

ESTTA Tracking number: **ESTTA742033**

Filing date: **04/25/2016**

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	Arbor Commercial Mortgage		
Entity	LLC	Citizenship	New York
Address	333 Earle Ovington Blvd. Suite 900 Uniondale, NY 11553 UNITED STATES		

Attorney information	Karen I. Levin; Damias A. Wilson Cullen and Dykman, LLP 100 Quentin Roosevelt Blvd. Garden City, NY 11530 UNITED STATES klevin@cullenanddykman.com, dwilson@cullenanddykman.com Phone:516-357-3700		
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Registration Subject to Cancellation

Registration No	3694249	Registration date	10/06/2009
Registrant	Venture Max Ltd. Unit 12 London, NW37BN UNITED KINGDOM		

Goods/Services Subject to Cancellation

Class 035. First Use: 2006/03/01 First Use In Commerce: 2006/03/01 All goods and services in the class are cancelled, namely: Business administration consultancy; Business consultation services; Business consulting and business information for enterprises; Business consulting and information services; Business consulting, management, planning and supervision; Business development services, namely, providing start-up support for businesses of others; Business management consultancy and advisory services; Consulting services in business organization and management; Management and business consulting services in the field of online media businesses and services

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition to Cancel Reg No 3694249.pdf(28383 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	/Damias Wilson/
Name	Damias Wilson
Date	04/25/2016

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

In re Reg. No. 3,694,249 - ALEX;
Registered October 6, 2009

Arbor Commercial Mortgage, LLC,

Petitioner,

v.

Venture Max, Ltd.,

Respondent.

Cancellation No. _____

PETITION TO CANCEL

Arbor Commercial Mortgage, LLC (“Arbor” or “Petitioner”), a New York State limited liability company, with its principal place of business at 333 Earle Ovington Boulevard, Suite 900, Uniondale, NY 11553, will be damaged by the continued registration of the mark ALEX, shown in Reg. No. 3,694,249, which was registered to Venture Max, Ltd., Unit 12, 571 Finchley Road, London United Kingdom NW37BN (“Respondent”) on October 6, 2009, and hereby petitions to cancel this registration pursuant to Section 14 of the Trademark Act of 1946, 15 U.S.C. § 1064.

As grounds for cancellation, Petitioner alleges the following:

1. On January 15, 2015, Petitioner filed with the U.S. Patent and Trademark Office an application (“Application”) now bearing the Serial Number 86-504,082 for the mark ALEX for use in connection with: “Business management and business administration services, namely online loan processing, document collection and management, communication, and tracking of loan status via the Internet. Advertising and promotion of commercial lending services provided via the Internet” in international class 35; and “Lending services, namely, providing online

applications for commercial mortgages and other financial services; direct forwarding of online commercial mortgage and financial services applications to primary lender” in international class 36.

2. On April 27, 2015, the examining attorney issued an initial refusal of the Application because of a likelihood of confusion with the mark in U.S. Registration No. 3,694,249.

3. On October 27, 2015, Petitioner responded to the April 27 Office Action explaining that on information and belief, the services offered in connection with the mark in U.S. Registration No. 3,694,249 are sufficiently different from the services offered by Petitioner and listed in the Application that there is no likelihood of confusion between the two marks.

4. At the same time, after consultation with the examining attorney, Petitioner amended the Application to clarify the services in connection with which the mark would be used. The Application, as amended, claimed an intent to use the ALEX mark in connection with: “Online loan processing, document collection and management, communication, and tracking of loan status via the Internet; Advertising and promotion of commercial lending services provided via the Internet” in international class 35; “Money lending services, namely, providing online applications for commercial mortgages; direct forwarding of online commercial mortgage applications to primary lender” in international class 36; and “Providing an interactive website featuring technology that allows users to process loans, communicate and track loan statuses online” in international class 42.

5. On November 23, 2015, the examining attorney again issued a refusal of the Application based on likelihood of confusion with the mark in U.S. Registration No. 3,694,249.

6. In January 2016, Petitioner began using the ALEX mark in commerce in connection with the above-referenced services. Petitioner is not aware of any instances of actual consumer confusion between Petitioner's mark and Respondent's mark.

7. Petitioner's counsel has made numerous attempts to contact counsel for Respondent, but has received no response.

8. Respondent owns U.S. Trademark Registration No. 3,694,249 for the mark ALEX for use in connection with "Business administration consultancy; Business consultation services; Business consulting and business information for enterprises; Business consulting and information services; Business consulting, management, planning and supervision; Business development services, namely, providing startup support for businesses of others; Business management consultancy and advisory services; Consulting services in business organization and management; Management and business consulting services in the field of online media businesses and services." in international class 35.

9. On October 5, 2015, Respondent, through its counsel, submitted a combined declaration of use and incontestability under sections 8 and 15. The specimen submitted with the Section 8 and 15 filing was a digital mock-up of a business card. The specimen listed a stylized version of the name ALEX, the name "Alex Shamash, Medial Consultant," an email address of alex@alex.com, the website URL www.alex.com, and U.S. and U.K. telephone and fax numbers.

10. On information and belief, Registrant does not currently use the ALEX mark in commerce anywhere in the United States.

11. On information and belief, Venture Max Ltd., is no longer in business in the United States or the United Kingdom, and Venture Max Ltd. does not maintain a physical address or active telephone number.

