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

Proceeding.	91227788
Applicant	Defendant Textron Inc.
Other Party	Plaintiff Traxxas LP
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Textron Inc. hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Textron Inc. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Textron Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

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.

Respectfully submitted,
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07/01/2016

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

In the matter of application Serial No. 86/634,354
For the Trademark **STAMPEDE** filed May 19, 2015
Published in the Official Gazette on April 5, 2016

TRAXXAS LP, Opposer, v. TEXTRON INC., Applicant.	Opposition No. 91227788

APPLICANT'S MOTION TO SUSPEND

Pursuant to 37 C.F.R. § 2.117(a) and section 510.02(a)(2) of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), Applicant TEXTRON INC. ("Applicant") hereby moves to suspend this opposition proceeding pending disposition of two civil actions that concern the same trademarks that are at issue here, namely:

1. *Textron Inc. and Textron Specialized Vehicles Inc. v. Traxxas LP*, Case No. 1:16-cv-00081-JRH-BKE, filed by Applicant on June 10, 2016 in the United States District Court for the Southern District of Georgia, Augusta Division ("Applicant's Action"); and
2. *Traxxas LP v. Textron Inc. and Textron Specialized Vehicles Inc.*, Case No. 6:16-cv-00506, filed by Opposer TRAXXAS LP ("Opposer") on June 15, 2016, in the Eastern District of Texas, Tyler Division ("Opposer's Action," and together, the "Civil Actions").

The issues presented in both Applicant's Action and Opposer's later-filed Action overlap with

this proceeding, including whether Applicant's STAMPEDE mark for off-road vehicles is likely to cause confusion with Opposer's mark for radio-controlled model vehicles, and thus, whether Opposer may prevent Applicant from obtaining a federal registration for its STAMPEDE mark. In addition, Opposer's Action asserts numerous state and federal trademark claims, such as unfair competition, dilution, and unjust enrichment, and seeks relief not available in this proceeding, including an injunction and damages. Accordingly, Applicant respectfully requests that all further proceedings in this opposition proceeding be suspended pending disposition of the Civil Actions.

I. FACTUAL BACKGROUND

On or about May 10, 2016, Opposer filed a Notice of Opposition with the Trademark Trial and Appeal Board ("TTAB"), opposing Applicant's STAMPEDE mark for use in connection with "Off road vehicles, namely, all-terrain vehicles and utility terrain vehicles, excluding tires and wheels." Opposer claims that Applicant's mark is confusingly similar to its STAMPEDE mark for "radio-controlled model vehicles and parts therefor" and that it will be damaged if Applicant's mark proceeds to registration.

On or about June 10, 2016, Applicant filed a complaint in United States District Court for the Southern District of Georgia seeking a declaratory judgment of non-infringement.

Two days after being served with Applicant's complaint, Opposer filed its own civil action on or about June 15, 2016 in United States District Court for the Eastern District of Texas, alleging state and federal trademark infringement and related claims.

II. ARGUMENTS & AUTHORITIES

"Whenever it shall come to the attention of the … Board that a party or parties to a pending case are engaged in a civil action … which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board

proceeding." Trademark Rule 2.117(a). *See* TBMP § 510.02(a). "Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding will have a bearing on the issues before the Board." *Id.* The civil action need not be dispositive of the Board proceeding to warrant suspension; it need only have a bearing on the issues before the Board. *See New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011).

Here, the outcome of either Civil Action will have a direct bearing upon the outcome of this opposition proceeding. Indeed, they will likely be dispositive of the issues in this proceeding. To the extent that a civil action in a federal district court involves issues in common with those in a Board proceeding, the district court decision would be binding on the Board. *See Goya Foods, Inc. v. Tropicana Products, Inc*., 846 F.2d 848, 853 (2d Cir. 1988). The Civil Actions and this proceeding all involve the same trademarks, the same registration issues, and essentially the same parties. Applicant's Action seeks a declaratory judgment that its STAMPEDE mark does not infringe Opposer's trademark. Opposer's Action alleges federal and state trademark infringement, dilution, and unjust enrichment claims, as well as a claim expressly seeking the denial of Applicant's trademark application that is at issue in this proceeding. Copies of Applicant's Action and Opposer's Action are attached hereto as **Exhibits A** and **B**, respectively.

