

ESTTA Tracking number: **ESTTA585892**

Filing date: **02/05/2014**

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	Lisa Alyn		
Entity	Individual	Citizenship	UNITED STATES
Address	7105 Crossroads Blvd Brentwood, TN 37027 UNITED STATES		

Attorney information	Gregory D. Latham Intellectual Property Consulting, LLC 201 St. Charles Ave., Suite 2500 New Orleans, LA 70170 UNITED STATES glatham@iplawconsulting.com Phone:5043227166		
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Registrations Subject to Cancellation

Registration No	3101151	Registration date	06/06/2006
Registrant	Southern Land Company, LLC 501 Corporate Center Drive, Suite 200 Franklin, TN 370672661 TUNISIA		

Goods/Services Subject to Cancellation

Class 036. First Use: 2002/01/31 First Use In Commerce: 2002/01/31 All goods and services in the class are cancelled, namely: Real estate brokerage services; leasingof real estate; real estate management
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Registration No	3101150	Registration date	06/06/2006
Registrant	Southern Land Company, LLC 501 Corporate Center Drive, Suite 200 Franklin, TN 370672661 TUNISIA		

Goods/Services Subject to Cancellation

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Attachments	Petition for Cancellation.pdf(16614 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	/Greg Latham/
Name	Gregory D. Latham
Date	02/05/2014

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

Lisa Alyn
Petitioner,

v.

Southern Land Company, LLC
Registrant.

Cancellation No.

U.S. Trademark Reg. Nos. 3,101,151 and
3,101,151

PETITION FOR CANCELLATION

Lisa Alyn, an individual with her principal place of business at 7105 Crossroads Blvd., Suite 102, Brentwood, TN 37027, believes that she is or will be damaged by Registration No. 3,101,151 for WESTHAVEN and No. 3,101,150 for W WESTHAVEN and Design granted to Respondent, Southern Land Company, LLC and, therefore, files this petition to cancel those registrations. The grounds for cancellation are as follows:

1. Petitioner is real estate agent, real estate broker, and real estate consultant.
2. Petitioner advertises and provides her services in the community known as “Westhaven” in Franklin, Tennessee.
3. Petitioner received a cease and desist letter dated October 21, 2013 from Respondent demanding that she cease using the term “Westhaven” to advertise her real estate services.
4. Respondent is believed to be the owner of record of United States Trademark Registration No. 3,101,151 for the mark WESTHAVEN and No. 3,101,150 for W WESTHAVEN and Design; both in respect to real estate brokerages services, real estate development, landscape design and gardening.

5. Respondent filed its application to register the WESTHAVEN mark on June 20, 2003. The application was assigned Serial No. 76/524,401.

6. Respondent filed its application to register the W WESTHAVEN mark on June 20, 2003. The application was assigned Serial No. 76/524,137.

7. The trademark examiner issued two Office Actions on January 5, 2004; one for each of Respondent's applications (attached as "Exhibit A").

8. Both Office Actions included the following unambiguous statement:

The applicant must indicate whether "WESTHAVEN" has any significance in the relevant trade, or any geographical significance. 37 C.F.R. §2.61(b).

9. In its July 6, 2004 responses to the two Office Actions (attached as "Exhibit B"), Respondent provided the following fraudulent statement to the United States Patent and Trademark Office ("USPTO"):

Applicant submits that "WESTHAVEN" does not have any significance in the relevant trade, or any geographical significance.

10. Notwithstanding Respondent's statements, Respondent knew that "Westhaven" is a community in Franklin, Tennessee.

11. "Westhaven" has geographical significance; in fact, the Petitioner lives in "Westhaven" and both the Petitioner and Respondent conduct business in Westhaven.

12. If Respondent had advised the USPTO that WESTHAVEN had geographical significance, both registrations would have been refused under 15 U.S.C. § 1052(e).

13. Respondent obtained U.S. Trademark Registration No. 3,101,151 and No. 3,101,150 by fraud on the USPTO.

14. Petitioner will be damaged by the continued existence of United States Trademark Registration No. 3,101,151 and No. 3,101,150 because they will give color of rights to the Respondent and will continue to be an impediment to Petitioner's ability to use "Westhaven" in regards to her business services and advertising.

WHEREFORE, Petitioner prays for cancellation of United States Trademark Registrations No. 3,101,151 and No. 3,101,150, and also requests that it be granted such further relief as the Trademark Trial and Appeal Board may deem necessary and just.

Respectfully submitted,

Dated: February 5, 2014

/ Greg Latham /
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Attorneys for Petitioner, Lisa Alyn

CERTIFICATE OF SERVICE

I certify that on this 5th day of December, a true copy of the above Petition for Cancellation was served via e-mail and via First Class Mail on James R. Michels, counsel of record for Respondent.

By: /Greg Latham/
Gregory D. Latham