

ESTTA Tracking number: **ESTTA512147**

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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	Feit Electric Company, Inc.		
Entity	Corporation	Citizenship	California
Address	4901 Gregg Road Pico Rivera, CA 90660 UNITED STATES		

Correspondence information	Anu Singh Vice President of Finance, Info. Systems Feit Electric Company, Inc. 4901 Gregg Road Pico Rivera, CA 90660 UNITED STATES anu@feit.com, patty@feit.com, fay@feit.com Phone:(562) 463-2852
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Registration Subject to Cancellation

Registration No	3851487	Registration date	09/21/2010
Registrant	LEDNovation, Inc. Suite 102 13053 West Linebaugh Avenue Tampa, FL 33626 UNITED STATES		

Goods/Services Subject to Cancellation

Class 011. First Use: 2009/12/07 First Use In Commerce: 2009/12/07
All goods and services in the class are cancelled, namely: LED light bulbs

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2171837	Application Date	10/17/1996
Registration Date	07/07/1998	Foreign Priority Date	NONE
Word Mark	ENHANCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1996/11/00 First Use In Commerce: 1996/11/00		

	electric light bulbs that provide a more daylight color
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Attachments	Petition For Cancellation Registration .pdf (2 pages)(134781 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/ANU SINGH/
Name	Anu Singh
Date	12/20/2012



Manufacturers of Light Bulbs

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December 20, 2012

RE: Petition For Cancellation Registration #3851487 - EnhanceLite

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). See TMEP §1207.01. However, not all of the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. See *In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999); TMEP §§1207.01 *et seq.* The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. See *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); see *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1025 (Fed. Cir. 1988).

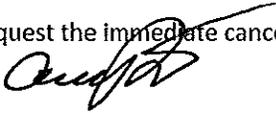
In a likelihood of confusion determination, the marks should have been compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); see TMEP §1207.01(b).

The mere addition of a term to a registered mark generally does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Trademark Act Section 2(d). See *In re Chatam Int'l Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) (GASPAR'S ALE and JOSE GASPAR GOLD); *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) (BENGAL and BENGAL LANCER); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) (THE LILLY and LILLI ANN); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002 (TTAB 1988) (MACHO and MACHO COMBOS); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re U.S. Shoe Corp.*, 229 USPQ 707 (TTAB 1985) (CAREER IMAGE and CREST CAREER IMAGES); *In re Riddle*, 225 USPQ 630 (TTAB 1985) (ACCUTUNE and RICHARD PETTY'S ACCU TUNE); *In re Cosvetic Labs., Inc.*, 202 USPQ 842 (TTAB 1979) (HEAD START and HEAD START COSVETIC); TMEP §1207.01(b)(iii). The differences in the marks are not sufficient to overcome the common commercial impression that is not merely descriptive. Registrants' mark is "ENHANCELITE". Our registered mark is "ENHANCE." Applicant's mark is similar in appearance and sound to our mark in that they both share the common term ENHANCE. In this matter the marks are similar because both have the common commercial impression of the goods have an evolutionary quality. The term LED in the registrant's mark merely describes the type of electrical goods.

The goods and/or services of the parties need not be identical or directly competitive to find likelihood of confusion. See *Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1476 (TTAB 1999); TMEP §1207.01(a)(i); see, e.g., *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086-87, 56 USPQ2d 1471, 1475-76 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984). Registrants' goods are identified as "LED Light Bulbs", where as Enhance goods are identified as "Electric Light Bulbs that provide a more daylight color". Registrant's lighting is closely related to our registered lighting goods because both are identified as light bulbs. Moreover LED light bulbs are commonly sold alongside other types of light bulbs in the same channels of trade to similar consumers. Specifically, the following websites from Home Depot, Walmart, and Amazon show that LED light bulbs and non-LED light bulbs for lighting applications commonly are sold together.

Therefore, looking at ENHANCELITE mark used on registrant's goods and the Enhance mark used on our goods, consumers are likely to be confused and mistakenly believe that the respective goods come from the same source.

We request the immediate cancellation of registration #3851487, EnhanceLite, based on the above stated reasons.



Aaron Feit
President
Feit Electric Company, Inc.