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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	SPX Corporation		
Entity	Corporation	Citizenship	Delaware
Address	13515 Ballantyne Corporate Place Charlotte, NC 28277 UNITED STATES		

Attorney information	John H. Weber Baker & Hostetler LLP 1050 Connecticut Avenue, NW Suite 1100 Washington, DC 20036 UNITED STATES trademarks@bakerlaw.com Phone:2028611500

Registration Subject to Cancellation

Registration No	3379686	Registration date	02/05/2008
Registrant	Sondpex Corporation of America, LLC. 2031 Route 130, Unit K Monmouth Junction, NJ 08852 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2006/10/11 First Use In Commerce: 2006/11/15
All goods and services in the class are cancelled, namely: Amplifier for wireless communications; Amplifiers; Audio amplifiers; Audio cassette decks for automobiles; Audio cassette recorders; Audio circuit boards; Audio equipment for vehicles, namely, stereos, speakers, amplifiers, equalizers, crossovers and speaker housings; Audio mixers; Audio processing equipment, namely, limiters and compressors; Audio speaker enclosures; Audio speakers; Audio tape recorders; Audio-video receivers; Blank audio cassettes; Blank audio tapes; Blank digital audio tapes; CD players; Children's educational music CDs and DVDs; DVD machines; DVD-players; Electric audio playback units with lights and speakers; Electronic effect pedals for use with sound amplifiers; Guitar amplifiers; Head-mounted video displays; Loud speaker systems; Loudspeakers with built in amplifiers; Musical instrument amplifiers; Optical semiconductor amplifiers; Portable DVD players; Power amplifiers; Pre-amplifiers; Racks for amplifiers; Radar receivers with amplifiers; Sound amplifiers; Sound mixers with integrated amplifiers; Speaker enclosures; Stereo amplifiers; Sub-woofers; Wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; Woofers

Grounds for Cancellation

Torres v. Cantine Torresella S.r.l.Fraud	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2351520	Application Date	01/13/1999
Registration Date	05/23/2000	Foreign Priority Date	NONE
Word Mark	SPX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 1988/04/27 First Use In Commerce: 1989/06/00 power tools, namely, inflatable hydraulic jacks; cutting and stamping dies for use with machine tools; hydraulic presses for bending, straightening and forcing metal; hydraulic rams; power-operated gear and bearing pullers; hydraulic pumping units; grease guns; machine punches; vacuum pumps; portable cable hoists; power-operated puller for removal and installation of gears, bearings, wheels, pulleys, sleeves, shafts and other friction fitted parts; shop cranes; hydraulic transmission jacks; crawler track presses; hydraulically powered clamps for holding work pieces while manufacturing operations are being performed thereon, portable self-contained air/hydraulic circuit control and regulating valve unit utilized as a central power source for work clamping devices; machine parts, namely, hydraulic load bearing valves, hydraulic check valves, hydraulic Y manifold, multiple port hydraulic manifold blocks; hydraulic jacks; power-operated racks for greasing and repairing vehicles; mobile hydraulic vehicle jacks; vehicle piece supporting tools for use in the service and repair of engines, drive trains and suspensions; brake drum and shoe finishing machine; units for mounting vehicle wheels and tires; racks, stands and lifts; brake service machines and tools, namely, lathes, grinders and brake line bleeders; fluid power products, namely, manual, electric pneumatic and engine driven fluid operated pumps, motors, cylinders and linear actuators, rams, presses, jacks and structural parts for the foregoing; power-operated portable refrigerant charging station consisting of controls, gauges and valves and associated refrigerant and hoses all sold as a unit; power-operated portable torque converter and air cooler cleaning machine Class 008. First use: First Use: 1997/11/00 First Use In Commerce: 1997/11/00 manually operated hand tools, namely, pullers for removing gears, bearings, pulleys and wheels and other press-fit parts; vacuum pumps; oil filter crushers; nut splitters; manually operated hand tools, namely, adjustable wrenches, chain wrenches, spreaders, spanner wrenches, pry bars, jimmy bars, reversible ratchet sets, thread chasers, gear shaft and bearing pullers; o-ring seal picks and carrying cases for all of the above, sold as a unit; wire cutters; wire terminal crimpers; bending, holding, tension and compression clamp; vehicle piece supporting tools for use in the service and repair of engines, drive trains and suspensions; racks, stands and lifts; transmission hand jacks Class 009. First use: First Use: 1988/04/27 First Use In Commerce: 1989/06/00		