At issue in all three proceedings is the likelihood of confusion between Applicant and Opposer's marks and goods. The eventual resolution of the Civil Actions will determine whether Applicant's use of its STAMPEDE mark in connection with off-road vehicles has a likelihood of confusion with Opposer's mark for radio-controlled model vehicles. The Civil Actions will also determine the parties' respective rights or damages in light of any such likelihood of confusion based upon Applicant's and Opposer's trademark infringement claims. Neither party would be

prejudiced by a suspension because this opposition proceeding is the earliest stages; Applicant has not yet responded to Opposer's Notice of Opposition.

Therefore, in order to facilitate the expedient and economic resolution of these and related issues involving Applicant's rights in its mark, Applicant respectfully requests that this opposition proceeding be suspended pending the outcome of the Civil Actions. This suspension will prevent the needless duplication of proceedings, avoid inconsistent judgments, and assist the parties in consolidating for resolution in a single adjudication all issues presented in this opposition together with related federal and state claims that are within the jurisdiction of a federal court but that exceed the jurisdiction of this Board. To further these goals, the TTAB has stated that "it is better policy to suspend proceedings…until the civil suit has been finally concluded." *Tokaido v. Honda Associates*, 179 USPQ 861, 862 (TTAB 1973); *Miller v. B&H Foods, Inc.*, 209 USPQ 357, 359 (TTAB 1981) ("[U]nder normal circumstances…it is the practice to suspend the proceeding before the Board to await the outcome of the civil action and to determine its effect on the issues"). The proceeding most appropriate for suspension is the proceeding which has no jurisdiction over the broader claims of, among others, infringement and unfair competition – here, this opposition proceeding. *See, e.g., Tokaido*, 179 USPQ at 861.

Any attempt by Opposer to rely upon *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. __, 135 S. Ct. 1293 (2015) to oppose a suspension fails. Because an ostensibly final decision of the TTAB may be reviewed de novo by a district court, any potentially preclusive effect under *B&B Hardware* would be negated by such an appeal. Thus, suspension of this proceeding pending determination of the Civil Actions would serve judicial economy because any decision here can ultimately be relitigated in federal court, but not vice versa. A suspension of this opposition proceeding will avoid the unnecessary duplication of litigation concerning registration issues that are currently pending in the Civil Actions and that will ultimately be

subject to appeal and resolution by the Civil Actions themselves.

III. CONCLUSION

As set forth above, the issues in the Civil Actions overlap with the issues in this opposition proceeding and therefore the Civil Actions have a bearing on this proceeding warranting a suspension pending resolution of the Civil Actions. Applicant respectfully requests that the Board grant Applicant's Motion to Suspend.

Dated: July 1, 2016

Respectfully submitted,

/s/ Kent B. Goss

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

TEXTRON INC., a Delaware corporation, and TEXTRON SPECIALIZED VEHICLES INC., a Delaware corporation, Plaintiffs, v. TRAXXAS LP, a Texas limited partnership, and DOES 1 through 10, inclusive, Defendants	Case No. _____

COMPLAINT FOR DECLARATORY JUDGMENT

TEXTRON INC. ("Textron") and TEXTRON SPECIALIZED VEHICLES INC. ("TSV" and together with Textron, the "Plaintiffs"), by and through their attorneys, hereby file this Complaint for Declaratory Judgment against Defendant TRAXXAS LP ("Traxxas" or "Defendant") and allege as follows:

NATURE OF THIS ACTION

1. TSV manufactures and sells off-road vehicles for commercial and recreational use. This action concerns TSV's newest off-road vehicle, the Stampede. The Stampede is a gas-powered utility terrain vehicle that is manufactured in a state-of-the-art facility in Augusta, Georgia.

