

ESTTA Tracking number: **ESTTA381449**

Filing date: **12/01/2010**

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	Stiller's Precision Firearms, LLC		
Entity	Limited Liability Company	Citizenship	Texas
Address	2405 Country Meadow Lane Wylie, TX 75098 UNITED STATES		

Correspondence information	Jerry Stiller President/Managing Member Stiller's Precision Firearms, LLC 2405 Country Meadow Lane Wylie, TX 75098 UNITED STATES stiller@viperactions.com Phone:214-773-9010
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Registration Subject to Cancellation

Registration No	3829096	Registration date	08/03/2010
Registrant	McMillan Fiberglass Stocks, Inc. 1638 W KNUDSEN DR. PHOENIX, AZ 85027 UNITED STATES		

Goods/Services Subject to Cancellation

Class 013. First Use: 2008/03/00 First Use In Commerce: 2008/03/00 All goods and services in the class are cancelled, namely: Firearms

Grounds for Cancellation

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	cancellation_petition.pdf (3 pages)(327358 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	/Jerry Stiller/
Name	Jerry Stiller
Date	12/01/2010

- 1) The mark is merely descriptive. "TAC" is used as a definition of the type of firearm by the registrant of U.S. Reg. No. 3829096. It is an abbreviation for "tactical" when used in connection with weaponry. It is specifically used that way on the registrant's web pages and marketing materials. Copies of the registrant's web pages are attached to the end of this submission as evidence of their usage.
- 2) In a response to trademark application serial numbers 85040935, 41, 42 and 44, the examiner states that the word mark "TAC" merely describes a feature of the goods. The response cited in subparagraph 2a) below directly applies to the use of the word mark "TAC" by the registrant of U.S. Reg. No. 3829096. The full responses to the above referenced trademark applications and attachments are available on the USPTO website.
 - a. The definition labeled "tac 1" shows that "TAC" is an abbreviation for "tactical" when used in connection with weaponry. The evidence labeled "tac 2" and "tac 4" shows that "300" indicates the caliber of ammunition capable of being fired by the applicant's weapons.
- 3) The registrant of U.S. Reg. No. 3829096 telescopes the mark with caliber indication. In a response to trademark application serial numbers 85040935, 41, 42 and 44, the examiner states that the word mark "TAC" connected with a caliber number such as 300 does not alter the descriptive meaning. The response cited in subparagraph 3a) directly applies to the use of the word mark "TAC" and the telescoped number by the registrant of U.S. Reg. No. 3829096. The full responses to the above referenced trademark applications are available on the USPTO website.
 - a. A mark that merely combines descriptive words is not registrable if the individual components retain their descriptive meaning in relation to the goods and the combination results in a composite mark that is itself descriptive.
- 4) U.S. Reg. No. 2843948 shows that the word "TAC" has been disclaimed (and thus treated as descriptive) in a very similar case. The response cited in subparagraph 4a) in an office action document required the applicant to disclaim the word "TAC". The full response to the above referenced trademark is available on the USPTO website.
 - a. The applicant must disclaim the descriptive wording "TAC" apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a). The wording is merely descriptive because the abbreviation stands for tactical. Please see below. The applicant's goods are used for tactical purposes.
- 5) Live registered marks such as "TAC-MAG", "TAC FORCE", "TAC 8", "TACTICAL 20", "20 TACTICAL", "RED TAC GEAR", etc have as part of their mark the word "TAC". The registrant may try to enforce "TAC" as being part of other live registered marks. The registrant has already served Stiller's Precision Firearms, LLC with cease and desist orders for usage of the marks in applications referenced in paragraph 2 and 3 above. Substantial cost and court time may be required to defend use of these registered marks by their owners.
- 6) Enforcement of U.S. Reg. No. 3829096 will result in multiple companies, including Stiller's Precision Firearms, LLC, (SPF) that now use the descriptive term "TAC" or "TACTICAL" in describing tactical use products, to be in violation of this registered mark. Substantial cost and court time may be required to defend use of this mark merely in a descriptive manner and will not be to the benefit of any of the parties involved. Many of these companies have been using the terms for a number of years. The registrant has already served SPF with cease and desist orders for descriptive usage of the word "TAC". SPF has used this term for nearly 8 years.

It is not the intention to cause damage or monetary loss to the registrant. The only intention is that Stiller's Precision Firearms, LLC and any other company that has a similar situation be able to use the word "TAC". The registrant may still use the mark if this petition is granted, just not exclusively. SPF pursued registration of multiple marks with the work "TAC" in them in 2005. Both attorneys and a USPTO examiner advised SPF that they could not be registered for the above reasons. It was much to the surprise on SPF's part, and the examiner of the above referenced applications, that McMillan was granted the mark.

ATTACHMENT: Website and usage by the registrant of U.S. Reg. No. 3829096 word mark "TAC" as shown at <http://www.mcmillanusa.com/mcmillan-rifles-tactical.php> on 11/29/2010 clearly shows it being used on tactical rifles. The word mark is merely descriptive because the abbreviation stands for tactical.



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Custom Collection
 Hunting Rifles

Long Range
 Hunting Rifles

Tactical Rifles

- TAC-308
- TAC-360
- TAC-338
- TAC-50
- M1A
- M3A
- SPEC TAC LR
- Colors & Finishes
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BEST-OF-BREED TACTICAL RIFLES DESIGNED FOR THE NEEDS OF THE PROFESSIONAL MARKSMAN.

Competition Rifles

Commemorative Rifle

Actions

Warranty

Service Plans

Through years of experience working with elite tactical forces stationed around the world, we have determined what works and what doesn't under the extreme conditions of actual military and law enforcement tactical applications. The McMillan Tactical Rifle represents a best-of-breed tactical rifle for the professional marksman.

Our rifles offer the features that working professional marksman demand. Our equipment works reliably every time - the way it is supposed to. It ergonomically fits the marksman, not just for a few shots at the range, but for hours or days hunkered down in a hide, waiting for a target to emerge. And our heritage of precision accuracy built into every McMillan tactical rifle has broken long range world records at competitive events, as well as on the battlefield.

The McMillan tactical rifle is designed for the professional marksman assigned with a critical mission in the harsh conditions of the real world.



TAC@-308



TAC@-360



TAC@-338



TAC-68



M1A



M3A



SPEC-TAC-LR