	Vehicle wheel, axle and frame straightening machine; vehicle headlight alignment gauges and testers; brake testers for measuring amount of brake lining; wheel alignment and testing machine; machines for road driving simulation; vehicle and industrial wheel balancers; dynamometers; machines and gauges for testing internal combustion engines, namely, electrical, ignition, transmission, exhaust, carburetor and fuel compression testers and analyzers; pressure gauges; vehicle wheel, tire, frame and steering alignment machines; vehicle injection nozzle testers; OHM meters, voltmeters, capacitor analyzers, volt wattmeters, voltage continuity testers, vacuum gauges, manometers; safety goggles; hydraulic pressure gauges; pinion angle level gauges; hydraulic in-line pressure testers and connector accessories therefor; computers, keyboards and printers and related accessories for controlled diagnostic analysis of vehicle engines and drive trains and computer software and manuals for use therewith; diesel engine timing meter; vehicle charging system analyzers; electronic ignition analyzers; hydraulic system testing units; computerized vehicle engine analyzers; hydraulic/fluid flow, pressure and temperature testers and structural parts therefore; lateral checking instruments for tapered bearings; solenoid valves; computer database software for selecting vehicle and tool replacement parts; electronic battery testers; vacuum gauges for refrigeration systems; refrigerant identification instruments

U.S. Registration No.	2528505	Application Date	01/13/1999
Registration Date	01/08/2002	Foreign Priority Date	NONE
Word Mark	SPX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 [reagents, reagent mixtures, oxygen-containing hydrocarbons, diethyleneglycolmonoethylether, for use in case-forming carburization of ferrous metals, steels, and alloys; reagents, reagent mixtures, oxygen-containing hydrocarbons fusel oil, for use in carburization and prevention of decarburization of ferrous metals, steels, and alloys; composed propane gas] Class 007. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 pumps for delivering fluid under pressure, fluid pressure motors; machines parts, namely, valves for controlling flowing fluid, and unitary fluid pressure power systems consisting of a reservoir and one or more of the above named devices; machine parts, namely, directional control valves, fluid handling equipment, namely, fluid control valves and structural parts for said equipment; electric motor for operating rotary slip-stem and butterfly valves, dampers, and other final control elements; positive displacement pumps, positive displacement motors, valves for use with positive displacement pumps, hydrostatic transmission systems consisting of a positive displacement pump and a positive displace motor and structural parts thereof; continuous in-line mixers for fluids, solids and liquids; [ladles for use in pumping molten metal from furnaces;]plunger type chemical pumps, diaphragm type chemical pumps, [lime shakers, hopper agitators, bucket elevators, belt conveyors, bulk material proportioning machines, and structural parts therefor; conveyor belts for transporting bulk material;] watersealed air compressors; [machines for feeding coal to power boilers] and machines for solidifying and reducing the volume of nuclear power plant radioactive waste; [universal motors for use in wide variety of domestic appliances; electric motors for machines;] pneumatically operated machines to vary the passage of medium through a conduit in response to a controlled pressure applied thereto; industrial dust collectors and structural parts therefor; [piston rings;] land-vehicle engine part, namely, non-metal refrigerant hoses		

	Class 009. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 control panels and manually and pyrometrically and galnometrically controlled electric switches rheostats, and heating-current controllers for regulating or controlling the temperature or operating conditions of electric furnaces, electric ovens, and electric heat-treating furnaces; electric flow meters and pressure or rate of flow controllers, and telemeters; mechanical flow meters for recording and totalizing with or without indicating means; pneumatically operated regulator to vary the passage of a medium through a conduit in response to a controlled pressure applied thereto; voltage and current regulators and compensators, ballasts and reactors; rotary type integrating flow meters for steam, air and gas, and accessories therefor, namely, liquid gauge glass, transmitters, remote totalizer, flow rate indicator, flow rate recorder, flow demand indicator and flow demand recorder; measuring and scientific appliances, namely, liquid baths, temperature controllers, pyrometers, thermostats, incubators for scientific and laboratory use, namely, liquid level controllers; thermal relays, namely, time delay relays, voltage sensing relays, and current sensing relays; laboratory mixers; data processing and control switches and relays; moisture detecting devices for oil quench tanks; electric line voltage regulators; electrical and electronic equipment, namely, coils, transformers, inductors and reactors, electronic relays, telecommunication control circuits, signal generators, automatic telephone dial pulse generators, and signal regenerators and repeaters; ballasts for supplying energy to gaseous discharge lamps; static magnetic voltage regulators; two-way mobile radio equipment and parts thereof; electronic and electrical equipment, namely, telemetry systems for collecting and communicating information and data, and for transmitting control signals from one location to another, namely, data logging systems, scanning equipment, encoders, decoders, pulse code modulators, code sequence selectors, code convertors, and speed convertors; software for use by a network administrator in connection with the control, transfer, and installation of software, files and data to various clients connected to the network; telephone data transmission interface for uninterruptible power supplies; inventory software, namely, software for tracking inventory in a laboratory; laboratory equipment, namely, recorder thermometers and electronic loggers for electronically storing temperature data for subsequent reading, graphing, and analysis by software and computer; alarm systems, comprised of electronic thermometers connected to an annunciator which provides a warning signal regarding unacceptable temperature readout displays; electrical module for weighing bulk materials, primarily coal and limestone; computer systems, comprising hardware and software for simulating terrain views and displaying images; AC and DC power systems, namely, uninterruptible, fault tolerant and telecommunications, electrical power systems comprised of invertors, rectifiers, power conditioners, battery management units and uninterruptible power units for use in power blackout and line conditioning applications; computer software for controlling, managing and monitoring power operations and functions; DC electrical power generators; electronic controller for coal feeder system, electromechanical diameter control units for crystal growing furnaces; switches for electrical or optical signal connections, namely, matrix switches, computer channel switches, local area network switches, control units for switching applications among computers and input/output units; protocol analyzers; switch or patch units for patching or switching in computer networks and in telephone networks; optical fiber patch panel and management units; telecommunication transmission equipment and monitoring and test units; and monitoring and test units to implement and maintain local and long distance communicationpaths and parts for the foregoing; optical multiplexer for combining two or more optical signals into a composite optical signal; optical fibers and an interconnection unit for interconnecting or patching one set of optical fibers to another set of optical fibers primarily for large mainframe computer data center environments; electrical power systems comprised of invertors, rectifiers, power conditioners, battery management devices and uninterruptible power units for use in power blackout and line conditioning

