

ESTTA Tracking number: **ESTTA306872**

Filing date: **09/17/2009**

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	Thales UK Limited		
Entity	Corporation	Citizenship	United Kingdom
Address	2 Dashwood Lang Road Bourne Business Park Addlestone, Weybridge, KT152NX UNITED KINGDOM		

Attorney information	Rod S. Berman Jeffer Mangels Butler & Marmaro LLP 1900 Avenue of the Stars, 7th Floor Los Angeles, CA 90067 UNITED STATES trademarkdocket@jmbm.com Phone:3102038080		
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**Registration Subject to Cancellation**

Registration No	3273127	Registration date	08/07/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	Metal Storm Limited Level 34 Central Plaza One 345 Queen Street Brisbane QLD 4000, AUSTRALIA		

**Goods/Services Subject to Cancellation**

<p>Class 009. All goods and services in the class are cancelled, namely: Apparatus for the recording, transmission and reproduction of sound or images, namely video cassette recorders, video cassettes, television, digital video recorders, digital video discs, blank optical discs, blank compact discs, audio cassette recorders, blank audio cassettes, telecommunications transmitters, blank audio and video tapes, cameras, microphones; photographic cameras; radio frequency jamming equipment for blocking electronic and radio signals; global positioning system consisting of computers, computer software, transmitters, receivers, and network interface devices; thermal vision systems comprised of signal transmitters and detectors; telecommunications equipment; satellite communications systems comprised of satellite receivers and transmitters and computer processing systems for processing communication information; sonar systems comprised of sonar transducers and computer processing systems for sonar signal analysis and image display; air analysis apparatus, namely, gas detectors for detecting the presence of gas in the air, air analysis apparatus for detecting and analyzing noxious gases, airborne chemicals, airborne and biological substances and other airborne life threatening particles; data processing equipment and computers for signal encryption and decryption; fire extinguishing apparatus; sound amplifiers; computer game discs and computer amusement apparatus for use with televisions; electronic game amusement machines coin operated and automatic for use with televisions or computers; antiglare glasses; bullet proof vests; computer software for analyzing the performance of weapons systems, analyzing data received from transmission apparatus, analyzing frequency signals, generating terrain information, controlling</p>
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weapons systems and battle field management; data processing apparatus; smoke detectors; distance measuring apparatus and distance recording apparatus namely, odometers, pendulums, heliometers, interferometers, clinometers, pentometers, anemometers; magnetic encoded cards for security, identification and surveillance purposes; magnetic encoders; fire extinguishers; flashing lights, namely, luminous signals; non-explosive fog signals; safety gloves for protection against accidents; protective safety helmets; high-frequency apparatus namely radios, telephones, speakers, amplifiers, pagers, audio and video receivers, remote controls for radios, radio frequency controlled locks, walkie-talkies, electric converters, antennas, power supply units, wireless network systems comprised of wireless modems and satellite communication receivers and transmitters, radar transmitters and receivers, radar systems comprised of antennas; life saving apparatus and instruments, namely alarms, luminous beacons, fireboats, bullet-proof vests, signaling buoys, marking buoys, buzzers, fire beaters, fire blankets, fire engines, life jackets, life buoys, life belts, life nets, life-saving rafts, protective helmets, safety restraints, safety tarpaulins, sirens; electric monitoring apparatus, namely carbon monoxide monitors, infrared sensors and infrared sensing systems comprised of infrared transmitters and detectors, remote sensing and surveillance instruments comprised of satellite receivers and transmitters, optical sensors, spectral filters, active and passive counter measure equipment comprising signal transmitters and receivers, military intelligence data gathering and processing systems comprised of radar transmitters and receivers, laser speed detectors, metal detectors, radon detectors, ultrasonic detectors for projectiles, vehicle tracking systems comprised of signal transmitters and receivers, weapon locating systems comprising electro-optical sensors, laser warning systems comprised of laser sensors, computer processing systems for sensor signal analysis, undersea surveillance systems comprised of hydrophones, optical telemetry devices and computer processing systems for image display and analysis, oceanic depth finding systems comprised of pressure sensors, temperature sensors, electronic compasses for maritime use; observation instruments namely telescopes, optical filter discs, optical or telescopic lens sights for firearms, projectors, optical lenses, periscopes, binoculars, spotting scopes; optical apparatus namely sunglasses, eyeglasses for shooting, safety glasses, industrial safety glasses; signaling instruments, namely, safety lights and beacons; cameras; periscopes; protective safety masks, radar apparatus and sensors; audio and video receivers; reflecting discs to prevent accidents; remote control apparatus for audio visual equipment; non-medical respiratory masks; sighting telescopes for firearms; sound locating instruments; sound recording apparatus; sound transmitting apparatus; speed measuring apparatus for photography; surveying apparatus and instruments; compasses; testing apparatus not for medical purposes, namely sound level testing devices, frequency testing devices; thermometers not for medical purposes; specialised time recording apparatus, namely radio chronographs; transmitters of electronic signals; computer game cartridges and discs

