

ESTTA Tracking number: **ESTTA263745**

Filing date: **01/30/2009**

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	SPX Cooling Technologies, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	7401 West 129th Street Overland Park, KS 66213 UNITED STATES		

Attorney information	Mark Tidman Baker & Hostetler LLP 1050 Connecticut Avenue, N.W Suite 1100 Washington, DC 20036 UNITED STATES trademarks@bakerlaw.com Phone:2028611783
----------------------	--

### Registration Subject to Cancellation

Registration No	3024441	Registration date	12/06/2005
International Registration No.	NONE	International Registration Date	NONE
Registrant	Rittal GmbH & Co. KG Auf dem StÄ¼tzelberg D-35745 Herborn, GERMANY		

### Goods/Services Subject to Cancellation

Class 009. First Use: 2003/03/31 First Use In Commerce: 2003/03/31

All goods and services in the class are cancelled, namely: Cabinets, namely, switchgear cabinets made of metal and plastics, which are composed of racks, housings and consoles and which are used preferably for industry, installation, electronics, computers, interactive terminal systems and information transmission; switchgear cabinets used in conjunction with bracket systems, which are also air-conditioned, earthquake, vandalism and explosion proof; component carriers in the nature of plug-in subassemblies with electronic circuits; signaling devices that emit sounds and light for monitoring and security of switchgear cabinets; electric current distribution components, namely, electronic connectors and electronic apparatus adapters and load-breakers; electronic devices for monitoring gas conduits, namely, gas pressure regulators; claddings of metal, glass and plastics, namely doors and walls, closure devices of metal, namely door locks, and attachment devices of metal, namely, retaining angles, all for use with switchgear cabinets and sold as a unit therewith; metal fixed and moveable mounting devices and mounting aids for the switchgear cabinets and sold as a unit therewith, namely, mounting panels, pivoting frames and compartment bases; installation accessories sold as a unit with the switchgear cabinets, namely, lamps for switchgear cabinets; wiring aids of metal, plastic and rubber sold as a unit with the switchgear cabinets, namely, cable clamp strips, cable inlets, profiled rubber clamps, and labeling strips; electric current supplies, namely mains parts for use with switchgear cabinets and sold therewith as a unit; inserts for electric subassembly carriers, plug-in cards, bus boards, plug-in connectors; and parts for all the above named goods

Class 011. First Use: 2003/03/31 First Use In Commerce: 2003/03/31 All goods and services in the class are cancelled, namely: Apparatus for air-conditioning, namely, evaporative air cooling units, heat exchangers, filter ventilators and heating systems, namely, electric heaters, particularly for use with switchgear cabinets
--

## Grounds for Cancellation

Abandonment	Trademark Act section 14
-------------	--------------------------

Attachments	pet to cancel.pdf ( 4 pages )(129372 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	/Mark Tidman/
Name	Mark Tidman
Date	01/30/2009

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

SPX Cooling Technologies, Inc.	)	
	)	
Petitioner,	)	
	)	Registration No. 3,024,441
v.	)	Mark: PCS
	)	
Rittal GmbH & Co. KG	)	
	)	
Registrant.	)	

**PETITION FOR CANCELLATION**

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sirs:

Petitioner, SPX Cooling Technologies, Inc., a company organized under the laws of the Delaware, having an address of 7401 West 129<sup>th</sup> Street, Overland Park, Kansas, United States (hereinafter "Petitioner"), believing that it is damaged by Registration No. 3,024,441, for the mark PCS, hereby petitions to cancel same.

The grounds for the Petition for Cancellation are as follows:

1. Petitioner is the owner of the PCS trademark for "condensing system that consists of an air-cooled condenser, surface condenser and an evaporative cooling tower" in Class 7 and "designing and installing condensing systems for others" in Class 37, and Application Serial No. 77/469,643 therefor.
2. Upon information and belief, Rittal GmbH & Co. KG (hereinafter "Registrant") is the registrant of Registration No. 3,024,441 for the mark PCS for

“Cabinets, namely, switchgear cabinets made of metal and plastics, which are composed of racks, housings and consoles and which are used preferably for industry, installation, electronics, computers, interactive terminal systems and information transmission; switchgear cabinets used in conjunction with bracket systems, which are also air-conditioned, earthquake, vandalism and explosion proof; component carriers in the nature of plug-in subassemblies with electronic circuits; signaling devices that emit sounds and light for monitoring and security of switchgear cabinets; electric current distribution components, namely, electronic connectors and electronic apparatus adapters and load-breakers; electronic devices for monitoring gas conduits, namely, gas pressure regulators; claddings of metal, glass and plastics, namely doors and walls, closure devices of metal, namely door locks, and attachment devices of metal, namely, retaining angles, all for use with switchgear cabinets and sold as a unit therewith; metal fixed and moveable mounting devices and mounting aids for the switchgear cabinets and sold as a unit therewith, namely, mounting panels, pivoting frames and compartment bases; installation accessories sold as a unit with the switchgear cabinets, namely, lamps for switchgear cabinets; wiring aids of metal, plastic and rubber sold as a unit with the switchgear cabinets, namely, cable clamp strips, cable inlets, profiled rubber clamps, and labeling strips; electric current supplies, namely mains parts for use with switchgear cabinets and sold therewith as a unit; inserts for electric subassembly carriers, plug-in cards, bus boards, plug-in connectors; and parts for all the above named goods” in Class 9; and

“apparatus for air-conditioning, namely, evaporative air cooling units, heat exchangers, filter ventilators and heating systems, namely, electric heaters, particularly for use with switchgear cabinets” in Class 11.

Registrant claims to have first used this mark as of March 31, 2003 in connection with the goods identified in this registration.

3. In an Office Action issued on August 28, 2008, the Examining Attorney refused registration of Application Serial No. 77/469,643 under Section 2(d) of the Trademark Act based on Registration No. 3,024,441.

4. On information and belief, the Registrant is not currently using its mark under Registration No. 3,024,441, and therefore has abandoned such mark.


5. The Petitioner believes that it is, and will be, damaged by the continued registration of Registration No. 3,024,411.

WHEREFORE, Petitioner requests that this petition be granted and Registration be cancelled.

Authorization is hereby granted to charge our Deposit Account No. 50-2036 in connection with this filing.

Respectfully submitted,  
**SPX COOLING TECHNOLOGIES, INC.**

Date: January 30, 2009

By:   
Mark H. Tidman  
Kelu Lu  
Baker & Hostetler LLP  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5304  
(202) 861-1500 (Telephone)  
(202) 861-1783 (Facsimile)  
Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing PETITION FOR CANCELLATION was served via first-class mail, postage prepaid on this 30<sup>th</sup> day of January, 2009 to the following:

DOUGLAS H. PAULEY  
PAULEY PETERSEN & ERICKSON  
SUITE 365  
2800 WEST HIGGINS ROAD  
HOFFMAN ESTATES, IL 60195

By: Kelly M. Kurtz  
Kelly M. Kurtz