

ESTTA Tracking number: **ESTTA546736**

Filing date: **07/03/2013**

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

| | |
|------------------------|--|
| Proceeding | 92048738 |
| Party | Defendant THE OGREN FAMILY REVOCABLE TRUST |
| Correspondence Address | THE OGREN FAMILY REVOCABLE TRUST PO BOX 1344 LODI, CA 95241 UNITED STATES docket@cascioiplaw.com |
| Submission | Other Motions/Papers |
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| Date | 07/03/2013 |
| Attachments | Report.pdf(232223 bytes) |

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

In the matter of:
SOLAR SMART
Registration No. 3,026,412
Issued December 13, 2005

| | | |
|-----------------------------------|---|---------------------------|
| SunPower Corporation, |) | |
| Plaintiff |) | |
| |) | Cancellation No. 92048738 |
| v. |) | |
| |) | |
| The Ogren Family Revocable Trust, |) | |
| Defendant |) | |
| _____ |) | |

REPORT OF PROGRESS OF SETTLEMENT

Pursuant to a notice issued by the Trademark Trial and Appeal Board, dated January 25, 2013, in the above captioned action, all further stipulated requests for suspension or extensions of time must be accompanied by a report on the progress of the parties' settlement talks sufficient to establish good cause for any continued suspension. This report is in addition to the stipulated request for suspension filed on June 25, 2013.

Defendant, The Ogren Family Revocable Trust, reports the following:

1. The parties have entered into a Consent and Settlement Agreement which became fully executed on December 19, 2012. Under the terms of the Consent and Settlement Agreement, the parties hereto have agreed, *inter alia*:
 - a. Plaintiff, SunPower Corporation, acknowledges Defendant's ownership and right in and to the SOLAR SMART registration and also agrees to dismiss this cancellation proceeding;
 - b. Defendant acknowledges Plaintiff's ownership and right in and to the mark SMARTER SOLAR, for which Plaintiff has applied for registration in Application Serial No. 76/674897, filed April 2, 2007, which application has been refused under Trademark Act §2(d) as being confusingly similar to Defendant's SOLAR SMART registration and further has been suspended during the pendency of this cancellation proceeding;
 - c. Defendant agrees not to contest, challenge the use of, oppose the registration of, or seek cancellation of, the SMARTER SOLAR Application and further agrees to deliver, and has delivered, to Plaintiff a Letter of Consent to be filed in the SMARTER SOLAR application;
 - d. Plaintiff agrees to dismiss this cancellation proceeding upon prosecution of the SMARTER SOLAR Application being resumed by the Examining Attorney and the §2(d) refusal being removed.

2. Plaintiff has, on February 28, 2013, filed Letter of Consent in the SMARTER SOLAR application in conjunction with a request for removal of the suspension and removal of the §2(d) refusal.

3. As indicated by the TSDR on even date herewith, no further action by the Examining Attorney has yet issued in the SMARTER SOLAR application in response to Plaintiff's request.

All issues between the parties hereto have been resolved. The parties await only the resumption of prosecution in Plaintiff's SMARTER SOLAR application and the expected removal of the §2(d) refusal therein over Defendant's registration. Until such time as the Examining Attorney issues a further action in Plaintiff's SMARTER SOLAR application, this cancellation proceeding should remain suspended to minimize the burden to the parties and conserve the resources of this board.

Dated July 3, 2013

By: /atcascio/
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