

ESTTA Tracking number: **ESTTA87532**

Filing date: **06/28/2006**

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	BrianA.Petrelli		
Entity	Individual	Citizenship	UNITED STATES
Address	200 W. Plaza Drive Suite 200 Highlands Ranch, CO 80129 UNITED STATES		

Attorney information	Peter C. Lemire, Esq Leyendecker & Lemire, LLC 16-A Inverness Place East Suite 100 Englewood, CO 80112 UNITED STATES general@lld-law.com Phone:(303) 760-0650		
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### Registration Subject to Cancellation

Registration No	2303147	Registration date	12/28/1999
Registrant	SHEA HOMES LIMITED PARTNERSHIP 655 Brea Canyon Road Walnut, CA 91789 UNITED STATES		
Goods/Services Subject to Cancellation	Class 037. First Use: 1978/00/00 , First Use In Commerce: 1978/00/00 Goods/Services: construction services, namely, planning, laying out, and development of residential and commercial communities		
Grounds for Cancellation	The registered mark has become the generic name for the goods.		

Attachments
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Signature
Name
Date

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

In the matter of trademark Registration No. 2303147

For the mark: HIGHLANDS RANCH

Date registered: December 28, 1999

\_\_\_\_\_)  
(BRIAN A. PETRELLI) )  
 )  
Petitioner )  
 )  
v. )  
 )  
(SHEA HOMES LIMITED PARTNERSHIP) )  
 )  
Registrant )  
\_\_\_\_\_)

PETITION TO CANCEL

Petitioner Brian A. Petrelli (Petitioner) is a Colorado resident having his principle place of business at 200 W. Plaza Drive Suite 200, Highlands Ranch, CO 80129.

To the best of petitioner's knowledge, the name and address of the current owner of the registration is SHEA HOMES LIMITED PARTNERSHIP 655 Brea Canyon Road Walnut, CA91789, successor in interest to Mission Viejo Corporation (collectively referred to as "SHEA").

The above identified petitioner believes that he has been and will be damaged by Registration No. 2303147, and hereby petitions to cancel the same because the alleged phrase "HIGHLANDS RANCH" is generic, and/or was fraudulently obtained.

As grounds of this petition to cancel, it is alleged that:

1. Petitioner operates a successful real estate and mortgage brokerage business operating primarily out of the Highlands Ranch region. He has owned the domain name and operated the website *www.myhighlandsranch.com* since about April 30th, 2002.
2. SHEA filed for federal trademark registration for the phrase "HIGHLANDS RANCH" on November, 27 1996 in International Class 37 for use in connection with "construction services, namely, planning, laying out, and development of residential and commercial communities." Registration was issued on December 28, 1999.
3. A Combined Declaration of Use and Incontestability under Sections 8 & 15 was filed by SHEA on December 22, 2005, and approved on June 10, 1006.
4. The Northwestern region of Douglas County commonly known as "Highlands Ranch" has been previously know by the name(s) "Highlands Ranch" and/or "Highland Ranch" since at least 1932.
5. "HIGHLANDS RANCH" has been used by numerous businesses as a geographic identifier for over 25 years.
6. As of the date of this action a search of the Colorado Secretary of State Business Database for business names, trade-names, trademarks and miscellaneous listings with "HIGHLANDS RANCH" returned 544 matching records.
7. Of the 544 matching records cited in paragraph 6, an examination revealed at least but not limited to 39 businesses, trade-names or miscellaneous listings related to construction and/or real estate services.
8. The Highlands Ranch Regional Post Office located at 9609 South University Boulevard Highland Ranch, CO 80126, opened in 1992.

9. Currently the phrase "HIGHLANDS RANCH" is used as a mailing address corresponding to the zip-codes, 80124, 80126, 80129, 80130, and 80163.
10. A Dex/Online Yellow Pages ® Search for businesses in Highlands Ranch Colorado that use the term "HIGHLANDS RANCH" returned 319 matching records.
11. As of the date of this action a Google® search for the term "HIGHLANDS RANCH" generated 4,560,000 hits. A Yahoo® search for the same term generated 1,770,000 hits.
12. A search of registered domains names with the phrase "HIGHLANDS RANCH" from the web-site *www.namedroppers.com* returned 389 matching records.
13. By information and belief the relevant public associates the phrase "HIGHLANDS RANCH" as a generic descriptor for the region of Douglas County generally West of I-25 and East of Santa-Fe Blvd; including developments and municipalities not related to SHEA and/or its licensees. This region is home to approximately 100,000 residents and thousands of businesses.
14. The relevant public does not understand nor associate the phrase "HIGHLANDS RANCH" as a source identifier for goods or services.
15. SHEA and its licensees have practiced inadequate and inconsistent marking of the phrase "HIGHLANDS RANCH" as a trademark and/or servicemark.
16. At the time SHEA applied for trademark registration of the phrase "HIGHLANDS RANCH," numerous businesses, schools and governmental entities within the region were using the phrase in commerce.
17. On information and belief, SHEA was aware of the use of the phrase "HIGHLANDS RANCH" by the entities indicated in paragraph 16.

18. On information and belief, SHEA did not demonstrate to the relevant public that it considered "HIGHLANDS RANCH" a trademark and/or servicemark prior to 1996.
19. Any incontestable mark can be cancelled "at any time if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered, or is functional, or has been abandoned, or its registration was obtained fraudulently." 15 U.S.C. § 1064.
20. **CLAIM FOR RELIEF:** Considering at least the foregoing, the phrase "HIGHLANDS RANCH" is generic and/or was obtained through fraudulent means. Accordingly the mark "HIGHLANDS RANCH" is not valid and should be cancelled pursuant to 15 U.S.C. § 1064.

**WHEREFORE**, the above identified petitioner believes that he has been and will be damaged by Registration No. 2303147, and hereby petitions to cancel the same.

Please address all correspondence to:

**LEYENDECKER & LEMIRE LLC**  
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**LEYENDECKER & LEMIRE LLC,**  
As Attorneys for the Petitioner

By 

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Date

6/28/06