

TTAB



11-23-2001

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #28

David Barry 70083  
Barry & Associates  
580 California Street, 5<sup>th</sup> Floor  
San Francisco, CA 94104  
ph: (415) 398.6600 fax: (415) 398.6123  
Attorneys for Jacob Zimmerman  
805.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of

Registration No. 519,789 Registered Jan. 10 1950: REALTOR

JACOB ZIMMERMAN

No.

Petitioner

PETITION TO CANCEL

vs.

NATIONAL ASSOCIATION OF REALTORS

Registrant

1. Petitioner Jacob Zimmerman is an individual doing business under the fictitious business name BuildIdeas.com, located at 208 Dryden Road, No. 507, Ithaca, New York 14850.

2. Registrant National Association of Realtors (NAR) is an Illinois corporation with principal place of business at 430 North Michigan Ave., Chicago, Illinois 60611-4087. It owns the collective membership mark "realtor" No. 519,789 issued Jan. 10, 1950 to the National Association of Real Estate Boards. The latter organization changed its name to the National Association of Realtors and the mark ownership renewed each decade.

3. Petitioner has and will continue to be damaged by the above-identified registration and hereby petitions to cancel the same.

4. The subject mark "realtor" is generic. In common usage, it means a real estate agent, a phrase synonymous with realty agent.

11/27/2001 GTHDMAS2 00000166 0519789

01 FC:376

300.00 OP

1           5. The members of NAR are realty agents. NAR allows only those members to use the  
2 word "realtor" in connection with their businesses. NAR advises its members and all others that  
3 the use of the word "realtor" in connection with a web site name is contrary to the rules of NAR.  
4 NAR also advises members and nonmembers that it will take legal action against any person using  
5 the word "realtor" in a web site name.

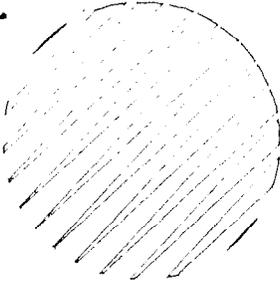
6           6. Petitioner is not a member of NAR, and has never been a member of NAR. He is not a  
7 real estate broker. Petitioner is in the business of buying and selling website addresses containing  
8 the word "realtor", such as, batonrouge-realtor.net, anaheim-realtors.net, abolinerealtors.com,  
9 siliconvalley-realtor.net. His business also includes providing services in connection with such  
10 web site addresses. For instance, petitioner has attempted to develop such sites as  
11 bostonrealtors.org as a location offering a selection of real estate agents in the Boston area who  
12 would pay petitioner to promote their services in the Boston area.

13           7. Petitioner owns approximately 1,900 web site names incorporating the term "realtor"  
14 and a geographic designation.

15           8. Petitioner is not permitted by NAR to use the word "realtor" in his web site names  
16 because he is not a member of NAR, and because NAR forbids the use of the word "realtor" in  
17 web site names.

18           9. Petitioner has been injured in his business by the continuance of the registration of the  
19 "realtor" mark. Potential purchasers of petitioner's web site are mainly real estate agents. Many  
20 such realty agents are aware of NAR's threats to file suit against any person using the term  
21 "realtor" in web site names, and are therefore unwilling to purchase any of petitioner's web site  
22 names. In addition, realty agents are unwilling to pay petitioner for placement on such web sites  
23 as bostonrealtors.org because of the threat by NAR to enjoin the use of such web site names.  
24 NAR's continuing registration of the "realtor" mark has severely lowered the demand for  
25 petitioner's web site names and petitioner's promotional services.





**B A R R Y &  
A S S O C I A T E S**



11-23-2001

U.S. Patent & TMO/TM Mail Rcpt Dt. #26

ATTORNEYS AT LAW

580 CALIFORNIA STREET, 5<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94104 / 415.398.6600 / FAX 415.398.6123

November 19, 2001

Sandra Thompson  
United States Patent & Trademark Office  
Trademark Trial & Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202

Re: Registration no. 519,789  
Mark: REALTOR  
Our file no.: 805.1

Dear Ms. Thompson,

Per your request, I am resending our petition to cancel registration number 519,789 along with a check in the amount of \$300. I am also enclosing a copy of the returned postcard from the PTO showing that our petition was received on August 16, 2001.

I will be canceling check number 2722, the check we had previously submitted, as you believe it to be lost.

Sincerely,

Rashad Perez  
Secretary to David Barry

11.19.01  
Encl.

11/19/01 2:05 PM