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Filing date: **06/12/2009**

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	Rockstar Capital, Inc.		
Entity	Corporation	Citizenship	Illinois
Address	5727 S. Lewis Ave., STE 500 Tulsa, OK 74105 UNITED STATES		

Attorney information	Michael E. Sellers TradeHelm, Inc. 5727 S. Lewis Ave., STE 500 Tulsa, OK 74105 UNITED STATES michael.sellers@tradehelm.com Phone:918.561.6966		
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**Registration Subject to Cancellation**

Registration No	3345459	Registration date	11/27/2007
Registrant	Zarnekee, Jerry 11274 Evergreen Loop Corona, CA 92883 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 036. First Use: 2005/09/02 First Use In Commerce: 2005/09/02 All goods and services in the class are cancelled, namely: Financial loan consultation; Home equity loans; Land acquisition, namely, real estate brokerage; Leasing of real estate; Leasing of real property; Loan financing; Mortgage banking; Mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage brokerage; Mortgage lending; Mortgage procurement for others; Mortgages services, namely, buyer pre-qualification of mortgages for mortgage brokers and banks; Real estate acquisition services; Real estate agencies; Real estate brokerage; Real estate consultancy; Real estate listing; Real estate management; Real estate procurement for others
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	77470205	Application Date	05/09/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	ROCKSTAR CAPITAL
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: Providing information about the trading of securities and commodities</p> <p>Class 036. First use: Agencies for brokerage of securities trading in overseas securities markets and of transactions on commission of overseas market securities futures; Agencies for commodity futures trading; Agencies or brokerage for trading of securities, securities index futures, securities options, and overseas market securities futures; Commodity trading for others; Fund investment services featuring the trading of an account holder's securities according to previously established criteria in order to maintain a predetermined level of payments to the account holder; Providing information on trading options and on profiting from the time delay of options; Securities trading and investing services for others via the internet</p>

Attachments	77470205#TMSN.jpeg ( 1 page )( bytes ) Petition_2_Cancel.pdf ( 3 pages )(943916 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. Sellers/
Name	Michael E. Sellers
Date	06/12/2009

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

In the Matter of United States	)	
Trademark Registration No. 3,345,459	)	Cancellation No. _____
	)	
ROCKSTAR CAPITAL, INC.,	)	Mark: ROCK STAR
Petitioner	)	Reg. No. 3,345,459
	)	Reg. Date: November 27, 2007
v.	)	
	)	
JERRY ZARNEKEE,	)	
Respondent	)	

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PETITION FOR CANCELLATION

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Petitioner, Rockstar Capital, Inc. (hereinafter “Rockstar”), believes that it has been and will continue to be damaged by the continued registration of the mark ROCK STAR of United States Trademark Registration No. 3,345,459 issued November 27, 2007, and hereby petitions to cancel said registration on the following grounds.

1. The Petitioner, Rockstar, is a corporation organized under the laws of the State of Illinois, with a business address of 5727 S. Lewis Ave., STE 500, Tulsa, Oklahoma, 74105.

2. Rockstar has since at least as early as October 1, 2003 continuously used in the United States and is now using in the United States the mark ROCKSTAR CAPITAL for a variety of services related to trading of financial instruments including securities trading and brokerage of securities.

3. Rockstar has since at least as early as October 1, 2003 continuously used in the United States and is now using in the United States the trade name ROCKSTAR CAPITAL, INC. for a variety of services related to trading of financial instruments including securities trading and brokerage of securities.

4. Rockstar’s use of its ROCKSTAR CAPITAL, INC. trade name in connection with its trading and brokerage services is analogous to trademark or service mark use.

5. Rockstar has established and now owns valuable goodwill in the mark ROCKSTAR CAPITAL and the trade name ROCKSTAR CAPITAL, INC., and these designations have become associated with the source of services provided by or under license from Rockstar.

6. Rockstar filed a United States trademark application on May 9, 2008 under Serial No. 77470205 (hereinafter “the ‘205 Application”), wherein registration is sought for the ROCKSTAR CAPITAL mark in International Class 035 for “providing information about the trading of securities and commodities” and in International Class 036 for “Agencies for brokerage of securities trading in overseas securities markets and of transactions on commission of overseas market securities futures; Agencies for commodity futures trading; Agencies or brokerage for trading of securities, securities index futures, securities options, and overseas market securities futures; Commodity trading for others; Fund investment services featuring the trading of an account holder's securities according to previously established criteria in order to maintain a predetermined level of payments to the account holder; Providing information on trading options and on profiting from the time delay of options; Securities trading and investing services for others via the internet” (hereinafter “Rockstar’s Services”).

7. On information and belief, Respondent Jerry Zarnekee (hereinafter “Zarnekee”) is the current owner of United States Trademark Registration No. 3,345,459 for the mark ROCK STAR (hereinafter “the ‘459 Registration”) for “Financial loan consultation; Home equity loans; Land acquisition, namely, real estate brokerage; Leasing of real estate; Leasing of real property; Loan financing; Mortgage banking; Mortgage banking services, namely, origination, acquisition, servicing, securitization and brokerage of mortgage loans; Mortgage brokerage; Mortgage lending; Mortgage procurement for others; Mortgages services, namely, buyer pre-qualification of mortgages for mortgage brokers and banks; Real estate acquisition services; Real estate agencies; Real estate brokerage; Real estate consultancy; Real estate listing; Real estate management; Real estate procurement for others” in International Class 036 with a filing date of August 26, 2005, an issuance date of November 27, 2007, and an alleged first use in commerce date of September 2, 2005.

8. On information and belief, Zarknekee’s current address is 11274 Evergreen Loop, Corona, California 92883.

9. The mark ROCKSTAR CAPITAL of the ‘205 Application has been refused registration by the trademark examining attorney under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), as being confusingly similar to the mark ROCK STAR of the ‘459 Registration.

**COUNT 1**

**(Priority of Use and Likelihood of Confusion  
Under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d))**

10. Rockstar incorporates by reference paragraphs 1 through 9 as if fully stated here.

11. Since prior to the filing date of the '459 Registration, Rockstar has been using its ROCKSTAR CAPITAL mark and ROCKSTAR CAPITAL, INC. trade name in connection with Rockstar's Services.

12. Since prior to the claimed first use date in the '459 Registration, Rockstar has been using its ROCKSTAR CAPITAL mark and ROCKSTAR CAPITAL, INC. trade name in connection with Rockstar's Services.

13. If as the trademark examining attorney contends, Rockstar's ROCKSTAR CAPITAL mark of the '205 Application so resembles Zarnekee's ROCK STAR mark of the '459 Registration as to be likely, when applied to Rockstar's Services, to cause confusion, then the '459 Registration should be cancelled because Rockstar has priority of use.

14. The continuous registration of Zarnekee's ROCK STAR mark is causing injury to Rockstar by preventing it from registering its ROCKSTAR CAPITAL mark, is impairing Rockstar's business plans, is inconsistent with Rockstar's rights, and will continue to cause injury to Rockstar until the '459 Registration is cancelled.

WHEREFORE, Rockstar respectfully requests that this Petition For Cancellation be sustained in its favor and that United States Trademark Registration No. 3,345,459 be canceled.

Respectfully submitted,  
ROCKSTAR CAPITAL, INC.

Dated: June 12, 2009

By: 

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