2. The Stampede trademark is owned by Textron. TSV is a wholly-owned subsidiary of Textron and uses the Stampede mark pursuant to an exclusive license from Textron.

3. Defendant Traxxas sells remote-controlled model cars, boats, and quad-rotor helicopters under a variety of names, such as the "Bandit," "Slash," and "Rustler." Shortly after TSV began selling the Stampede, Textron and TSV received a letter from Traxxas claiming that TSV's Stampede off-road vehicle infringes and dilutes Traxxas' "STAMPEDE" trademark. Although the United States Patent and Trademark Office ("USPTO") concluded that there is no likelihood of confusion between Traxxas' and Textron's goods and allowed Textron's trademark application to proceed to publication, Traxxas has nonetheless demanded that TSV cease and desist from selling its Stampede off-road vehicles.

4. TSV is currently rolling out a new marketing and sales campaign to promote the Stampede. In order to settle the parties' rights, including avoiding a potential shutdown of TSV's brand-few factory, Plaintiffs seek a declaration from this Court that the sale and advertising of TSV's Stampede off-road vehicles does not infringe Traxxas' trademark for radio-controlled model cars.

THE PARTIES

5. Textron Inc. is a Delaware corporation organized and existing under the laws of Delaware and having its principal place of business at 40 Westminster Street, Providence, Rhode Island 02903.

6. Textron Specialized Vehicles Inc. is a Delaware corporation with its principal place of business at 1451 Marvin Griffin Road, Augusta, Georgia 30906. TSV manufactures gas and electric-powered off-road vehicles, including all-terrain and utility terrain vehicles ("ATVs" and "UTVs," respectively). TSV's products are sold commercially as well as directly to consumers.

7. Upon information and belief, Traxxas LP is a Texas limited partnership with its principal place of business in Collin County, Texas. Traxxas advertises itself as the "The Fastest Name in Radio Control" and sells radio-controlled model cars, boats, and quad-rotor helicopters. Upon information and belief, Traxxas advertises and sells its products for sale nationally, and advertises, markets and sells its products through a vast dealer network in the State of Georgia, including through dealers selling Traxxas products in this district.

8. Plaintiffs are ignorant of the true names and capacities of Doe Defendants 1-10 and therefore sue them by fictitious names. Plaintiffs will amend this Complaint to allege the true names of these Defendants if and when Plaintiffs identify them.

JURISDICTION AND VENUE

9. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, and the Lanham Act, 15 U.S.C. § 1051, *et seq*. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (jurisdiction over trademark actions).

10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 in that a substantial part of the events giving rise to the claims herein occurred in this judicial district, including the design, manufacture, and advertising of TSV's Stampede line of off-road vehicles, and Traxxas' advertising and sales of its radio-controlled model cars, boats, helicopters.

11. This Court has personal jurisdiction over Traxxas because Traxxas has advertised and sold its radio-controlled model cars within this district, including, upon information and belief, providing service and support to its customers in this district.

Traxxas has established at least minimum contacts with the forum such that the exercise of jurisdiction over it would not offend traditional notions of fair play and substantial justice.

FACTUAL ALLEGATIONS

12. On May 19, 2015, Textron filed an intent-to-use trademark application with the United States Patent and Trademark Office for the mark STAMPEDE in International Class 12, covering "Off road vehicles, namely, all-terrain vehicles and utility terrain vehicles."

13. On June 25, 2015, the USPTO issued an office action noting two existing registrations:

a. Registration No. 1337798 for STAMPEDE, owned by TBC Trademarks, LLC, covering automobile tires in Class 12; and

b. Registration No. 2417720 for STAMPEDE, owned by Traxxas, covering radio-controlled model vehicles and parts therefor in Class 28.

14. On December 28, 2015, Textron responded to the office action. As to Registration No. 1337798, Textron amended its application to specifically exclude tires and wheels and also submitted a consent agreement with registrant TBC Trademarks, LLC.

