

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

jh/EAD

Mailed: February 16, 2005
Cancellation No. 92032745

CONCORD MOON, LLP

v.

INOSANTO ACADEMY LTD.

Elizabeth A. Dunn, Attorney:

As a preliminary matter, the Board addresses the status of this proceeding.

Notwithstanding the Board's July 3, 2003 consolidation of the above-proceeding with Cancellation No. 92041393 (which should have limited action by the Board and the parties to Cancellation No. 92032745, the parent case), on August 31, 2004, the Board issued a show cause order in Cancellation No. 92041393 relating to the cancellation under Trademark Act Section 8 of Registration No. 2099044. The Board regrets the error.

Having received no response thereto, on October 19, 2004, the Board entered judgment against respondent in Cancellation No. 92041393, and granted the petition to cancel. On the same day, without reference to the earlier order in Cancellation No.

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92041393, the Board issued an order in the consolidated proceeding which resumed proceedings and reset discovery and trial dates. The Board's October 19, 2004 order in the consolidated proceeding is vacated insofar as it refers to Cancellation No. 92041393. The Board's October 19, 2004 order granting judgment in Cancellation No. 92041393 is operative, and thus the proceedings are no longer consolidated. Cancellation No. 92041393 has been terminated, and the remainder of this order addresses only Cancellation No. 92032745. Any papers filed in this proceeding should refer only to Cancellation No. 92032745.

It has come to the attention of the Board that respondent has permitted the registration involved in this proceeding to be cancelled under Section 8 of the Trademark Act, namely Registration No. 2139047.

In view thereof, respondent is allowed until twenty days from the mailing date of this order to show cause why such cancellation should not be deemed to be 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 as provided by Trademark Rule 2.134(a). In the absence of a showing of good and sufficient cause, judgment may be entered against respondent. See Trademark Rule 2.134(b).

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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 cancellation proceeding, or to have the cancellation proceeding dismissed without prejudice as moot. See *C. H. Guenther & Son Inc. v. Whitewing Ranch Co.*, 8 USPQ2d 1450 (TTAB 1988) and TBMP § 602.02(b).
