

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	85305912
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 117

**MARK SECTION (no change)**

**ARGUMENT(S)**

Reconsideration of the Section 2(e)(4) rejection is requested. It is respectfully submitted that the significance of the SCHOFIELD mark is not primarily merely a surname. In considering whether the significance of a mark is primarily a surname an important factor to consider is whether the term has any recognized meaning other than as a surname. TMEP §1211.01. Importantly, if there is any doubt as to whether a term is primarily merely a surname, the USPTO must resolve the doubt in favor of the applicant. In re Yeley, 85 USPQ2d 1150, 1151 (TTAB 2007).

The term SCHOFIELD has a recognized meaning in the field of firearms. A Schofield Revolver was a popular firearm used by the U.S. army from 1875-1892. Attached as Exhibit A is a Wikipedia reference indicating the historical significance of the Schofield term for firearms. Accordingly, consumers seeking Applicant's firearms will not view the mark as being primarily a surname but will instead recognize the SCHOFIELD mark as a historical firearm brand which has become a source identifier for Applicant.

As further evidence that the significance of the mark is not primarily merely a surname Applicant notes that it is the successor-in-interest to the trademark rights of the registrant of Trademark Reg. No. 2054963 for the mark 1875 SCHOFIELD for hand held firearms (the "'963 Registration"). Notably, the '963 Registration was granted without requiring a disclaimer of the SCHOFIELD term (but with a disclaimer of "1875"). Clearly the USPTO previously has determined that the significance of the term SCHOFIELD for firearms is not primarily merely a surname. See Exhibit B. The USPTO should similarly determine in the present matter that SCHOFIELD is a trademark and not primarily a surname.

In view of the foregoing it is clear that the subject mark is not primarily merely a surname and consumers will view the mark as a source indicator for Applicant. In any event, Applicant has submitted arguments and evidence which at the very least raise doubt as to whether the significance of SCHOFIELD is primarily merely a surname. Accordingly, the USPTO must resolve the doubt in favor of the applicant and withdraw the rejection under Section 2(e).

**EVIDENCE SECTION**

**EVIDENCE FILE NAME(S)**

**ORIGINAL PDF FILE** | evi 67151224227-111825193 . schofield exhibit.pdf

<b>CONVERTED PDF FILE(S)</b> (3 pages)	<u>\\TICRS\EXPORT16\IMAGEOUT16\853\059\85305912\xml1\RFR0002.JPG</u>
	<u>\\TICRS\EXPORT16\IMAGEOUT16\853\059\85305912\xml1\RFR0003.JPG</u>
	<u>\\TICRS\EXPORT16\IMAGEOUT16\853\059\85305912\xml1\RFR0004.JPG</u>
<b>ORIGINAL PDF FILE</b>	<u>evi_67151224227-111825193_schofield_exhibit_B.pdf</u>
<b>CONVERTED PDF FILE(S)</b> (1 page)	<u>\\TICRS\EXPORT16\IMAGEOUT16\853\059\85305912\xml1\RFR0005.JPG</u>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Ex. A - Wikipedia reference indicating historical significance of Schofield term for firearms Ex. B - Registration Certificate for '963 Registration
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Michael A. Cornman/
<b>SIGNATORY'S NAME</b>	Michael A. Cornman
<b>SIGNATORY'S POSITION</b>	Attorney, NY bar member
<b>SIGNATORY'S PHONE NUMBER</b>	212-708-1800
<b>DATE SIGNED</b>	08/06/2012
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Mon Aug 06 11:26:59 EDT 2012
<b>TEAS STAMP</b>	USPTO/RFR-67.151.224.227- 20120806112659800906-8530 5912-490609b5d4884dda3d44 830732fb9ad306b-N/A-N/A-2 0120806111825193305

**Request for Reconsideration after Final Action  
To the Commissioner for Trademarks:**

Application serial no. **85305912** has been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

Reconsideration of the Section 2(e)(4) rejection is requested. It is respectfully submitted that the significance of the SCHOFIELD mark is not primarily merely a surname. In considering whether the significance of a mark is primarily a surname an important factor to consider is whether the term has any recognized meaning other than as a surname. TMEP §1211.01. Importantly, if there is any doubt as to whether a term is primarily merely a surname, the USPTO must resolve the doubt in favor of the applicant. In re Yeley, 85 USPQ2d 1150, 1151 (TTAB 2007).

The term SCHOFIELD has a recognized meaning in the field of firearms. A Schofield Revolver was a popular firearm used by the U.S. army from 1875-1892. Attached as Exhibit A is a Wikipedia reference indicating the historical significance of the Schofield term for firearms. Accordingly, consumers seeking Applicant's firearms will not view the mark as being primarily a surname but will instead recognize the SCHOFIELD mark as a historical firearm brand which has become a source identifier for Applicant.