15. As to Registration No. 2417720, Textron asserted that its off-road ATVs and UTVs are categorically different from radio-controlled model cars that are sold to hobbyists, and that the USPTO had not met its burden of demonstrating that confusion was probable between Textron's and Traxxas' marks and products. Textron pointed out that ATVs and UTVs are sold at highly specialized "powersports" or "motorsports" dealers, which is a different trade channel than that in which Traxxas' highly specialized radio-

controlled model cars are sold. Textron also explained that both companies' products are expensive (TSV's Stampede UTV starts at $13,799 while Traxxas' radio-controlled Stampede model car costs more than $200), and that consumers of either company's products are therefore knowledgeable and discriminating purchasers who would not confuse a high-end off-road vehicle designed to carry people and cargo with a radio-controlled model car. Although TSV's off-road UTVs and ATVs are not related to Traxxas' radio-controlled model cars, Textron nonetheless offered to amend its application to specifically exclude "radio-controlled model vehicles and parts therefor."

16. The USPTO was persuaded by Textron's response to the office action and published the STAMPEDE mark for opposition on April 5, 2016 even without requiring Textron to exclude radio-controlled model vehicles from its application. In other words, the USPTO concluded that there is no likelihood of confusion between Textron's STAMPEDE mark and Traxxas' STAMPEDE mark.

17. TSV's Stampede off-road UTV was released to very favorable reviews from trade journals. For example:

a. Outdoorhub, an online resource for outdoor enthusiasts, wrote on May 19, 2016: "The big thing to take away and like here is simple: Stampede is built in Augusta, Georgia, and it's a tough, high-performance side-by-side that deserves very serious consideration from anyone looking to buy a utility/rec machine for work/play."

b. PowerSports Business wrote on May 23, 2016: "Powered by an 846cc liquid-cooled, 80 hp engine that produces 59 foot-pounds of

torque, the Stampede is evidence that Bad Boy is prepared to make a bigger impact on the powersports industry."

c. The NRA's American Hunter wrote on May 2, 2016: "I drove the Stampede during a Texas turkey hunt in March, and I can say I'm excited for ATV consumers to learn just what the Bad Boy brand has done to itself. The 900-class SxS is capable and comfortable."

18. By way of comparison, Traxxas' radio-controlled model cars are reviewed by radio-controlled hobby media sources:

a. Remote Control Cars Guide wrote: "The Stampede has many features that other RC monster trucks simply don't have. For one thing, the sealed electronics design allows you to use the Stampede whether it's snowing, muddy or wet. Unlike other RC equipment, the Stampede's digital steering, receiver box and speed control are all waterproof."

b. About.com Home RC Vehicles wrote: "When it's play time at the track I can give the Stampede to my 7 year old son and tell him "race like there's no tomorrow" knowing that this tough truck is going to take what my son can dish out. He's hard on racing RCs and has flipped, rolled, and did some unintentional wild acrobatics."

c. Big Squid RC wrote: "In the air, the truck was amazingly easy to control. All the power makes you a big air master in no time. Back flips, double back flips, and front flips are all done on command with precise landings."

19. On or about May 6, 2016, Plaintiffs received a letter from Traxxas claiming trademark infringement and dilution and demanding that TSV cease and desist from all use of the word "Stampede" in connection with off-road vehicles.

20. On May 10, 2016, Traxxas commenced an opposition proceeding with the USPTO's Trademark Trial and Appeal Board ("TTAB").

21. On or about May 9, 2016 counsel for Textron/TSV contacted counsel for Traxxas. That call was unproductive and the parties were unable to reach a resolution. Traxxas unequivocally stated that it considered TSV's use of the STAMPEDE mark to be infringing and that the parties could not coexist. Plaintiffs and Traxxas have not had any further discussions since that date.

