

ESTTA Tracking number: **ESTTA494966**

Filing date: **09/17/2012**

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	Todd Jones		
Entity	Individual	Citizenship	UNITED STATES
Address	3839 West Kennedy Blvd. Tampa, FL 33609 UNITED STATES		

Correspondence information	Stefan Stein Attorney GrayRobinson P.O. Box 3324 Tampa, FL 33601 UNITED STATES ptotpa@gray-robinson.com Phone:813-273-5000
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Registration Subject to Cancellation

Registration No	3401915	Registration date	03/25/2008
Registrant	REAL LIVING REAL ESTATE, LLC 77 EAST NATIONWIDE BOULEVARD COLUMBUS, OH 43215 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 2006/06/01 First Use In Commerce: 2006/06/01 All goods and services in the class are cancelled, namely: real estate services, namely real estate brokerage

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85485910	Application Date	12/02/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	REALADVICE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1994/01/01 First Use In Commerce: 1994/04/01 Real estate appraisal

Attachments	85485910#TMSN.jpeg (1 page)(bytes) Petition_for_Cancellation.pdf (3 pages)(47378 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	/stefan v. stein/
Name	Stefan Stein
Date	09/17/2012

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Todd Jones d/b/a Real Advice)	Cancellation No. _____
Petitioner,)	Mark: real advice
)	Registration No.: 3,401,915
v.)	
)	
Real Living, Inc.,)	
)	
Registrant.)	
_____)	

PETITION FOR CANCELLATION
OF REGISTRATION

Todd Jones d/b/a Real Advice a resident of the State of Florida, and having a place of business at 3839 West Kennedy Blvd., Tampa, Florida 33609 (hereinafter the "Petitioner") believes that it will be damaged by the continued registration of the mark "real advice" which is the subject of Registration No. 3,401,915, registered March 25, 2008, listing "real estate brokerage services; namely, real estate brokerage" (hereinafter the "Registration"), whose current owner of record is Real Living, Inc. (hereinafter "Registrant"), and hereby petitions for a cancellation of the Registration.

The grounds in support of this Petition are as follows :

1. Petitioner is in the business of providing real estate appraisal services under the SM "REALADVICE." Since of April 1, 1999, Petitioner has continuously used SM "REALADVICE" in interstate commerce for real estate brokerage services.

2. Petitioner filed an application on December 2, 2011, claiming a date of first use of SM "REALADVICE" of April 1, 1999 for real estate brokerage services.

3. The application listed in Paragraph 2 of this Petition has been refused registration by the U.S. Patent and Trademark Office under §2(d) of the Trademark Act, 15 U.S.C. § 1052(d) because of a purported likelihood of confusion with the Registration 3,401,915 owned by Registrant with a date of first use of June 1, 2006.

4. Petitioner's date of first use of SM "REALADVICE" is well before the claimed date of first use of "real advice" by Registrant.

5. Upon information and belief, Registrant has abandoned use of "real advice." Further, upon information and belief, Registrant's abandonment of "real advice" occurred more than three years ago and therefore presumptively with the intent not to resume use.

6. Petitioner believes that it has been damaged, and will continue to be damaged by the Registration because existence of the Registration has already resulted in a initial refusal to register Petitioner's SM "REALADVICE" registration application, and continued existence of the Registration threatens to further delay and/or deny Petitioner substantive legal rights under federal registration of that mark which Petitioner believes it is entitled to obtain, and would be likely to obtain, but for the Registration. Petitioner also believes that the Registration has also caused, and would continue to cause damage and injury to Petitioner because the continued existence of the Registration.

WHEREFORE, Petitioner prays that the Registration be cancelled and that this Petition be sustained.

Date: September 17, 2012

Respectfully submitted,

/Stefan V. Stein/
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