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Filing date: **05/21/2013**

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	Parkside Mill, Inc.		
Entity	Corporation	Citizenship	united states
Address	500 Tenth St. NE Atlanta, GA 30309 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:(800)906-8626 x 100		
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### Registration Subject to Cancellation

Registration No	4273284	Registration date	01/08/2013
Registrant	Prime Bar America, L.L.C. 1840 Pickwick Lane Glenview, IL 60026 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 043. First Use: 2012/06/15 First Use In Commerce: 2012/06/15 All goods and services in the class are cancelled, namely: Bar services; Restaurant services
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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.	85734251	Application Date	09/20/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PARK TAVERN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2000/00/00 First Use In Commerce: 2000/00/00 Restaurant services		

Attachments	Petition To Cancel.pdf(93504 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	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	05/21/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 4,273,284  
For the mark PARK TAVERN  
Registered on the Principal Register on January 8, 2013

Parkside Mill, Inc., d/b/a Park Tavern	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
Prime Bar America, L.L.C.	:	
	:	
Registrant.	:	

**PETITION TO CANCEL**

Petitioner, Parkside Mill, Inc., d/b/a Park Tavern (hereinafter “Petitioner”), a Georgia Corporation with a principal place of business located at 500 Tenth St. NE, Atlanta, GA 30309 believes that it is and will continue to be damaged by the continued registration of U.S. Registration 4,273,284 for the mark PARK TAVERN and, accordingly, hereby petitions this honorable tribunal to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111(b).

**Grounds for Cancellation**

As grounds for the instant Petition to Cancel, it is alleged that the continued registration of Registrant Prime Bar America, L.L.C.’s (hereinafter “Registrant”) mark PARK TAVERN as more fully displayed in U.S. Registration No. 4,273,284, would be likely to cause confusion with Petitioner’s mark PARK TAVERN which retains priority of use over Registrant’s mark PARK TAVERN by virtue of its prior use in commerce in the United States.

**Statement of Facts**

In support of the instant Petition to Cancel, it is alleged that:

1. Petitioner is the owner of the mark PARK TAVERN used on or in connection with Restaurant Services.

2. Petitioner first used the mark PARK TAVERN in connection with the above-identified services in interstate commerce in Year 2000.

3. Petitioner's use of the mark PARK TAVERN in connection with the above-identified services has been continuous since Year 2000.

4. Petitioner has invested significant sums of money in the promotion of the mark PARK TAVERN and the Petitioner's services in the United States.

5. As a result of the aforesaid, Petitioner has developed a valuable reputation and goodwill in its PARK TAVERN mark and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant's application to register the mark PARK TAVERN identified more fully in U.S. Registration No. 4,273,284.

6. On September 20, 2012, Petitioner filed an application to register the mark PARK TAVERN used on or in connection with restaurant services in International Class 43. The application received Trademark Application No. 85/734,251.

7. On or about January 17, 2013, Petitioner received an Office Action refusing to register its mark PARK TAVERN, identified more fully in its Trademark Application No. 85/734,251, citing likelihood of confusion with Registrant's mark PARK TAVERN, identified more fully in U.S. Registration No. 4,273,284.

8. Based upon information and belief, Registrant is an Illinois Limited Liability Company with a principal place of business of 1840 Pickwick Lane, Glenview, IL 60026.

9. Based upon information and belief Registrant is using the mark PARK TAVERN in connection with Bar and Restaurant Services in International Class 43.

10. Registrant's registration identified more fully in U.S. Registration No. 4,273,284 was filed with the United States Patent and Trademark Office on December 14, 2011.

11. Upon information and belief, Registrant first used the mark PARK TAVERN in connection with the services covered by its registration in the United States on or about June 15, 2012.

12. As such, Petitioner's rights in the mark PARK TAVERN have priority of use over Registrant's rights in the mark PARK TAVERN, U.S. Registration No. 4,273,284, inasmuch as Petitioner commenced its use of the mark PARK TAVERN in connection with its services in interstate commerce prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of the mark PARK TAVERN.

13. Upon information and belief, the services listed in the Registrant's Registration and the services in connection with Petitioner's Mark are similar in kind and closely related.

14. Petitioner believes that consumers confronted with the Registrant's mark PARK TAVERN will inevitably be confused and deceived into the mistaken belief that the Registrant's services have their origin or are in some manner connected with the Petitioner and/or Petitioner's services offered in connection with Petitioner's PARK TAVERN mark.

15. The continued registration of Registrant's mark confers upon Registrant rights to which it is not entitled and is inconsistent with the prior established rights of Petitioner in its mark PARK TAVERN.

16. By reason of the foregoing, the Petitioner will be seriously damaged by the continued registration of Registrant's PARK TAVERN mark.

WHEREFORE the Petitioner, Parkside Mill, Inc., d/b/a Park Tavern, by counsel, prays that the instant petition be granted and U.S. Registration No. 4,273,284, be cancelled.

Respectfully submitted this 21<sup>st</sup> day of May, 2013.

The Trademark Company, PLLC

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Counsel for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 4,273,284  
For the mark PARK TAVERN  
Registered on the Principal Register on January 8, 2013

Parkside Mill, Inc., d/b/a Park Tavern	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
Prime Bar America, L.L.C.	:	
	:	
Registrant.	:	

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing document has been served by U.S.

First Class, postage prepaid, this 21st day of May, 2013, to the following:

Thomas Donovan, Esq.  
Barnes and Thornburg, LLC  
PO BOX 2786  
Chicago, IL 60690

/Matthew H. Swyers/  
Matthew H. Swyers