As further evidence that the significance of the mark is not primarily merely a surname Applicant notes that it is the successor-in-interest to the trademark rights of the registrant of Trademark Reg. No. 2054963 for the mark 1875 SCHOFIELD for hand held firearms (the "'963 Registration"). Notably, the '963 Registration was granted without requiring a disclaimer of the SCHOFIELD term (but with a disclaimer of "1875"). Clearly the USPTO previously has determined that the significance of the term SCHOFIELD for firearms is not primarily merely a surname. See Exhibit B. The USPTO should similarly determine in the present matter that SCHOFIELD is a trademark and not primarily a surname.

In view of the foregoing it is clear that the subject mark is not primarily merely a surname and consumers will view the mark as a source indicator for Applicant. In any event, Applicant has submitted arguments and evidence which at the very least raise doubt as to whether the significance of SCHOFIELD is primarily merely a surname. Accordingly, the USPTO must resolve the doubt in favor of the applicant and withdraw the rejection under Section 2(e).

**EVIDENCE**

Evidence in the nature of Ex. A - Wikipedia reference indicating historical significance of Schofield term for firearms Ex. B - Registration Certificate for '963 Registration has been attached.

**Original PDF file:**

evi 67151224227-111825193 . schofield exhibit.pdf

**Converted PDF file(s) (3 pages)**

Evidence-1

Evidence-2

Evidence-3

**Original PDF file:**

evi 67151224227-111825193 . schofield exhibit B.pdf

**Converted PDF file(s) (1 page)**

Evidence-1

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /Michael A. Cornman/ Date: 08/06/2012  
Signatory's Name: Michael A. Cornman  
Signatory's Position: Attorney, NY bar member

Signatory's Phone Number: 212-708-1800

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85305912  
Internet Transmission Date: Mon Aug 06 11:26:59 EDT 2012  
TEAS Stamp: USPTO/RFR-67.151.224.227-201208061126598  
00906-85305912-490609b5d4884dda3d4483073  
2fb9ad306b-N/A-N/A-20120806111825193305

# .45 Schofield

From Wikipedia, the free encyclopedia

The **.45 Schofield** or **.45 Smith & Wesson** is a revolver cartridge developed by Smith & Wesson for their S&W Model 3 American top-break revolver. It is similar to the .45 Colt round though shorter and with a slightly larger rim, and will generally work in revolvers chambered for that cartridge. In fact, US government arsenals supplied .45 Schofield cartridges for both the Schofield revolver and the Colt Army revolver to simplify their armament needs.<sup>[1]</sup> .45 Colt cartridges cannot be used in .45 Schofield firearms, since the .45 Colt is a longer cartridge.

## Contents

- 1 History
- 2 Synonyms
- 3 See also
- 4 References
- 5 External links

## History

This cartridge was originally designed as a black powder round. This revolver was patented in the USA on 20 June 1871 and 22 April 1873 by Smith and Wesson. It was a Smith and Wesson Model 3 that was modified by Major George Schofield to make it easier for a cavalryman to reload while riding. While the Colt 45 had more power, the speed at which a cavalryman could reload a Schofield was less than 30 seconds, half of the time for a Colt 45. By 1879, the U. S. Army had purchased 8,285 of the revolvers. Due to its lesser power and recoil compared to the Colt .45, it became the standard cartridge of the Army, though the Colt 1873 still was the main issue side arm of the Army.

The .45 Schofield cartridge was shorter than the .45 Long Colt. It could be used in both the Schofield and the Colt 45 Peacemaker, but the .45 Long Colt was



<b>Type</b>	Revolver
<b>Place of origin</b>	<span><span><span></span></span><span> </span></span> United States
<b>Service history</b>	
<b>In service</b>	1875–1892
<b>Used by</b>	US Army
<b>Production history</b>	
<b>Designer</b>	Smith & Wesson
<b>Designed</b>	1875
<b>Manufacturer</b>	Smith & Wesson
<b>Specifications</b>	
<b>Case type</b>	Rimmed, straight
<b>Bullet diameter</b>	.452-.454 in
<b>Neck diameter</b>	.477 in (12.1 mm)
<b>Base diameter</b>	.477 in (12.1 mm)
<b>Rim diameter</b>	.522 in (13.3 mm)
<b>Rim thickness</b>	.060 in (1.5 mm)
<b>Case length</b>	1.100 in (27.9 mm)

too long to use in the Schofield. As a result, by the 1880s the army finally standardized on a .45 cartridge designed to fire in both revolvers, the M1887 Military Ball Cartridge. The M1887 was made at Frankford Arsenal, and was issued only to the military. It had a shortened case and reduced rim; as it was short enough to fit the Schofield, and its rim was not needed for the rod-ejector Single Action Army, the M1887 would fire and eject from both revolvers.<sup>[3]</sup>

The Schofield was quite a popular handgun in the old west, and may have been used by General Custer at the Battle of the Little Bighorn.<sup>[1]</sup> It has been claimed that had all of Custer's men had the Schofield revolver, the results at the Little Big Horn may have been different. This is not likely, however, since the Indians significantly outnumbered Custer and his men and were well armed.

