

ESTTA Tracking number: **ESTTA413783**

Filing date: **06/10/2011**

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	SOUTHERN MILLS, INC.		
Entity	Corporation	Citizenship	Georgia
Address	6501 Mall Blvd. Union City, GA 30291 UNITED STATES		

Attorney information	Michael E. Robinson, Esq. LUEDEKA, NEELY & GRAHAM, P.C. P.O. Box 1871 Knoxville, TN 37901 UNITED STATES RRobinson@LNG-Patent.com Phone:(865) 546-4305		
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Registration Subject to Cancellation

Registration No	3915295	Registration date	02/01/2011
Registrant	DRIFIRE, LLC c/o Sterling Capital Partners, L.P 1033 Skokie Boulevard, Suite 600 Northbrook, IL 60062 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2009/06/00 First Use In Commerce: 2009/06/00 All goods and services in the class are cancelled, namely: Clothing for protection against fire; protective clothing; specialized protective clothing, namely, fire retardant and moisture wicking clothing

Grounds for Cancellation

Genericness	Trademark Act section 23
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Attachments	6707199-tottab-20110610-Petition_to_cancel.pdf (3 pages)(35807 bytes) Exhibit_A.pdf (2 pages)(116308 bytes) Exhibit_B.pdf (3 pages)(348502 bytes) Exhibit_C.pdf (2 pages)(203368 bytes) Exhibit_D.pdf (2 pages)(260603 bytes) Exhibit_E.pdf (4 pages)(235804 bytes)
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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	/michael e robinson/
Name	Michael E. Robinson
Date	06/10/2011

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

)	
)	PETITION FOR
SOUTHERN MILLS, INC.)	CANCELLATION
DBA TenCate Protective Fabrics USA)	
Petitioner)	Cancellation No. _____
)	Registration No. 3,915,295
vs.)	Supplemental Register
)	
)	Date of Issue: Feb. 1, 2011
)	
DRIFIRE, LLC)	
Respondent)	
)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
P. O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner, SOUTHERN MILLS, INC., a Georgia corporation located and doing business at 6501 Mall Blvd., Union City, Georgia 30291, believes that it will be damaged by Registration No. 3,915,295 and hereby Petitions to cancel the same pursuant to 15 U.S.C. § 1064.

Description of Respondent's Registration No. 3,915,295: Filed on March 10, 2010, for a block letters mark consisting of the phrase COMFORTABLE FR WEAR, registered on the Supplemental Register, in Class 9 for "clothing for protection against fire; protective clothing; specialized protective clothing, namely, fire retardant and moisture wicking clothing", (hereinafter "Respondent's Goods") claiming first use anywhere on June 2009 and first use in commerce on June 2009. Respondent's registration is in block letter form with no claim to any particular font, color, or design element(s).

To the best of Petitioner's knowledge, the name and address of the current owner of the registration are DRIFIRE, LLC, a Delaware limited liability company located and doing business at 3151 Williams Road, Suite E, Columbus, Georgia 31909.

As grounds of this Petition, it is alleged that:

1. Petitioner is and has since prior to the filing date of Respondent's registration been engaged in the manufacture, sale, and distribution of protective fabrics products (Petitioner's Goods) including what is commonly referred to in various forms as "FR apparel" or "flame resistant workwear" (Exhibit A); "FR garment[s]," "FR clothing," and "comfortable FR" (Exhibit B); "FR coverall" and "comfortable FR cotton lining" (Exhibit C); "comfortable FR fleece layer" (Exhibit D); and "'FR gear," "FR pant[s]," and "FR briefs for comfort and protection" (Exhibit E).
2. The terms "comfortable" "FR" and "wear" have commonly accepted meanings in the protective fabrics industry. Since a date long prior to the filing date of Respondent's registration and any date of first use alleged in Respondent's registration, Petitioner and various third parties have used the terms "comfortable", "FR", and "wear" or variations thereof alone and in combination with each other to identify protective fabric products.
3. The terms "comfortable" "FR" and "wear" and the composite terms "comfortable wear," "comfortable FR," "FR wear", and "comfortable FR wear," when used in connection with protective fabrics, are incapable of distinguishing Respondent's goods as demonstrated by, among other things, the various exemplary exhibits included herein including advertising from multiple different competitors of Respondent and end retailers of protective fabrics.
4. Respondent's alleged registered mark is the common descriptive name of Petitioner's Goods and operates as a generic name for all such goods produced and sold by virtually every

competitor and associated retailers engaged in the business of Respondent, including Petitioner. Petitioner therefore respectfully asserts that Respondent's alleged registered mark does not function to identify Respondent's goods and distinguish them from goods offered by others.

