

ESTTA Tracking number: **ESTTA186961**

Filing date: **01/16/2008**

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	SunPower Corporation		
Entity	Corporation	Citizenship	Delaware
Address	3939 North 1st Street San Jose, CA 95134 UNITED STATES		

Attorney information	Johanna F. SisteK SisteK Law Group 244 California Street Suite 507 San Francisco, CA 94111 UNITED STATES jfs@sisteklaw.com Phone:415-398-3141
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### Registration Subject to Cancellation

Registration No	3026412	Registration date	12/13/2005
Registrant	Ogren, Wayne Stuart 29928 W. Hwy 20 Republic, WA 99166 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 009. First Use: 2001/11/01 First Use In Commerce: 2001/11/01 All goods and services in the class are cancelled, namely: APPARATUS FOR CONVERTING ELECTRONIC RADIATION TO ELECTRICAL ENERGY, NAMELY, PHOTOVOLTAIC SOLAR MODULES, PHOTOVOLTAIC SOLAR THERMAL HYBRID MODULES
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	SmarterGrounds2.pdf ( 1 page )(81626 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 First Class Mail on this date.

Signature	/johanna sistek/
Name	Johanna F. SisteK

Date	01/16/2008
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SunPower Corporation  
Petition to Cancel Registration No. 3,026,412, SOLAR SMART  
Grounds for Cancellation:

- 1) Petitioner, SunPower Corporation, a Delaware corporation with a principal place of business at 3939 North 1<sup>st</sup> Street, San Jose, California 95134, believes that it will be damaged by the continued registration of Registration No. 3,026,412 and therefore through its attorneys hereby petitions to cancel the said registration belonging to Respondent Wayne Stuart Ogren.
- 2) Petitioner is engaged in the manufacture and installation of solar energy collection systems, which it offers under the trademark SMARTER SOLAR.
- 3) On April 2, 2007, Petitioner filed an application to register the SMARTER SOLAR mark in connection with goods in Classes 9, 11, and 19, and services in Class 42. The application was assigned Serial No. 76/674897.
- 4) In an Office Action dated July 18, 2007, the Examining Attorney issued a refusal to register the SMARTER SOLAR mark under Section 2(d) based on Registration No. 3,026,412 for the mark SOLAR SMART, issued December 13, 2005, filed and owned by Mr. Wayne Stuart Ogren (the "Registration").
- 5) The prima facie effect of Respondent's Registration is to preclude Petitioner from registering its valuable mark.
- 6) On information and belief, Mr. Wayne Stuart Ogren died on March 21, 2006.
- 7) On information and belief, the products formerly sold under the SOLAR SMART mark are no longer being sold. Accordingly, Petitioner is informed and believes that the SOLAR SMART mark has been abandoned.
- 8) Accordingly, the Registration is not entitled to continued registration, and should be cancelled pursuant to Trademark Act Section 14(3), 15 U.S.C. 1064(3).
- 9) Wherefore, Petitioner prays that this Petition for Cancellation be sustained and that Registration No. 3,026,412 be cancelled.