

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	86158400
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 101
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In an Office Action dated August 20, 2014, the Examining Attorney issued a Final Refusal of the referenced application on the basis that under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1) the subject mark is merely descriptive of a characteristic of applicant's goods. The goods in question are knives, and more particularly, as shown in Exhibit A, applicant's knife sold under the STARTER mark is an all-steel folding pocket knife with assisted opening for fast one-handed opening.</p> <p>Applicant respectfully requests reconsideration of the refusal as applicant believes that the evidence does not support a finding of descriptiveness when considered in connection with the relevant goods.</p> <p>Applicant acknowledges that "starter" is an adjective that may be used "to describe something small or basic that you get when you are doing something for the first time," as noted in the dictionary definition relied on by the Examining Attorney. The term "starter" is commonly applied to an object designed for use by a child or inexperienced adult, and the term "starter" is often a synonym for "beginner." The spectrum of objects that "starter" could be applied to is virtually unlimited. e.g., starter golf clubs, starter cookware, starter painting sets, etc.</p> <p>The Examining Attorney's evidence shows descriptive use of "starter" in connection with knives in various contexts, none of which are relevant to applicant's knife in question. For example, the Examining Attorney's evidence refers to many uses of a "starter set" of knives, which is understood by the consuming public to refer to a beginning knife set. More particularly, in this context, "starter set" indicates that the set is not a complete set of chef's knives, but rather one that is composed of the three most basic chef's knives that are a beginning or "start" to eventually collecting a full set of chef's knives. There is no such connotation with applicant's use of "STARTER" in connection with the folding knife with assisted opening shown in Exhibit A.</p> <p>Reference in the evidence to a "dessert/starter" knife presumably refers to a knife one might use on a "starter" or "dessert" course of a meal. Use of a knife for a "starter" or first course of a meal does not support a finding that STARTER is descriptive of applicant's folding pocket knife, and in fact, shows that the term "starter" can have different meanings even with respect to various knives.</p> <p>The Examining Attorney's attachments also include comments from people on a woodworking forum talking about "WTB-Starter" knives for use in machines that cut wooden molding. Applicant could not determine what the "WTB-Starter" means but in that context, the use of the term "knife" appears to be a term-of-art for cutting blades inserted into molding machines to create different types of molding. It is not apparent whether WTB-Starter is a brand name or whether it refers to a starter set of cutting blades for a woodworking machine.</p>	

The Examining Attorney also notes use of the term “starter knife” to refer to a knife that would be appropriate for a child or first time knife owner. With regard to such comments by Pete Kershaw, applicant’s intent in indicating to the Examiner that the website located at [www.thekershawstore.com](http://www.thekershawstore.com) was simply to point out that this descriptive use to refer to an appropriate knife for a child does not describe applicant’s goods. To the extent the Examiner is implying that the comments by Pete Kershaw of what would constitute an appropriate knife for a child is an admission by applicant that the knife shown in Exhibit A is designed for children, applicant disagrees and believes such an inference is inappropriate.

Furthermore, just because “starter” or “starter set” can be used to describe certain types of knives or knife sets, this does not mean that all use of STARTER in connection with a knife is descriptive. The significance of the mark should be considered in connect with the goods. There is nothing about the style, type, features or marketing of applicant’s STARTER knife, as shown in Exhibit A, that suggests to a consumer that it is well suited for a child’s first knife or that it is a “beginning” knife for anyone. In fact, an all-steel folding knife with assisted opening and a black wash finish with aggressive styling would appear to consumers to be a knife for an adult and just one of many that a knife aficionado may wish to add to his or her collection.

The Examining Attorney places great emphasis on the price point and refers to a third party website located at [www.budk.com](http://www.budk.com) and a third party review of applicant’s STARTER knife on YouTube. Applicant respectfully submits that both of these pieces of evidence support registration. The offer for sale at [www.budk.com](http://www.budk.com) uses STARTER as a brand and describes the knife as having a “razor sharp” blade and “lightning fast” blade deployment. These features would actually suggest that the knife is not a good knife for a novice, and nothing in the presentation or description of the knife suggests that it is the type of knife designed to be well-suited as a beginning knife.

