

ESTTA Tracking number: **ESTTA658878**

Filing date: **03/03/2015**

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

Proceeding	92060971
Party	Plaintiff The ESAB Group Inc.
Correspondence Address	MICHAEL E HALL KACVINSKY DAISAK BLUNI PLLC 3120 PRINCETON PIKE, SUITE 303 LAWRENCEVILLE, NJ 08648 UNITED STATES mhall@kdbfirm.com, bjackson@kdbfirm.com, kddocketing@cpaglobal.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Michael E. Hall
Filer's e-mail	mhall@kdbfirm.com, bjackson@kdbfirm.com, kddocketing@cpaglobal.com
Signature	/Michael E. Hall/
Date	03/03/2015
Attachments	First Amended Petition to Cancel Reg. No. 1727147.pdf(91932 bytes )

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

The ESAB Group Inc., Petitioner,	)	
	)	
v.	)	Cancellation No. 92060971
	)	Mark: PRIME
Prime Wire & Cable, Inc.	)	Registration No. 1727147
Respondent.	)	
	)	

Attorney Ref.: 1800CE3488

**First Amended Petition to Partially Cancel Registration No. 1,727,147**

The ESAB Group Inc. (“Petitioner”), a corporation duly organized and existing under the laws of Delaware, and having its offices and principal place of business at 411 South Ebenezer Road, Florence, South Carolina 29501, believes that it is damaged by Registration No. 1,727,147, and hereby petitions to partially cancel the same.

As grounds for this Petition, it is alleged:

1. Prime Wire & Cable, Inc. (“Respondent”) is the owner of U.S. Registration No. 1,727,147 for the mark PRIME<sup>1</sup>, which covers the following goods, including “welding cable” in Class 9:

Class 9

Electrical (non-communications) power transmission devices; namely, power block adapters, extension cord adapters, cordset adapters, battery booster cables, **welding cable**, R.V. motor home adapters, tractor-trailer cables, multiple outlet service blocks, junction boxes, electrical ground connectors, plugs and connectors

Class 11

Trouble lights, work lights, and outdoor light strings

---

<sup>1</sup> Registered 1992; renewed 2012.

2. Petitioner is the owner of pending U.S. Application Serial No. 86/283,625 (“Petitioner’s Application”) for the mark PRIMEWELD, which covers “welding wire” in Class 6.

3. On September 2, 2014, the USPTO Examining Attorney assigned to Petitioner’s Application issued a refusal, under Section 2(d) of the Trademark Act, on the ground there is allegedly a likelihood of confusion between Petitioner’s mark PRIMEWELD for “welding wire” and Respondent’s registered mark PRIME for “welding cable.”

4. Upon information and belief, Respondent has not used the registered mark PRIME on or in connection with “welding cable” for at least three consecutive years (assuming Respondent ever used the mark on or in connection with these goods).

5. Upon information and belief, Respondent has discontinued use of the registered mark PRIME on or in connection with “welding cable” (assuming Respondent ever used the mark on or in connection with these goods).

6. Upon information and belief, at the time Respondent discontinued use of the registered mark PRIME on or in connection with “welding cable” (assuming Respondent ever used the mark on or in connection with these goods), Respondent intended not to resume such use.

7. Respondent has abandoned its registered mark PRIME with respect to “welding cable.”

8. If Respondent’s registration continues to cover “welding cable,” Petitioner will continue to be damaged.

For the reasons stated above, Petitioner respectfully requests that this Petition be granted and that “welding cable” be deleted from Respondent’s registration.

Respectfully submitted,

/Michael E. Hall/

Date: March 3, 2015

Michael E. Hall  
Kacvinsky Daisak Bluni PLLC  
3120 Princeton Pike, Suite 303  
Lawrenceville, New Jersey 08648  
609-270-4918  
[mhall@kdbfirm.com](mailto:mhall@kdbfirm.com)

Attorney for Petitioner

**Certificate of Service**

I hereby certify that on March 3, 2015, a copy of the foregoing First Amended Petition to Partially Cancel Registration No. 1,727,147 was served, via first-class mail, postage pre-paid, on:

Prime Wire & Cable, Inc.  
280 Machlin Court  
City of Industry, California 91789-3026  
*Respondent*

and

John K. Buche  
Buche & Associates, P.C.  
875 Prospect, Suite 305  
La Jolla, California 92037  
*Attorney for Respondent*

/Michael E. Hall/

Michael E. Hall  
Kacvinsky Daisak Bluni PLLC  
3120 Princeton Pike, Suite 303  
Lawrenceville, New Jersey 08648  
609-270-4918  
[mhall@kdbfirm.com](mailto:mhall@kdbfirm.com)

Attorney for Petitioner