Class 013.

All goods and services in the class are cancelled, namely: Fireworks, explosives, gunpowder; firing platforms; bengal lights; bandoliers for weapons; gun cases, rifle cases; cartridge cases; cartridge pouches; shoulder straps for weapons; apparatus for filling cartridge belts; breeches of firearms; gun holsters; ammunition belts; fire igniting apparatus for igniting at a distance

## Grounds for Cancellation

*Torres v. Cantine Torresella S.r.l.Fraud*

808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments

58389-0048 Petition.pdf ( 4 pages )(24189 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	/Jessica C. Bromall/
Name	Jessica C. Bromall

Date	09/17/2009
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THALES UK LIMITED,

Petitioner,

v.

METAL STORM LIMITED

Registrant.

Cancellation No. \_\_\_\_\_

Registration No.: 3,273,127

Mark: METAL STORM

Atty. Ref. No.: 58389-0048

**PETITION FOR CANCELLATION**

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

Petitioner Thales UK Limited, a United Kingdom corporation ("Petitioner"), located at 2 Dashwood Lang Road Bourne Business Park Addlestone, Weybridge, United Kingdom, believes that it is and will be damaged by the continued registration of Registration No. 3,273,127, dated August 7, 2007, and owned of record by Metal Storm Limited ("Registrant"), for the mark METAL STORM in connection with the goods identified in Registration No. 3,273,127, and hereby petitions for cancellation of said registration.

As grounds for this Petition, it is alleged that:

1. Petitioner has filed an application for registration with the U.S. Patent and Trademark Office ("PTO"), Serial No. 77/335,568, to register STORM in connection with goods in Class 9.

2. The U.S. Patent and Trademark Office has refused registration of Petitioner's Application Serial No. 77/335,568 by citing Registrant's Registration No. 3,273,127

for METAL STORM. Thus, Petitioner will be damaged by continuance of Registrant's registration.

3. Registration No. 3,272,127 identifies a plethora of goods in two international classes. Petitioner has declined to reproduce the list of goods herein, as it occupies nearly three pages. On information and belief, Registrant is not now using the mark METAL STORM in commerce in connection with each of the plethora of goods identified in Registration No. 3,272,127, nor has it ever used the mark METAL STORM in commerce in connection with each such good.

4. Further, on information and belief, Registrant does not now have, and has never had, a *bona fide* intent to use the mark in Registration No. 3,273,127 in connection with each good identified therein.

5. Notwithstanding the foregoing, Registrant submitted a declaration to the Trademark Office claiming that it had a *bona fide* intent to use the mark in connection with each good identified in the application on which Registration No. 3,272,127 issued. Thus Registration No. 3,273,127 was improperly, fraudulently and inequitably obtained, rendering it cancellable.

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WHEREFORE, Petitioner respectfully requests that this Cancellation be sustained and that Registrant's Registration No. 3,273,127 be cancelled.

Respectfully submitted,

Dated: September 17, 2009

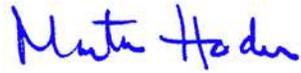
/s/ JESSICA C. BROMALL

Rod S. Berman  
Jessica C. Bromall  
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Attorneys for Petitioner Thales UK Limited

**CERTIFICATE OF SERVICE**

It is hereby certified that on **September 17, 2009**, a copy of the foregoing PETITION FOR CANCELLATION has been sent by first class mail, postage prepaid, to the correspondence address of record for Registrant:

Lynn M. Jordan  
Finnegan Henderson Farabow Garrett Et Al  
901 New York Avenue NW  
Washington DC 20001-4413



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Marta Hodur