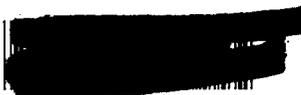


UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/248231

MARK: TARLETON



CORRESPONDENT ADDRESS:
DANIEL I. SCHLOSS
GREENBERG TRAUIG, LLP
200 PARK AVE FL 34
NEW YORK, NY 10166-0005

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: White Rock Distilleries,
Inc.

CORRESPONDENT'S REFERENCE/DOCKET
NO:

019056.01000

CORRESPONDENT E-MAIL ADDRESS:

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE:

Applicant is requesting reconsideration of a final refusal issued/mailed August 4, 2008.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

In its request for reconsideration, the applicant argues that (1) TARLETON is clearly a rare surname and appears to be used as a first name nearly as often as a surname and (2) the term TARLETON is phonetically similar to and evocative of the words "tarlatan" (a type of fabric used and associated with women's apparel of the Victorian era,) and "tartan" (a type of plaid fabric design closely associated with Scottish tradition), thus giving the mark TARIETON a commercial impression that is vaguely British-sounding and associated with tradition and formality.

The applicant's arguments are unpersuasive. In the final Office action, the examining attorney made of record eighty (80) news reports, article excerpts from Lexis Nexis®, and Internet excerpts that show the surname, Tarleton, appearing routinely therein. The examining attorney also made of record an updated P-FIND search of the surname, Tarleton, that retrieved seven hundred ninety-three (793) listings. Based on the foregoing, it does not appear that the surname, Tarleton, is a rare surname. Moreover, even if the applicant had proved that Tarleton is a relatively rare surname, a rare surname may be unregistrable under Trademark Act Section 2(e)(4) if, as evidenced in this case, its primary significance to purchasers is that of a surname. *E.g., In re Etablissements Darty et Fils*, 759 F.2d 15, 225 USPQ 652 (Fed. Cir. 1985); *In re Giger*, 78 USPQ2d 1405 (TTAB 2006); see TMEP §1211.01(a)(v). There is no minimum number of telephone directory listings needed to prove that a mark is primarily merely a surname. See

TMEP §1211.02(b)(i); *see, e.g., In re Petrin Corp.*, 231 USPQ 902 (TTAB 1986).

With respect to the applicant's argument that the term TARLETON is phonetically similar to and evocative of the words "tarlatan" (a type of fabric used and associated with women's apparel of the Victorian era,) and "tartan" (a type of plaid fabric design closely associated with Scottish tradition), thus giving the mark TARLETON a commercial impression that is vaguely British-sounding and associated with tradition and formality, the applicant is respectfully advised that the alleged fact that the surname is also the phonetic equivalent of an ordinary word does not change the surname significance of the term. *See In re Pickett Hotel Co.*, 229 USPQ 760 (TTAB 1986) (holding PICKETT still a surname, even though equivalent to the word "picket"). The test is whether the term would be perceived primarily as a surname, not solely as a surname. *See* TMEP §1211.01(a)(ii).

Attached are copies of pages from fifteen (15) various dictionaries wherein the word "tarleton" would appear if, indeed, it were a defined term. The absence of the term in the dictionary supports the finding that the term is primarily merely a surname. *See* TMEP §1211.02(b)(v). (Note: Two (2) of the fifteen (15) dictionary excerpts do not provide a dictionary definition for "tarleton," but do refer to "tarleton" as a surname).

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

/Sonya B. Stephens/
Trademark Attorney
Law Office 109
(571) 272-9352 phone
(571) 273-9109 fax*
*fax no. for official responses only

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.



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The word you've entered isn't in the dictionary. Click on a spelling suggestion below or try again using the search bar above.

Suggestions for **tarleton**:

- | | |
|-------------------------------|-------------------------------|
| 1. tarlatan | 2. tortillon |
| 3. trotiline | 4. teraglin |
| 5. tarratine | 6. Tertullian |
| 7. tortellini | 8. tarragon |
| 9. tartine | 10. tyrtaeon |
| 11. tertian | 12. tritone |
| 13. tear down | 14. turling |
| 15. tartan | 16. tracaulon |
| 17. teratoma | 18. triton |
| 19. tortoni | 20. electroin |

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Results

tarleton was not found in the Cambridge Advanced Learner's Dictionary

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- thrilled
- trailed
- trawled
- trialed
- trialled
- trilled
- trolled
- trolleyed
- twirled

Or you could try searching for 'tarleton' on the **World Wide Web**:

Google
Yahoo

Resources

- Activities
- Top 40 words
- Word of the day
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- About the corpus

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Search results

You searched for **tarleton**. Search from here.

No page title matches

- Wikipedia may have an article on **tarleton**.
- If it is a **real word**, please **create a dictionary entry**.
- If you are not sure, **file a request** for it.
- Remember that:
 - People and places are not included in dictionaries; go to **Wikipedia** for them.
 - Copying information from other websites is normally illegal.

