

TTAB

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

Mailed: November 21, 2006

Powerlinx, Inc.  
200 MADONNA BLVD.,  
TIERRA VERDE, FL 33715

Cancellation No. 92046649  
Reg. No. 2520801

95/742,605

Michael H. Jester  
505 D. Grand Caribe Causeway,  
Coronado, CA 92118

DeepSea Power & Light, Inc.

V.

Powerlinx, Inc.

**Amy Matelski, Paralegal Specialist**

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 Trademark Rule 2.196 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 affect the 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, as well as the



12-20-2006

Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov/web/offices/dcom/ttab/](http://www.uspto.gov/web/offices/dcom/ttab/).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open: 12/11/06

Discovery period to close: 6/9/07

30-day testimony period for party  
in position of plaintiff to close: 9/7/07

30-day testimony period for party  
in position of defendant to close: 11/6/07

15-day rebuttal testimony period  
for plaintiff to close: 12/21/07

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). The notice is 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.

**New Developments at the Trademark Trial and Appeal Board**

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>.

ESTTA Tracking number: **ESTTA106487**

Filing date: **10/26/2006**

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

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	DeepSea Power & Light, Inc.		
Entity	Corporation	Citizenship	California
Address	3855 Ruffin Road San Diego, CA 92123 UNITED STATES		

Attorney information	Michael H. Jester, Esq. A Professional Law Corporation 505 D Grand Caribe Causeway Coronado, CA 92118 UNITED STATES mjester@jesterlaw.com Phone:6196284598
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**Registration Subject to Cancellation**

Registration No	2520801	Registration date	12/18/2001
Registrant	SEA VIEW UNDERWATER RESEARCH, INC. 200 MADONNA BLVD. TIERRA VERDE, FL 33715 UNITED STATES		
Goods/Services Subject to Cancellation	Class 028. First Use: 1999/07/00 , First Use In Commerce: 1999/07/00 Goods/Services: Illuminated fish attractants		

Attachments	PET.pdf ( 2 pages )(59682 bytes )
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Signature	/Michael H. Jester/
Name	Michael H. Jester, Esq.
Date	10/26/2006

## PETITION FOR CANCELTION

1. DeepSea Power & Light, Inc., hereinafter referred to as "Petitioner," is a California corporation having a place of business at 3855 Ruffin Road, San Diego, California 92123.
2. Petitioner is the owner, by assignment, of U.S. Trademark Registration No. 2,822,627 on the Principal Register for the trademark SEALITE, together with all of the good will associated with that trademark.
3. Said assignment referred to in paragraph 2 was recorded in the USPTO on May 19, 2006 at Reel 003346, Frame 0541.
4. On information and belief, Petitioner's predecessor in interest first used the SEALITE trademark in commerce on or about December 31, 1985 in connection with oceanographic equipment and parts thereof, namely, underwater lights.
5. On information and belief, Petitioner's predecessor in interest and petitioner have continuously used said SEALITE trademark in commerce in connection with said goods recited in paragraph 4 since December 31, 1985.
6. On information and belief, Sea View Underwater Research, Inc., hereinafter referred to as "Respondent," is a Florida corporation having a place of business at 1700 66<sup>th</sup> Street N, Suite 300, St. Petersburg, Florida, 33710.
7. On information and belief, Respondent obtained U.S. Trademark Registration No. 2,520,801 on the Principal Register for the trademark SEALITE listing illuminated fish attractants as the goods, reciting a first use date in commerce in 1999, said first use date being long after the first use in commerce by Petitioner's predecessor in interest of SEALITE as recited in paragraph 4.

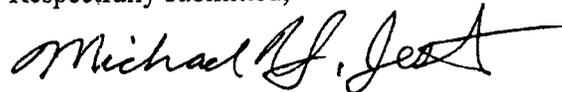
8. Respondent's registered trademark so resembles Petitioner's registered trademark as to be likely, when used on or in connection with the goods of Respondent, to cause confusion, or to cause mistake or to deceive.

9. On information and belief, at the time Respondent filed U.S. Trademark Application Serial No. 75/742,606 on June 30, 1999 that resulted in the registration cited in paragraph 7, Respondent was not the rightful owner of the SEALITE trademark.

WHEREFORE, Petitioner prays for relief in the form of an order from the Director of the USPTO that U.S. Trademark Registration No. 2,520,801 be canceled from the Principal Register.

Dated: October 26, 2006

Respectfully submitted,



Michael H. Jester  
Reg. No. 28,022  
Attorney for Petitioner  
DeepSea Power & Light, Inc.

United States P

Commissioner for

P.O. Box 1451

Alexandria, VA, 22313-1451

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