The Indians also had model 1860 Henry repeating rifles that held 15 rounds of .44 rimfire cartridges, giving the operator 14 more shots than the soldiers without the need to reload. Custer's men were armed with single-shot .45-70 trapdoor carbines.

<b>Overall length</b>	1.430 in (36.3 mm)	
<b>Rifling twist</b>	24	
<b>Primer type</b>	Large pistol	
<b>Ballistic performance</b>		
<b>Bullet weight/type</b>	<b>Velocity</b>	<b>Energy</b>
200 gr (13 g) Lead SWC	859 ft/s (262 m/s)	328 ft·lbf (445 J)
230 gr (15 g) Lead (factory load)	730 ft/s (220 m/s)	276 ft·lbf (374 J)
250 gr (16 g) Lead	710 ft/s (220 m/s)	283 ft·lbf (384 J)
<i>Source(s): "Cartridges of the World"<sup>[1]</sup> / Accurate Powder<sup>[2]</sup></i>		

## Synonyms

- .45 S&W
- .45 S&W Schofield
- .45 M1877 ball revolver

Many reports indicate that while the .45 S&W cartridge could be used in a gun chambered for the .45 Colt, not every chamber in the gun could be loaded at the same time. Because of the larger diameter rim (.522 inches) on the S&W cartridge, the rims would sometimes interfere with each other when attempting to load every chamber of a .45 Colt chambered revolver. Current production .45 S&W cases have a head diameter larger than .45 Colt but smaller than the originals to circumvent this problem on the Colt Single Action Army revolver.

Because of this, the Frankford Arsenal produced the .45 M1877 Military Ball Cartridge which was identical to the S&W cartridge but had a slightly smaller rim diameter of .512 inches (identical to the rim of the .45 Colt cartridge) which could be used in either the Colt or the S&W revolvers. Production of the .45 Colt cartridge was then discontinued by the Frankford Arsenal with the .45 M1877 ball revolver cartridge being adopted as the only .45 revolver cartridge issued from then on.

In the early 1880s the Benet (inside) cartridge primer was retired and the modern Boxer type (externally visible) primer was adopted for all future military production of revolver ammunition.

## See also

- List of handgun cartridges
- List of cartridges by caliber
- 11 mm caliber

## References

- <sup>^</sup> <sup>abc</sup> Barnes, Frank C. (1997) [1965], McPherson, M.L., ed. *Cartridges of the World* (8th Edition ed.), DBI Books, pp. 270, 275. ISBN 0-87349-178-5.
- <sup>^</sup> ".45 S&W Schofield (http://www.accuratepowder.com/data/PerCaliber2Guide/Handgun/Standarddata/45Cal(11.5mm)/45%20S&W%20Schofield%20also%20C^%20app%20page%20148.pdf) " data from Accurate Powder.
- <sup>^</sup> When the Army began to adopt modern side-loading double action revolvers, the M1887 round gave occasional ejection trouble, and was replaced in Army use by the M1909 .45 Long Colt cartridge.

## External links

- .45 Schofield Revolver (http://www.sam-hane.com/sass/schofield/index.html)
- Reloading info (http://www.reloadammo.com/45soload.htm)
- U.S. Patent 138,047 (http://www.google.com/patents?vid=138047) Schofield, G. W., "Revolving Fire-Arm". Issued 1873

Retrieved from "http://en.wikipedia.org/w/index.php?title=.45\_Schofield&oldid=485011727"

Categories: Pistol and rifle cartridges | Military cartridges

- 
- This page was last modified on 1 April 2012 at 16:09.
  - Text is available under the Creative Commons Attribution-ShareAlike License; additional terms may apply. See Terms of use for details.  
Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

Int. Cl.: 13

Prior U.S. Cls.: 2 and 9

Reg. No. 2,054,963

**United States Patent and Trademark Office** Registered Apr. 22, 1997

**TRADEMARK  
PRINCIPAL REGISTER**

**1875 SCHOFIELD**

NAVY ARMS COMPANY INC. (NEW JERSEY  
CORPORATION)  
689 BERGEN BOULEVARD  
RIDGEFIELD, NJ 07657

FOR: HAND HELD FIREARMS, IN CLASS 13  
(U.S. CLS. 2 AND 9).  
FIRST USE 11-0-1993; IN COMMERCE  
11-0-1993.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "1875" , APART FROM THE  
MARK AS SHOWN.

SER. NO. 75-094,117, FILED 4-25-1996.

TOM WELLINGTON, EXAMINING ATTOR-  
NEY