

ESTTA Tracking number: **ESTTA569165**

Filing date: **11/05/2013**

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 | PAC Armor Security, Inc. | | |
| Entity | Corporation | Citizenship | Missouri |
| Address | 3401 Miami St. St. Louis, MO 63118 UNITED STATES | | |

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| Attorney information | Morris E. Turek YourTrademarkAttorney.com 167 Lamp and Lantern Village, #220 Chesterfield, MO 63017-8208 UNITED STATES morris@yourtrademarkattorney.com Phone:(314) 749-4059 | | |
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Registration Subject to Cancellation

| | | | |
|-----------------|---|-------------------|------------|
| Registration No | 4267712 | Registration date | 01/01/2013 |
| Registrant | MATTHEW STANLEY 416 LA MOTTE LANE FERGUSON, MO 63135 USX | | |

Goods/Services Subject to Cancellation

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|---|
| Class 045. First Use: 2008/08/01 First Use In Commerce: 2008/08/01 All goods and services in the class are cancelled, namely: Security services, namely, property protection and protection of individuals |
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Grounds for Cancellation

| | |
|--------------------------------------|--------------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Other | Application was void ab initio |

Mark Cited by Petitioner as Basis for Cancellation

| | | | |
|---------------------------------------|---|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
| Registration Date | NONE | | |
| Word Mark | PAC ARMOR SECURITY | | |
| Goods/Services | sale, installation, and monitoring of security and fire alarm systems | | |

| | |
|-------------|---|
| Attachments | PAC ARMOR Petition for Cancellation.pdf(26737 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 | /met20/ |
| Name | Morris E. Turek |
| Date | 11/05/2013 |

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

PAC Armor Security, Inc.)
Petitioner,)
v.) Cancellation No. _____
Matthew Stanley)
Registrant.)
_____)

PETITION FOR CANCELLATION

PAC Armor Security, Inc. (“Petitioner”) is a Missouri corporation with a mailing address of 3401 Miami St., St. Louis, Missouri 63118.

According to the USPTO records, the name and address of the current owner of U.S. Registration No. 4,267,712 is Matthew Stanley, 416 La Motte Ln., Ferguson, Missouri 63135 (“Registrant”).

Pursuant to 15 U.S.C. §1064, Petitioner believes it is damaged by Registration No. 4,267,712 and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Since at least as early as 2008, Petitioner has been continuously using the trademark PAC ARMOR SECURITY in United States commerce in connection with the sale, installation, and monitoring of security and fire alarm systems.

2. As a result of Petitioner’s continuous use of its PAC ARMOR SECURITY trademark in connection with its services, the purchasing public has come to exclusively associate the PAC ARMOR SECURITY trademark with Petitioner’s services. As such, the PAC

ARMOR SECURITY trademark is extremely valuable to Petitioner and has developed a substantial amount of goodwill and recognition among the purchasing public.

3. Petitioner's PAC ARMOR SECURITY trademark has been used, and continues to be used, by the purchasing public to identify the source of Petitioner's services and to distinguish such services from the products and services offered by Petitioner's competitors.

4. Petitioner is the owner of all right, title, and interest in and to the PAC ARMOR SECURITY trademark as used in connection with its services.

5. Registrant is the owner of U.S. Registration No. 4,267,712 for the mark PAC ARMOR SECURITY & design for "security services, namely, property protection and protection of individuals," in International Class 45.

6. Registrant's registration issued on the Principal Register on January 1, 2013. As such, Registrant's registration is not incontestable.

7. The underlying application filing date of Registrant's registration is April 30, 2012.

8. Registrant's registration states that Registrant's first use of the PAC ARMOR SECURITY & design mark occurred at least as early as August 1, 2008, and that Registrant's first use of the mark in interstate commerce occurred at least as early as August 1, 2008.

COUNT I
(PRIORITY AND LIKELIHOOD OF CONFUSION)

9. Petitioner incorporates by reference the allegations in the preceding paragraphs as if they were fully set forth herein.

10. Petitioner's first use of its PAC ARMOR SECURITY mark precedes both the underlying application filing date of Registrant's registration, as well as Registrant's first use dates as listed in the registration.

11. Registrant's PAC ARMOR SECURITY & design mark is essentially identical in appearance, sound, and commercial impression to Petitioner's PAC ARMOR SECURITY mark.

12. The services recited in Registrant's registration for PAC ARMOR SECURITY & design are legally identical to the services offered under Petitioner's PAC ARMOR SECURITY mark.

13. Petitioner is damaged by Registration No. 4,267,712 since Registrant's PAC ARMOR SECURITY & design mark, when used on or in connection with his services, so resembles Petitioner's PAC ARMOR SECURITY mark as to be likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Registrant with Petitioner, or as to the origin, sponsorship, or approval of Registrant's services by Petitioner.

14. Petitioner is further damaged by Registration No. 4,267,712 because such registration gives color of exclusive statutory rights to Registrant in violation and derogation of the prior superior rights of Petitioner.

COUNT II
(APPLICATION VOID *AB INITIO*)

15. Petitioner incorporates by reference the allegations in the preceding paragraphs as if they were fully set forth herein.

16. The underlying application of Registration No. 4,267,712 was filed in the name of "PAC-Armor Security," a Missouri limited liability company.

17. Upon information and belief, there was no such Missouri limited liability company in existence at the time the application was filed on April 30, 2012, nor is there any such Missouri limited liability company currently in existence.

