trademark Registration No. 1,201,684 has been abandoned, and said use has been discontinued for several years with intent not to resume use for the goods recited in said registration.

7. The undersigned attorney, on January 14, 2002, searched the internet and located the official website of the Registrant. Although various products were offered, there were no products offered bearing the RE-NU mark. In fact, there were no additives sold for improving and replacing the composition of new and used motor oil as recited in the subject registration.

8. The undersigned attorney, on January 14, 2002, also contacted the Registrant's home office in Seattle, Washington to ascertain if any products bearing the RE-NU mark were being offered for sale by Registrant. A representative of the Registrant indicated that no such products had been sold for "several years."

9. For the reasons set forth in the foregoing paragraphs, United States Trademark Registration No. 1,201,684 has apparently been abandoned based on non-use, and the registration should be removed from the Principal Register to prevent further harm to Petitioner.

10. United States Trademark Registration No. 1,201,684 will become abandoned if not renewed prior to July 20, 2002. To date, according to the records of the PTO website, no renewal documents have been filed.

11. Since the RE-NU mark, which is the subject of Registration No. 1,201,684, has been abandoned, said registration should be cancelled pursuant to Section 14(3) of the Trademark Act of July 5, 1946, 15 U.S.C. § 1064(3).

12. The continued existence of Registration No. 1,201,684 on the Principal Register of the United States Patent and Trademark Office places a cloud on Petitioner's exclusive right to use its mark and prevents Petitioner from obtaining trademark registration for its RENEW-RITE mark. In fact, United States Serial Trademark Application No. 76/137,421 for the mark RENEW-RITE has been rejected based on the likelihood of confusion with United States Trademark Registration No. 1,201,684 for the mark RE-NU.

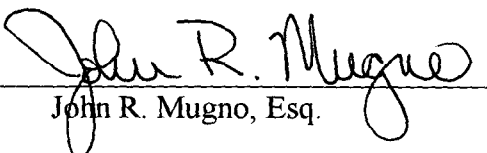
**WHEREFORE**, Petitioner requests that its Petition To Cancel be granted, and that Registration No. 1,201,684 be stricken from the Principal Register.

Petitioner submits herewith the required fee for filing the Petition To Cancel in the amount of \$300.00, and two copies of this Petition to Cancel. The Patent and Trademark Office is authorized to charge any underpayments, or credit any overpayments, to Deposit Account No. 13-4893.

Respectfully submitted,

LAW OFFICES OF JOHN R. MUGNO

Attorneys for Petitioner  
350 Broadway – 10<sup>th</sup> Floor  
New York, New York 10013  
Telephone: (212) 925-3474  
Facsimile: (212) 925-3665

By:   
John R. Mugno, Esq.

Dated: New York, New York  
January 28, 2002