

ESTTA Tracking number: **ESTTA595078**

Filing date: **03/27/2014**

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	CWS Apartment Homes, LLC		
Entity	Corporation	Citizenship	Delaware
Address	9606 N. Mopac Expwy Suite 500 Austin, TX 78759 UNITED STATES		

Attorney information	Gail Taylor Russell Taylor Russell & Russell, P.C. 10601 FM 2222, Ste. R-12 Austin, TX 78730 UNITED STATES gtrussell@russell-law.com Phone:512-338-4601
----------------------	--

Registration Subject to Cancellation

Registration No	4413440	Registration date	10/08/2013
Registrants	Schlossberg, Blair 4828 Ashford Dunwoody Rd., Suite 400 Atlanta, GA 30338 USX Manoah, Moshe 4828 Ashford Dunwoody Rd., Suite 400 Atlanta, GA 30338 USX		

Goods/Services Subject to Cancellation

Class 036. First Use: 2009/05/04 First Use In Commerce: 2009/05/04 All goods and services in the class are cancelled, namely: Leasing of real estate; Real estate investment services; Real estate managementservices
--

Grounds for Cancellation

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

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85956961	Application Date	06/11/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MARQUIS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1992/11/01 First Use In Commerce: 1992/11/01 Management and leasing of apartments

U.S. Application No.	85969417	Application Date	06/25/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	M MARQUIS		
Design Mark			
Description of Mark	The mark consists of the "MARQUIS" LOGO and a STYLIZED "M".		
Goods/Services	Class 036. First use: First Use: 2012/06/01 First Use In Commerce: 2012/06/01 Management and leasing of apartments		

Attachments	85956961#TMSN.jpeg(bytes) 85969417#TMSN.jpeg(bytes) Petition for Cancellation 801388.pdf(132476 bytes)
-------------	---

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	/Gail Taylor Russell/
Name	Gail Taylor Russell
Date	03/27/2014

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

In the Matter of Registration No. 4,413,440: MARQUIS INVESTMENTS

Registration Date: October 8, 2013

CWS Apartment Homes, LLC,)	
)	Cancellation No. _____
Petitioner,)	
)	
v.)	
)	
Blair Schlossberg)	
)	
and)	
)	
Moshe Manoah,)	
)	
Registrants)	

PETITION FOR CANCELLATION

CWS Apartment Homes, LLC (“Petitioner”), a Delaware limited liability company, having a place of business at 9606 N. Mopac Expwy, Suite 500, Austin Texas 78759 believes that it is damaged and will continue to be damaged by United States Trademark Registration No. 4,413,440 (the “Registration”) on the Principal Register for the mark MARQUIS INVESTMENTS and hereby petitions to cancel the same. The grounds for the cancellation are as follows:

1. Petitioner is a leading provider of management and leasing of apartment services throughout the United States.
2. Upon information and belief, registrants Moshe Manoah and Blair Schlossberg (collectively “Registrants”), are individuals having an address of 4828 Ashford Dunwoody Rd., Suite 400, Atlanta, Georgia 30338
3. Petitioner is the owner of United States Trademark Application No. 85956961 for the mark MARQUIS and United States Trademark Application No. 85969417 for the mark MARQUIS logo

(collectively the “Petitioner’s Applications”) in connection with “management and leasing of apartment services” in International Class 36. Petitioner uses the Petitioner’s Marks for and in connection with the management and leasing of apartment services.

4. Petitioner currently uses the MARQUIS marks in connection with all of the services identified in the Petitioner’s Applications. Petitioner has used the MARQUIS marks in connection with above-identified services since at least November 1, 1992.

5. Petitioner also enjoys common law rights in its MARQUIS marks by virtue of the use of the MARQUIS marks in interstate commerce with management and leasing of apartment services.

6. Petitioner has, at great expense, continuously engaged in the sale and promotion of the management and leasing of apartment services under and in connection with the MARQUIS marks. By reason of its efforts and by virtue of, among other things, Petitioner’s sales and promotion efforts and the high quality of Petitioner’s services, Petitioner has gained a valuable reputation and goodwill in the MARQUIS marks, which are recognized as a source indicator of Petitioner’s services.

7. Registrants filed United States Trademark Application No. 85761892 on October 24, 2012. On October 8, 2013, Registrants were granted Registration No. 4,413,440 (the “Registration”) for such application for and in connection with “Leasing of real estate; Real estate investment services; Real estate management services” in International Class 36. The Registration claims first use in interstate commerce on May 4, 2009.

8. Petitioner’s actual and constructive dates of first use for the MARQUIS marks with the services precede Registrants’ trademark filing date and date of first use in interstate commerce.

9. Registrants’ mark appropriates the entirety of Petitioner’s MARQUIS marks and the marks as a whole create substantially the same commercial impression. The term “INVESTMENTS” added at the end of Registrants’ mark is merely descriptive of the Registrants’ services under § 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1) because it merely describes a feature of Registrants’ services. Therefore, Registrants’ mark creates substantially the same commercial impression as Petitioner’s MARQUIS marks.

10. The services identified in the Registration are confusingly similar to the services described in Petitioner's applications for the MARQUIS mark and to the services Petitioner offers and has offered in interstate commerce under its MARQUIS marks. Such services are likely to be offered to and/or purchased by the same or overlapping classes of customers, and through the same or overlapping channels of trade, so that prospective purchasers and others are likely to be confused as to whether services offered under Registrants' MARQUIS mark emanate from or are in some way affiliated with, sponsored, or approved by Petitioner or are otherwise related to the Petitioner or Petitioner's services, thereby damaging Petition.

11. Registrants' are not entitled to the registration for the reason, among others, that the trademark MARQUIS, for use on or in connection with the services identified in the Registration, so resembles Petitioner's previously used MARQUIS mark as applied to Petitioner's services so as to be likely to cause confusion, to cause mistake or to deceive within the meaning of § 2(d) of the Lanham Act, 15. U.S.C. § 1052 (d), thereby damaging Petitioner.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained in favor of Petitioner and that Registration No. 4,413,440 be canceled.

Respectfully submitted,

CWS APARTMENT HOMES, LLC
By its attorneys,

By: /s/ Gail Taylor Russell

Gail Taylor Russell
Taylor Russell & Russell, P.C.
10601 FM2222
Bldg. R-12
Austin, TX 78730
Phone: 512-338-4601
Facsimile: 512-338-4651
Email: gtrussell@russell-law.com

March 27, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of PETITION FOR CANCELLATION has been served on Registrants' attorney of record by First Class Mail postage prepaid, on March 27, 2014 at the following address:

Laura Kees, Esq.

Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309

By: /s/ Gail Taylor Russell
Gail M. Taylor Russell