5. Petitioner and others who make or sell protective fabrics or related goods will be damaged by the continued existence of Respondent's alleged mark on the trademark register because such generic terminology impairs Petitioner's (and other competitors of Respondent's) right to legal use of such terminology. Petitioner and other competitors of Respondent have a valid and legal right to refer to their respective products by their common descriptive name.

WHEREFORE, Petitioner prays that Respondent's Registration, Registration No. 3,915,295, be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Enclosures: Exhibits A-E

Respectfully submitted,

LUEDEKA, NEELY & GRAHAM, P.C.
Attorneys for Petitioner

Date: June 10, 2011

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EXHIBIT A



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Standard Workwear

>> **Protective Clothing**

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- > [Fabrics Options](#)
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Custom Image Programs

Corporate Casual Attire

Facility Services

Industry-Specific Programs

UniFirst Catalogs

Click Here To see how UniFirst
can help your company

Armorex FR[®] Fabric Options

With Armorex FR[®] you can select Flame Resistant workwear garments made from the most proven fabrics on the market. Combining these garments with a UniFirst service program means you get proven protection when and where you need it. When evaluating FR fabrics for protection, potential hazard assessments must take into account Arc Thermal Performance Value (ATPV or arc rating). Such ratings appear on the labels of all UniFirst FR apparel. Matching the arc rating with the potential job hazard maximizes worker protection against the possibility of burn injury or death.

Tecasafe[®] Plus

The newest and most innovative FR fabric option on the market, Tecasafe Plus from TenCate is fast becoming a preferred fabric choice for maximum comfort with effective protection. This inherently Flame Resistant fabric is a tri-blend of FR fibers that offer superior protection, moisture wicking, and noticeably greater comfort. A great solution for NFPA and OSHA standards compliance, Tecasafe's FR qualities have been shown to outperform other fabrics with either inherent or treated FR characteristics.

[\(Click Here to view Tecasafe video.\)](#)



EXHIBIT B

Flame Resistant fabrics and garments

Upcoming events near you

Watch ARAMARK's Arc Flash safety videos

◀ 1 2 3 ▶

- FR Fabrics and FR Garments
- Benchmark for FR Fabrics
- ARAMARK's FR Fabric Line
- FR Fabric Comparison Table
- How to Choose FR Apparel



- SHOP ONLINE
- FR BENEFITS
- INDUSTRY SOLUTIONS
- NFPA® 70E
- FR APPAREL
- PARTNER WITH ARAMARK
- CONTACT US

Protection
Comfort
Value

The ARAMARK Benchmark for FR fabrics

There are three main factors typically used in determining the right fabric for a specific workplace situation.

Protection

The first and most important determination in choosing a FR clothing program is always worker safety. Simply put, if the FR garment does not provide the appropriate level of protection for application in question, then it's not the right FR garment for the job. At ARAMARK Uniform Services, we provide a range of FR clothing, made from such market-proven fabrics as INDURA® Ultra Soft®, INDURA®, Nomex®, OASIS™ and Vinex® fabrics that provide FR protection for a wide range of workplace situations.

Comfort

An FR garment cannot do its job if it's not fully covering the worker. If your FR clothing program results in situations for

your employees that are stiflingly hot, inflexible or without ventilation, there's a good chance your employees will be prone to rolling up their sleeves or unbuttoning their shirts, thus exposing themselves to greater potential injury in the event of an accident. Or worse yet, they may choose not to wear protection at all.

That's why at ARAMARK Uniform Services, we believe in providing comfortable FR solutions that your employees can accept and embrace. With the next generation of highly-flexible, lightweight and breathable FR garments, the days of cumbersome and uncomfortable FR clothing have become a thing of the past. Fabrics such as INDURA® Ultra Soft® have redefined comfort in such FR garments as shirts, coveralls, jeans and outerwear. These revolutionary FR solutions are providing workforces across the country comfortable options that are forever changing the perception the industry has towards wearing protective clothing.