	applications and computer software for use with the foregoing; electrical transmission lines, namely, electronic waveguides for transmission of radio frequency energy; energy transmission and distribution equipment, namely, electrical transformers, voltage surge arresters, tap changers, and package substations; multiple cable transit system, namely, a fire stop transition box positioned in fire rated barriers such as floors or decks, walls or bulk heads, and ceilings, for the passage of cables and/or conduits there through; fluid rate of flow meters and controllers; interface units, namely, printed circuit boards for use in connecting servers to the channels of mainframe computers; electrical connectors for use with a conduit; connectivity unit for connecting a server to mainframe computer; multi-cable transits, namely, a pressure-tight packing assembly utilizing a modulus system of elastomer blocks, arranged so as to fill up spaces between cables and the interior of a frame; communications test equipment, namely, a test head for testing subscriber circuits for digital loop carrier systems; optical multiplexer for combining two or more optical signals into a composite optical signal; electrical operated circulating liquid bath and stirrer apparatus for laboratory, pilot plant, and production manufacturing uses; security equipment, namely card access units, access cards and card readers; reagent-treating retorts for laboratory use Class 011. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 [commercial electric cooking ovens,] electric heat-treating furnaces; electric heating units for electric furnaces, electric ovens and electric heat-treating furnaces; [lighting panels and electric light fixtures; freezers of chest and reach-in types for industrial cooling operations;] dehydrators for continuous drying and removal of moisture from compressed air; [ultra-low temperature cabinet and upright freezers for the preservation of biological substances for laboratory and other experimental uses; and] crystal growing furnaces; [cooling units for scientific and laboratory use, humidity cabinets for scientific and laboratory use, and timers sold as unit;] fluid handling equipment for plumbing use, namely, fluid control valves Class 012. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 hand propelled dollies, carts and truck for handling heavy domestic and industrial appliances; vehicle transmission fluid filters, solenoid valves for vehicle transmission Class 035. First use: First Use: 2000/08/00 First Use In Commerce: 2000/08/00 administration and management of car maintenance and repair programs for vehicle dealers and vehicle service facilities

Attachments	75620763#TMSN.gif (1 page)(bytes) Petition to Cancel Reg. No. 3379686.pdf (5 pages)(201494 bytes)

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	/John H. Weber/
Name	John H. Weber
Date	03/02/2009

Attorney Docket No.: 87295.0088 **BOX TTAB – NO FEE**

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

SPX Corporation Petitioner, v. Sondpex Corporation of America Respondent.	)	Cancellation No.: Registration No. 3,379,686

Honorable Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

SPX Corporation, a corporation organized under the laws of Delaware, located and doing business at 13515 Ballantyne Corporate Place, Charlotte, North Carolina 28277 believes that it is or will be damaged by Registration No. 3,379,686, issued on the Principal Register on February 5, 2008 to Sondpex Corporation of America for the trademark SPX. Petitioner hereby petitions for cancellation of said registration.

As grounds for this petition, SPX Corporation alleges:

1. Petitioner is the owner of U.S. Trademark Registration Nos. 2,351,520 issued on May 23, 2000 and U.S. Trademark Registration No. 2,528,505 issued on January 8, 2002. *See* Exhibit 1.