With regard to the YouTube video, the reviewer, in discussing the price point, indicates that the STARTER is one of three new knives from applicant at this price point, including the LIFTER and MANIFOLD. The reviewer also notes that the STARTER knife and presumably the other knives at this price point are good options for knife collectors and knife enthusiasts who may want a “beater” knife to throw around the garden or the garage. Applicant therefore respectfully submits that a low price point does not, in itself, render the term descriptive of applicant’s knife. Applicant further notes that many models of applicant’s various product lines are smaller than the STARTER and priced at a similar price point, as borne out by the Examiner’s own evidence. Attached as Exhibit B are screen captures from the Kershaw website showing the dimensions of the STARTER knife along with just a few of the Kershaw knives that are smaller than the STARTER.

As correctly noted by the Examining Attorney, “descriptiveness is considered in relation to the relevant goods and/or services,” and the question is “whether someone who knows what the goods are will understand the mark to convey information about them.” The evidence of record demonstrates unequivocally that consumers, knowing what the goods are, will not understand STARTER to describe a feature of the goods. Applicant did not design its STARTER knife to embody any features that would give rise to the notion that the name is descriptive of any characteristic or function or purpose of the knife, nor is the product marketed as such. It is a large, very sharp, highly stylized folding knife with an assisted quick opening mechanism. Nothing about the appearance or features of the knife suggests that it is designed for or well suited to be a beginning knife. Therefore, while “starter knives” and “starter sets” of knives may exist, applicant’s product is not such a knife and would not be perceived by consumers as such. Rather, consumers will perceive STARTER as a brand of applicant’s knives, similar to the LIFTER and MANIFOLD knives at a similar price point.

Applicant believes the application is now in condition for allowance and requests that it be approved for publication. If questions remain, the Examining Attorney is invited to contact Applicant’s counsel, Lorraine Linford, by email at [LorraineL.Docketing@SeedIP.com](mailto:LorraineL.Docketing@SeedIP.com) or by telephone at (206) 622-4900.

## EVIDENCE SECTION

### EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE	<a href="#">evi_38100227210-20150218130829835476_..Exhibit_A.pdf</a>
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<b>CONVERTED PDF FILE(S)</b> (1 page)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\861\584\86158400\xml7\RFR0002.JPG">\\TICRS\EXPORT16\IMAGEOUT16\861\584\86158400\xml7\RFR0002.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_38100227210-20150218130829835476_ . Exhibit B.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (1 page)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\861\584\86158400\xml7\RFR0003.JPG">\\TICRS\EXPORT16\IMAGEOUT16\861\584\86158400\xml7\RFR0003.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibits A and B
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Lorraine Linford/
<b>SIGNATORY'S NAME</b>	Lorraine Linford
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant, Washington State Bar Member
<b>SIGNATORY'S PHONE NUMBER</b>	206-622-4900
<b>DATE SIGNED</b>	02/18/2015
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	NO
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Wed Feb 18 15:10:14 EST 2015
<b>TEAS STAMP</b>	USPTO/RFR-38.100.227.210-20150218151014542561-86158400-530bed28c468cbd6ae1e3b3d1ff8e1aa6dec7e5f1f25b6cc7dad2aa49730efadd-N/A-N/A-20150218135935922750

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

Application serial no. **86158400** has been amended as follows:

**ARGUMENT(S)**

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

In an Office Action dated August 20, 2014, the Examining Attorney issued a Final Refusal of the referenced application on the basis that under Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1) the subject mark is merely descriptive of a characteristic of applicant's goods. The goods in question are knives, and more particularly, as shown in Exhibit A, applicant's knife sold under the STARTER mark is an all-steel folding pocket knife with assisted opening for fast one-handed opening.

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#### **EVIDENCE**

Evidence in the nature of Exhibits A and B has been attached.

##### **Original PDF file:**

[evi\\_38100227210-20150218130829835476\\_.Exhibit\\_A.pdf](#)

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

[Evidence-1](#)

##### **Original PDF file:**

[evi\\_38100227210-20150218130829835476\\_.Exhibit\\_B.pdf](#)

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

[Evidence-1](#)

#### **SIGNATURE(S)**

##### **Request for Reconsideration Signature**

Signature: /Lorraine Linford/ Date: 02/18/2015

Signatory's Name: Lorraine Linford

Signatory's Position: Attorney for Applicant, Washington State Bar Member

Signatory's Phone Number: 206-622-4900

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 not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86158400