Value

At ARAMARK Uniform Services, we realize that providing an FR clothing program for your workforce requires a significant investment from your organization. As a result, we're constantly looking for new ways to help companies improve the cost effectiveness of their FR solutions. One of the best ways to do so is to help employers make the best FR fabric choices for long-term success. It's important to weigh the initial cost of a FR garment with its overall life expectancy. While a 100% FR cotton garment may be less expensive to purchase initially, it can lead to higher costs in the years to come. On the other hand, inherently FR fabrics pose a greater initial investment, but have a less expensive life cycle cost due to their enhanced durability. Helping employers weigh these different options is one of the key components to building a successful FR clothing program that addresses both worker safety - and your bottom line.

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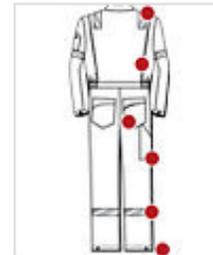
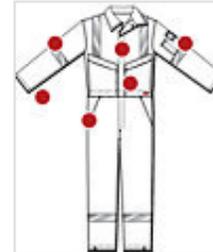
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EXHIBIT C

DALETEC® 61430 RED WING FR COVERALL

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DALETEC® 61430 RED WING FR COVERALL

-  Insulated
-  Oil-Resistant
-  Anti-Static
-  Flame Retardant

MATERIAL:

Daletec® Antistatic 12 oz

INTERNATIONAL STANDARDS:

EN1149,EN531

COLORS:

Navy Blue(53),Royal Blue(54),Red (55),Orange(57)

DESCRIPTION:

This classic winter coverall has a comfortable FR cotton lining and is fully insulated. It offers eight functional pockets and YKK® hardwearing, non-sparking spiral zips are present throughout. 100% brass press studs are covered on the inside, so no brass connects directly to skin.

FEATURES:

- Two concealed chest pockets with zip closure
- Gas detector and pen pocket on left sleeve
- Reflective FR striping around shoulders, arms and legs
- Large pleats in the back for freedom of movement and comfort

EXHIBIT D

- Footwear
- Gloves
- Helmet Lights - Headlamps
- Hydration Systems
- Knives & Multi Tools
- Molle Pouches
- New Products
- Padlocks
- Slings
- Tactical Accessories
- Tactical Lighting
- Weapon Accessories



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MSRP: ~~\$140.00~~

Price: \$82.50

You Save: \$27.50 (25 %)

Made by: XGO

Product Options

Color:

Size:

Quantity:

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XGO Long Sleeve Crew - Phase 4 FR

Flame Retardant Fleece Heavyweight (8 oz./sq. yard)

Versatile piece meant to be worn in temperate to cool weather during endurance activities. Perfect for layering.

Comfortable FR fleece layer that provides superior cold weather protection and moisture dispersal.

Insulating FR Fleece

Modacrylic / Rayon Blend

Flame-Retardant Garment

Superior Moisture-Wicking

Ag47 Anti-Microbial Protection

Won't Shrink, Pick or Fade

Extra Length

Clean Seams

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EXHIBIT E



Products PRODUCTS Technology TECHNOLOGY Technology ABOUT MASSIF

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Massif Gear

At Massif, we believe that anything is possible. Like comfortable flame-resistant gear, for instance. That's why we start at the fiber level, selecting the best and latest technologies for flame resistance, performance, and comfort. Every new design is tested—first in the lab and then in the field. The result is safe, high-performance, and comfortable FR gear for people who take on the world's most dangerous jobs.



+ Breeze LS Mock Neck (FR)



+ Breeze T-Shirt (FR)



+ Lightweight Tactical Jacket



✚ **Elements™ Vest**
U.S. Army (FR)

Army-approved FR softshell provides core warmth in cool and cold weather. Call for MultiCam pricing.



\$359.99



✚ **Elements™ Lite Jacket**
U.S. Army (FR)

Army-approved lightweight FR softshell is ideal for high activity in cool weather. Call for MultiCam pricing.



\$509.99



✚ **Elements™ Lite Pant**
U.S. Army (FR)

Lightweight, Army-approved FR pant is ideal for high activity in cool/wet weather. Call for MultiCam pricing.



\$469.99



⚡ **Cool Knit™ T-Shirt (FR)**

ON SALE NOW

WHILE SUPPLIES LAST! High-tech Nomex® T-shirt is lightweight, soft, stretchy, breathable, and wicking.



\$69.99



⚡ **Cool Knit™ Long Sleeve T-Shirt (FR)**

ON SALE NOW WHILE SUPPLIES

LAST. Long sleeve Nomex® T-shirt is lightweight, soft, stretchy, breathable, and wicking.



\$99.99



⚡ **Breeze™ Boxer Briefs (FR)**

Lightweight FR briefs for comfort and protection where it counts the most.



\$39.99