These entry templates may help when adding words:

<u>Basic</u> Template with tutorial.	<u>Noun</u> Pick up that <u>cross</u> .	<u>Plural</u> Move those <u>crosses</u> here.	
<u>Adjective</u> He was very <u>cross</u> .	<u>Adverb</u> He said it very <u>crossly</u> .	<u>Comparative</u> She was even <u>crosser</u> .	<u>Superlative</u> He was the <u>crosses</u> t.
<u>Verb</u> Why did he <u>cross</u> the road?	<u>3rd person</u> When she <u>crosses</u> .	<u>Participle</u> Is he <u>crossing</u> ?	<u>Past</u> Has she <u>crossed</u> yet?

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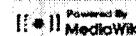
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Searched for **tarleton**. Search took 0 seconds.

Your search - **tarleton** - did not match any documents. No pages were found containing "**tarleton**".

Suggestions:

- Make sure all words are spelled correctly.
- Try different keywords.
- Try more general keywords.

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Dictionary-Thesaurus

Look up the word...

- exact
- broad
'dog' matches 'guide dog'
- spelled-like
'dawg' matches 'dog'

Sorry, we could not find the word tarleton.

Were you looking for one of these words?

[tarletan](#) , [tarlatan](#) , [dalton](#) , [telethon](#) , [talon](#) , [tartan](#) , [triton](#)

Possible reasons that this search failed:

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<http://www.wordsmyth.net/live/home.php?script=search&matchent=tarleton&matchtype=exact>
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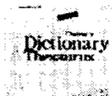
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Spelling Check

Check spelling for: tarleton

Spelling Check for tarleton

Hmmm... that doesn't look right.
 Here are some possible alternate spellings:

- Carleton
- Dalton ([definition](#))
- Carlton ([definition](#))
- telethon ([definition](#))
- talon ([definition](#))
- targeting
- Alton ([definition](#))
- toileting
- tartan ([definition](#))
- Salton
- Triton ([definition](#))
- Walton ([definition](#))
- Charlton ([definition](#))

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 25 lbs of
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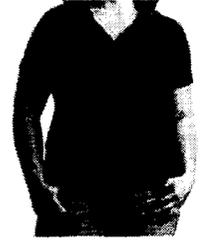
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- carleton
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- tarletans
- dalton
- target on
- carlton
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- tau lepton
- tarletan's

Reference suggestions:

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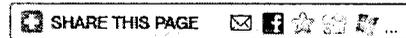
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B. Tarleton

Tarleton, OH

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- [Carlton](#)
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"The saddest aspect of life right now is that science gathers knowledge faster than society gathers wisdom."



Browse the Dictionary

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Search Results for "tarleton"

1) Tarleton, Sir Banastre. The Columbia Encyclopedia, Sixth Edition, 2001

... **Tarleton**, Sir Banastre, (ba'nstr tarl'tn) (KEY), 1754-1833, British army officer in the American Revolution. He arrived (1775) in America with General Cornwallis...

2) Yorktown campaign. The Columbia Encyclopedia, Sixth Edition, 2001

... General Cornwallis moved into Virginia to join British forces there. His lieutenant, Banastre **Tarleton**, engaged American forces under the marquis de Lafayette, Baron...

3) Texas Agricultural and Mechanical University. The Columbia Encyclopedia, Sixth Edition, 2001

...1878), at Prairie View, predominantly African-American; Texas A&M-Commerce (est. 1889); **Tarleton** State Univ. (est. 1899), at Stephenville; West Texas A&M Univ. (est....

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State Univ. (est. 1855), at Stephenville, West Texas A&M Univ. (est. ...

4) Sumter, Thomas. The Columbia Encyclopedia, Sixth Edition, 2001

...Revolution and harassed the British in the Carolinas. He and the British leader, Banastre Tarleton, struck at each other through 1780. The "gamecock of the Revolution,"...

5) Charlottesville. The Columbia Encyclopedia, Sixth Edition, 2001

...Gen. John Burgoyne's captured army was quartered nearby in 1779-80, and in 1781 Sir Banastre Tarleton raided the city. Nearby are Monticello, home of Thomas Jefferson;...

6) Carolina campaign. The Columbia Encyclopedia, Sixth Edition, 2001

...head of a raiding party met and all but annihilated Cornwallis's raiders under Banastre Tarleton at Cowpens (Jan. 17, 1781). Cornwallis pushed north and at Guilford...

7) little magazine. The Columbia Encyclopedia, Sixth Edition, 2001

...appeared. Noted examples of this type were the Modern Review (1922-24), edited by Firwoode Tarleton; The Fugitive (Nashville, Tenn., 1922-25), whose editors included...

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1. [n] Last name, frequency rank in the U.S. is 13150.

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