

ESTTA Tracking number: **ESTTA708989**

Filing date: **11/17/2015**

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	WEALTHTRUST LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	8434 East Shea Boulevard Scottsdale, AZ 85260 UNITED STATES		

Attorney information	Victoria J. B. Doyle Fried Frank LLP One New York Plaza New York, NY 10004-1980 UNITED STATES victoria.doyle@friedfrank.com, teas@friedfrank.com Phone:212-859-8000		
----------------------	--	--	--

Registration Subject to Cancellation

Registration No	4792230	Registration date	08/11/2015
Registrant	Wealthpoint Investments LLC 76 Indian Bayou Dr. Destin, FL 32541 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 2015/02/14 First Use In Commerce: 2015/02/14 All goods and services in the class are cancelled, namely: Insurance and financial services, namely, investment management, investment advisory services, financial planning, estate trust planning and insurance consultancy

Grounds for Cancellation

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

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WEALTHTRUST		
Goods/Services	financial services, including but not limited to investment management		

Attachments	PET FOR CANC WEALTHTRUST.pdf(157772 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	/vjbd/
Name	Victoria J. B. Doyle
Date	11/17/2015

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

In the Matter of Registration No. 4,792,230
issued on August 11, 2015 for WEALTHTRUST
ASSET MANAGEMENT

WEALTHTRUST LLC,

Petitioner,

v.

WEALTHPOINT INVESTMENTS LLC,

Registrant.

Cancellation No.

PETITION FOR CANCELLATION

WEALTHTRUST LLC (“WealthTrust” or “Petitioner”), a company organized and existing under the laws of Delaware with its principal place of business at 8434 East Shea Boulevard, Scottsdale, Arizona 85260, believes that it has been and will be damaged by the continued presence on the Supplemental Register of Registration No. 4,792,230, dated August 11, 2015, for the trademark WEALTHTRUST ASSET MANAGEMENT for “Insurance and financial services, namely, investment management, investment advisory services, financial planning, estate trust planning and insurance consultancy” in International Class 36 (hereinafter, “the Contested Mark”).

As grounds of cancellation, it is alleged that:

FIRST CAUSE OF ACTION

1. Petitioner is the parent entity of eight investment management firms located throughout the U.S., which provide comprehensive wealth management services to individuals

and families (the “WealthTrust Group”). It also is the owner of the domain name www.wealthtrust.com, which it first acquired in 1997, and related website.

2. Petitioner WealthTrust provides client services and other support to the WealthTrust Group. The WealthTrust Group manages more than \$5 billion in client assets. A description of WealthTrust company operations appears at the Internet web site associated with the domain name www.wealthtrust.com.

3. Commencing in 1997, long prior to Registrant’s filing date and claimed first use of the Contested Mark, Petitioner used the WEALTHTRUST trademark in association with financial services, including investment management, in United States commerce.

4. WealthTrust’s affiliate, WealthTrust Arizona LLC, has provided WEALTHTRUST financial services to clients throughout the United States continuously since 2006. A description of WealthTrust – Arizona operations appears at the Internet web site associated with the domain name <http://wealthtrust-arizona.com>.

5. WealthTrust’s affiliate, WealthTrust Fairport, LLC, has provided investment management services in U.S. commerce continuously since 2001. WealthTrust’s affiliate, WealthTrust Axiom, LLC, has provided financial services in U.S. commerce continuously since 2003.

6. By reason of nearly 20 years of continuous use, Petitioner’s WEALTHTRUST mark symbolizes extensive goodwill identifying the WealthTrust Group.

7. Petitioner’s WEALTHTRUST mark was well-known prior to Registrant’s filing date of September 19, 2014, based upon an intent-to-use, and claimed first use date of February 14, 2015.

8. It was not until long after WealthTrust commenced use of the WEALTHTRUST mark for diverse financial services in United States commerce that Registrant adopted and allegedly commenced use of the Contested Mark as a purported mark for “Insurance and financial services, namely, investment management, investment advisory services, financial planning, estate trust planning and insurance consultancy” in International Class 36.

9. Registrant obtained Registration No. 4,792,230 on August 11, 2015, for WEALTHTRUST ASSET MANAGEMENT as a purported designation of the origin of “insurance and financial services, namely, investment management, investment advisory services, financial planning, estate trust planning and insurance consultancy” based on an alleged first use date of February 14, 2015.

10. The Contested Mark so resembles Petitioner’s WEALTHTRUST mark as to be likely, when used on or in connection with the services identified in Registration No. 4,792,230, to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Registrant with Petitioner, or as to the origin, sponsorship, source or approval of Registrant’s goods by Petitioner.

11. Petitioner believes that it has been and will be damaged by the continued existence of Registration No. 4,792,230 for the designation WEALTHTRUST ASSET MANAGEMENT, because such registration supports and assists Registrant in the confusing and misleading use of Registrant’s designation WEALTHTRUST ASSET MANAGEMENT, and because such registration purports to create statutory rights in Registrant in violation and derogation of the prior and superior rights of Petitioner.

WHEREFORE, Petitioner believes that it is being and will be damaged by the continued presence on the Supplemental Register of Registration No. 4,792,230 for WEALTHTRUST ASSET MANAGEMENT and petitions that it be cancelled.

Please recognize as attorneys for Petitioner in this proceeding Henry C. Lebowitz, Jeffrey I. D. Lewis, and Victoria J. B. Doyle (members of the Bar of the State of New York), and the law firm of Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004. Please address all communications to Victoria J. B. Doyle, Esq. at the above address.

Respectfully submitted,

Dated: November 17, 2015

By: /Victoria J. B. Doyle/
Henry C. Lebowitz
Jeffrey I. D. Lewis
Victoria J. B. Doyle

FRIED FRANK HARRIS SHRIVER &
JACOBSON LLP
One New York Plaza
New York, New York 10004-1980
(212) 859-8000
henry.lebowitz@friedfrank.com
jeffrey.lewis@friedfrank.com
victoria.doyle@friedfrank.com

Attorneys for Petitioner
WealthTrust LLC

CERTIFICATE OF SERVICE

I certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that on the 17th day of November, 2015, I caused to be served on the following, by First Class Mail, postage prepaid, a true copy of the foregoing Petition for Cancellation:

Mr. John McHugh
Wealthpoint Investments LLC
76 Indian Bayou Drive
Destin, Florida 32541

/Victoria J. B. Doyle/
Victoria J. B. Doyle