Internet Transmission Date: Wed Feb 18 15:10:14 EST 2015

TEAS Stamp: USPTO/RFR-38.100.227.210-201502181510145

42561-86158400-530bed28c468cbd6eae1e3b3d

1ff8e1aa6dec7e5f1f25b6cc7dad2aa49730efad

d-N/A-N/A-20150218135935922750



INFORMATION	TECH SPECS
<p><b>REVVED UP LOOKS, VALUE PRICE</b></p> <p>The new Starter's design is redefined and complex—yet smoothly functional.</p> <p>The BlackWash finish gives it a rough-and-tumble look, yet the finish isn't just for looks. The coating provides an extra measure of protection for the metal, and the BlackWash helps hide any additional scratches you put on the knife during normal use.</p> <p>The Starter is equipped with SpeedSafe® assisted opening for fast and easy one-handed opening. It opens readily with the built-in flipper or thumbstud. A liner lock safely secures the blade open during use, and then closes easily for storage or carry. The all-steel design really shows off the BlackWash finish.</p> <p>The Starter includes our deep-carry pocketclip so the knife rides comfortably low in the pocket for discreet carry.</p>	

**STARTER**

MODEL 13018W

\$ 29.99 IN STOCK

USD CAD

★★★★★ (2)

QTY 1

ADD TO CART

SHARE TWEET EMAIL

**RELATED PRODUCTS**

- LIFTER**
- MANIFOLD**
- BLACKOUT**

★★★★★ 2 REVIEWS

★★★★★

**MY NEW FAVORITE FROM KERSHAW**

I have several favorite more expensive knives, but as far as the lower priced Kershaw ones go, I'm a huge fan of the Kershaw Coak. It's with a tear in my eye that I say I think this Starter is the start of something new, and now my new fav. I love the all metal design; I was worried it might be too heavy but it feels just right, at least to me. I love the BlackWash finish and that the blade doesn't have a recurve to it, at least not a noticeable one. The flipper with SpeedSafe is fantastically fast. Like, level with a fast, and it also has nice, useable thumbstuds. These aren't blades so if you prefer thumbstud deployment, you'll be happy. They aren't rounded, they're comfortable and rounded and the handle has a little indentation to help out too. I like that the pocket clip is deep carry, but unfortunately it's only a single position - my preferred placement, but for anyone who needs otherwise (and position, be aware the description currently says "Reversible" as well as "Single position" but so you can see in the pic, it's definitely single only). Sure, it's made in China and you could get better quality steel or stronger design from a Zero Tolerance, but for under \$30, this can't be beat. Good looks, good feel, and can handle almost anything you throw at it.

*By Joey Valencia, CA*

★★★★★

**AWESOME KNIFE**

I found this for \$20 at Bass Pro and love it. It looks sweet, opens fast and smooth, feels strong and durable, and very sharp. It is a bit heavy for its size, but that's due to being all metal and adds to its strength. Feels like a knife worth much more than \$20.

*By Jake T Atlanta, GA*

**WRITE A REVIEW**

Name

Location  Email

Rating ★★★★★

Title of your review

Your review

PLEASE ENTER THE WORD YOU SEE IN THE IMAGE BELOW:

SUBMIT FOR REVIEW

EXHIBIT B



**STARTER**

STATUS: IN STOCK  
MODEL NUMBER: 1301BW  
STEEL: BLACK-OXIDE BLACKWASH™  
HANDLE: STAINLESS STEEL BLACK-OXIDE BLACKWASH™ FINISH  
BLADE: 3.4 IN. (8.6 CM)  
PRICE: \$ 29.99



**SHUFFLE, BLACK**

STATUS: IN STOCK  
MODEL NUMBER: 8700BLK  
HANDLE: GLASS-FILLED NYLON, K-TEXTURE GRIP  
BLADE: 2.4 IN. (6.1 CM)  
PRICE: \$ 27.99



**EMBER**

STATUS: COMING SOON  
MODEL NUMBER: 3560  
HANDLE: 410 TITANIUM CARBONITRIDE COATING  
BLADE: 2 IN (5.1 CM)  
PRICE: \$ 34.99



**SWERVE**

STATUS: IN STOCK  
MODEL NUMBER: 3850  
STEEL: STONEWASHED FINISH  
HANDLE: GLASS-FILLED NYLON, K-TEXTURE GRIP  
BLADE: 3 IN. (7.6 CM)  
PRICE: \$ 39.99



**GRANT COUNTY**

STATUS: DISCONTINUED  
MODEL NUMBER: 3100  
STEEL: 8CR13MOV  
HANDLE: STAINLESS STEEL  
BLADE: 1.9 IN. (4.9 CM)  
PRICE: \$ 32.99