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

Proceeding	92057839
Party	Defendant Kris Kaszuba
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Submission	Motion to Dismiss 2.132
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Attachments	Motion To Dismiss for Coyote Cancellation Number 92057839.pdf.pdf(385275 bytes ) Bruce Griffin USCOURTS-txnd-3_11-cv-01046-0.pdf(251909 bytes ) Griffin Judgment March 2013.pdf(147705 bytes ) POS #3.pdf(244926 bytes )

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**  
**Before THE TRADEMARK TRIAL & APPEAL BOARD**

<b>Bruce Griffin, Plaintiff</b>	)	
<b>v.</b>	)	<b>Cancellation Proceeding</b>
<b>Kris Kaszuba, Defendant / Respondent</b>	)	<b>No. 92057839</b>

**MOTION TO DISMISS THE CANCELLATION PETITION**

**Re: COYOTE Trademark**, Serial No. 78566406, Registration No. 3379325

BACKGROUND:

Kris Kaszuba, Respondent applied for the trademark, COYOTE on Feb. 14, 2005 with Serial No. 78566406. On Feb. 05, 2008, COYOTE was registered by the USPTO being Registration No. 3379325.

On Aug. 20, 2012, Bruce Griffin submitted a trademark application # 85708240 for "Coyote Engines" with a First Use Anywhere Date of "at least as early as 11/00/1990 and First Use In Commerce Date of "at least as early as 11/00/1990. Please note the precise and actual date is "00" thereby indicating an unknown date.

On Dec 13, 2012, an Office Action was issued refusing Mr. Griffin's proposed mark. The main point was "Likelihood of Confusion" and the Office Action specifically stated:

"The applicant seeks to register the mark COYOTE ENGINE for automobile engines; diesel engines for land vehicles. The registrant's mark is COYOTE for motor vehicles, namely, automobiles. The marks are highly alike and the goods are highly related."

The applicant, Mr. Griffin subsequently and questionably revived his application and proceeded an action to cancel the Respondent's registered Trademark COYOTE.

## MEMORANDUM OF POINTS & AUTHORITIES

Kris Kaszuba, Respondent is the registrant of COYOTE trademark registered on Feb. 05, 2008  
Registration No. 3379325 subject to this Cancellation proceeding.

Bruce Griffin, plaintiff is the owner of the proposed mark Coyote Engines, Serial # 85708240.  
Bruce Griffin is represented by Mr. Luke Brean, Attorney.

Kris Kaszuba submits this Motion To Dismiss the Cancellation Petition for the reasons  
of lack of standing, fraud and the fraudulent application submitted by Bruce Griffin to the  
USPTO for his proposed mark, Coyote Engines.

### FIRST POINT AND EVIDENCE:

The Respondent has substantial evidence that Bruce Griffin, plaintiff and owner of Coyote  
Engines has submitted and signed false and fraudulent dates of First Use(s) of 11/00/1990 in  
his application with the USPTO. And this was made under penalty of perjury.

Attached as Exhibit A is the Order of Judge Barbara Lynn, U.S. District Court, Northern District  
of Texas dated March 13, 2013, Case No. 3:11-CV-1046M wherein Bruce Griffin was a  
Defendant against The Tranman, Inc et al.

The pertinent point of the date of use of Coyote Engines is found in the Judge's Order on  
Pages 1 and 2 as follows:

" Defendant Bruce Griffin ("Griffin") worked for Plaintiffs as a salesman from 2008 until his  
termination on or about April 29, 2011. During his employment, Griffin's job responsibilities  
included soliciting other automotive repair companies for the purpose of entering into  
referral contracts with Tranman and OLM. Plaintiffs provided Griffin with a truck to  
use in the course of fulfilling his job responsibilities.

Plaintiffs contend that, shortly before his termination, Griffin and Defendant  
Craig Fenderson ("Fenderson") began their own automotive repair business called  
Coyote Engines and Transmissions ("Coyote Engines") and created the website  
www.coyoteengines.com for the purpose of promoting their new business. Griffin also  
allegedly began promoting Coyote Engines to Plaintiffs' clients and business partners  
while using Plaintiffs' truck. "

The above Court Record proves that Bruce Griffin and Fenderson began their own automotive

repair business called Coyote Engines and Transmissions ("Coyote Engines") around April 29, 2011. These are Judge Barbara Lynn's findings and Order.

Bruce Griffin did not start Coyote Engines in 1990. The first use date(s) of 1990 is a false and fraudulent statement in Bruce Griffin's Coyote Engines trademark application.

Also related and attached is Exhibit B, the Judgment in the case before Judge Barbara Lynn, U.S. District Court Northern District of Texas.

A copy of the the above Judge's Order was emailed to Bruce Griffin's attorney, Luke Brean on December 18, 2013. Mr. Luke Brean did not refute or deny that this was the same Bruce Griffin in this proceeding. See attached email Exhibit "C1".

On December 19, 2013, the Respondent and Mr. Luke Brean, Attorney for Bruce Griffin held the required Discovery Telephone Conference for 4 ½ minutes. Again, I, Respondent informed Mr. Brean that this appeared to be fraud on the part of his client on the USPTO. Mr. Brean did not express a response. Mr. Brean should be cognizant of the implications of aiding and abetting such a client given the compelling evidence herein.

#### SECOND POINT AND EVIDENCE:

Mr. Luke Brean in his email to Respondent dated December 18, 2013 as Exhibit C has admitted that:

"the only reason it (Cancellation) was filed was because your earlier registered mark is blocking my client's current trademark application for Coyote Engines".

This "reason" is not a bona fide reason or good faith reason for submitting a Cancellation Petition.

Furthermore, this may be viewed as an attempt to blackmail the owner of a registered mark with the USPTO.

This is unprofessional and unethical conduct before the TTAB.

I will be seeking further legal advice to determine if a Disciplinary Complaint should be pursued.

THIRD POINT AND EVIDENCE:

Attached are Exhibit D and E which are the Linked In Pages of Bruce Griffin which indicates that Bruce Griffin started Coyote Engines in August, 2011. These images were copied from the Linked In website on December 17, 2013.

This date of August 2011 is comparable to Judge Barbara Lynn, U.S. District Court findings of "before April, 2011" as the start date of Bruce Griffin's, purported Coyote Engines.

Once again, the start date of Coyote Engines was not 1990 as falsely stated to the USPTO.

CONCLUSION:

Kris Kaszuba has submitted this Motion To Dismiss the Cancellation Petition for the reasons of no standing, fraud and the fraudulent application submitted by Bruce Griffin to the USPTO. Bruce Griffin's application stated under penalty of perjury that his First Use Date(s) were 11/00/1990.

As the above evidence and Exhibits show, this is conclusive proof that Bruce Griffin did NOT start Coyote Engines in 1990. Rather the evidence shows that Bruce Griffin started Coyote Engines in 2011, a time period difference of 21 years.

The dates by Bruce Griffin appear to be no mistake.  
The dates by Bruce Griffin appear to be no error.  
This appears to be calculated and fraudulent.  
The Petitioner has no standing to submit a Cancellation Petition on the Registrant.

WHEREFORE, Registrant prays that the Cancellation be dismissed with prejudice.

Dated this 19<sup>th</sup> day of January, 2014 at Del Mar, California

/kk/ Signed by electronic signature

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