

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: April 26, 2002

In re LIGHTSURF TECHNOLOGIES,
INC.

Serial No. 75698824

Filed: 05/06/1999

MARTIN R. GREENSTEIN
C/O TECHMARK
55 S MARKET ST FL 16
SAN JOSE, CA 95113-2324

LaToya C. Johnson, Paralegal

Applicant's notice of appeal and amendment (filed April 4, 2002, with certificates of mailing dated April 3, 2002) are noted.

The basis of the final refusal, issued on October 3, 2001, is the unacceptability of the identification of goods, and the amendment is an attempt by applicant to submit an acceptable identification.

Accordingly, the appeal is instituted but, action on it is suspended and the file is remanded to the Trademark Examining Attorney for consideration of the amendment. If the amendment is accepted, the appeal will be moot. If the amendment is found unacceptable, the Examining Attorney

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should issue an Office Action indicating the reasons why the proposed amendment is unacceptable and return the file to the Board, which will then allow applicant time to file its appeal brief.¹ However, if the Examining Attorney believes that the problems with the proposed identification can be resolved, the Examining Attorney is encouraged to contact applicant, either by telephone or written Office Action, in an attempt to do so.

¹ If the Examining Attorney believes that the proposed amendment is unacceptable because it exceeds the scope of the original identification, or the identification as it has subsequently been amended, this would raise a new issue, and the applicant should be given an opportunity to respond to this issue before the refusal may be made final. In this circumstance, therefore, the Examining Attorney should issue a non-final action, and retain the "six-month response" clause.