2. To the best of Petitioner's knowledge, Respondent is the current owner of record of Trademark Registration No. 3,379,686 for the mark SPX for "Amplifier for wireless communications; Amplifiers; Audio amplifiers; Audio cassette decks for automobiles; Audio cassette recorders; Audio circuit boards; Audio equipment for vehicles, namely, stereos, speakers, amplifiers, equalizers, crossovers and speaker housings; Audio mixers; Audio processing equipment, namely, limiters and compressors; Audio speaker enclosures; Audio speakers; Audio tape recorders; Audio-video receivers; Blank audio cassettes; Blank audio tapes; Blank digital audio tapes; CD players; Children's educational music CDs and DVDs; DVD machines; DVD-players; Electric audio playback units with lights and speakers; Electronic effect pedals for use with sound amplifiers; Guitar amplifiers; Head-mounted video displays; Loud speaker systems; Loudspeakers with built in amplifiers; Musical instrument amplifiers; Optical semiconductor amplifiers; Portable DVD players; Power amplifiers; Pre-amplifiers; Racks for amplifiers; Radar receivers with amplifiers; Sound amplifiers; Sound mixers with integrated amplifiers; Speaker enclosures; Stereo amplifiers; Sub-woofers; Wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; Woofers," and Respondent's address is as stated on the attached copy of the registration. *See* Exhibit 2.

3. Commencing prior to Respondent's claimed date of first use, Petitioner has engaged, and is now engaged, in the distribution, sale, advertising and promotion in interstate commerce of automobile products.

4. Commencing prior to Registrant's claimed date of first use, Petitioner has used, and is now using, Petitioner's SPX mark (hereinafter sometimes referred to as "Petitioner's mark") in connection with the goods and services relating to automobile products.

5. Respondent's SPX mark is identical to Petitioner's SPX mark, and when applied

to the goods of Respondent, is likely to cause confusion or mistake or to deceive purchasers resulting in damage and detriment to Petitioner and its reputation.

6. As identified in Registration No. 3,378,686, the respective goods and services of Petitioner and Respondent travel in the same channels of trade to the same general class of purchasers. Upon information and belief, both Petitioner's products under the SPX mark and Respondent's products under its SPX mark are available for purchase at automobile parts retailers.

7. Petitioner, upon information and belief, avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Respondent's goods marketed under Respondent's alleged SPX mark, and misled into believing that such goods are produced by, emanate from, or are in some way in directly or indirectly associated with Petitioner, to the damage and detriment of Petitioner and its reputation.

8. Petitioner, upon information and belief, avers that it will be damaged by the continued use and registration by Respondent of the alleged SPX trademark as set forth in Registration No. 3,378,686, and that the mark is identical to Petitioner's mark and is used in connection with goods similar to the goods offered to the public by Petitioner.

9. On November 13, 2007, Registrant submitted a sworn Statement of Use to the USPTO for application, Serial No. 78/947,763 ("Registrant's Application"), in which it stated that "Applicant is the owner of the mark sought to be registered, and is using the mark in commerce or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark used in commerce." At the time when the Statement of Use was filed and when the Declaration was signed, the goods listed in the Notice of Allowance were identical to the ones listed in Paragraph 2.

10. Upon information and belief, Registrant was not using the SPX mark in commerce on or in connection with each of the goods listed in the Notice of Allowance of Registrant's Application at the time the Statement of Use was submitted by Registrant.

11. Registrant procured Registration No. 3,379,686 by false means and/or by knowingly and willfully making false and/or fraudulent declarations or representations to the USPTO, including, inter alia, falsely alleging in the Statement of Use that Registrant's first use of the mark was November 15, 2006 for each of the goods listed in the Notice of Allowance, when, upon information and belief, Registrant had not then used the mark on or in connection with each of these goods.

12. Upon information and belief, Registrant knew at the time it filed its Statement of Use in Registrant's Application that it had not used the SPX mark in commerce on or in connection with each of the goods listed in the Notice of Allowance.

13. Upon information and belief, said false statements were made with the intent to induce the USPTO to grant Registration No. 3,379,686, and reasonably relying upon the truth of said false statements, the USPTO did, in fact, grant said registration to the Registrant.

14. Upon information and belief, Registrant committed fraud in the procurement of Registration No. 3,379,686.

Therefore, this Petitioner, SPX Corporation, believes that it is being, and will continue to be, damaged by the continued registration of the SPX trademark as foresaid and prays that said registration be cancelled as requested.

Petitioner hereby appoints John H. Weber, Mark H. Tidman and Kelu Lu, members of the law firm of Baker & Hostetler, LLP and members of the Bar of the District of Columbia, its attorneys, to prosecute this cancellation proceeding and to transact all business in and before the

United States Patent and Trademark Office in connection herewith.

Please address all correspondence to:

John H. Weber
BAKER & HOSTETLER LLP
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1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

Authorization is hereby given to deduct the filing fee of $300.00, or any other fees associated with this filing for Cancellation, from Deposit Account No. 502036.

Respectfully submitted,
SPX Corporation

By: _____

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Date: March 2, 2009