22. TSV is currently in the process of manufacturing, marketing, and selling its new Stampede UTV, and has made a significant investment in the STAMPEDE name, in part in reliance on the USPTO finding no likelihood of confusion. Traxxas has sent Plaintiffs a cease and desist letter and is opposing Textron's trademark application in a TTAB proceeding. Plaintiffs therefore seek a declaration from this Court that their use of Textron's STAMPEDE mark does not infringe Traxxas' mark, so that TSV can proceed with its product rollout, including continuing its marketing and sales campaign and avoiding a potential shutdown of its new factory.

CLAIM FOR RELIEF
(Declaratory Judgment)

23. Paragraphs 1 through 22 are incorporated by reference as if fully set forth herein.

24. Traxxas has asserted, by a cease and desist letter to Plaintiffs and by opposing the registration of Textron's STAMPEDE mark with the USPTO, that TSV's use

of Textron's STAMPEDE mark infringes the Traxxas STAMPEDE mark. Plaintiffs have asserted that TSV's use of the mark is non-infringing and is not likely to cause confusion in the marketplace. As a result, Plaintiffs have a real and reasonable apprehension of trademark infringement litigation such that an actual controversy has arisen and now exists between Plaintiffs and Traxxas within the meaning of 28 U.S.C. § 2201.

25. Traxxas further contends that any use by TSV of the "Stampede" mark going forward is willful infringement entitling Traxxas to an injunction, seizure and destruction of allegedly infringing materials, and the recovery of damages, including TSV's profits and Traxxas' attorneys' fees.

26. Traxxas' claims are legally and factually incorrect. TSV's use of the STAMPEDE mark does not infringe, dilute, or otherwise cause confusion with Traxxas' mark because, among other reasons, (i) a full-size utility terrain vehicle designed to carry people and cargo over off-road terrain is not related to a radio-controlled model hobby car; (ii) the parties' goods are sold in different channels to discriminating consumers, (iii) consumers are used to distinguishing between different "Stampede" marks; and (iv) the USPTO correctly concluded there was no likelihood of confusion. Plaintiffs further contend that any alleged trademark infringement, even if proven, is not willful.

27. Plaintiffs seek, and are entitled to, a judicial determination and declaration from this Court under the provisions of the Declaratory Judgment Act, 28 U.S.C. § 2201 that TSV's use of the STAMPEDE mark for off-road vehicles does not infringe, dilute, or otherwise cause confusion with Traxxas' STAMPEDE mark for radio-controlled model cars.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for judgment against Traxxas, granting Plaintiffs the following relief:

A. A declaration that Textron's STAMPEDE mark, USPTO Application No. 86634354, does not infringe, dilute, or otherwise cause confusion with Traxxas' STAMPEDE mark, USPTO Registration No. 2417720;

B. A declaration that Plaintiffs have not infringed, diluted, or otherwise caused confusion with Traxxas' STAMPEDE mark in the past;

C. A declaration that that any alleged infringement by Plaintiffs, if proven, was innocent;

D. For costs of suit; and

E. Such other, further, and different relief as may be just and proper.

Dated: June 10, 2016

Respectfully submitted,

HULL BARRETT, P.C.

By: *S/S David E. Hudson*

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

TRAXXAS, L.P.,	§	
	§	
Plaintiff,	§	
	§	**Civil Action No. 6:16-cv-506**
v.	§	
	§	**JURY TRIAL DEMANDED**
TEXTRON INC. and TEXTRON SPECIALIZED VEHICLES INC.,	§	
	§	
Defendants.	§	

ORIGINAL COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, DILUTION, UNJUST ENRICHMENT, AND DENIAL OF TRADEMARK APPLICATION

COMES NOW Plaintiff Traxxas, L.P. and files this Original Complaint for Trademark Infringement, Unfair Competition, Dilution, Unjust Enrichment, and Denial of Trademark Application against Defendants Textron Inc. and Textron Specialized Vehicles Inc. (collectively "Textron"), alleging as follows:

I. NATURE OF THE SUIT

1. This is a claim for infringement of a federally registered trademark, unfair competition, and denial of a federal trademark application arising under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and related claims for trademark dilution under Texas Business and Commerce Code § 16.103 and trademark infringement, unfair competition, and unjust enrichment under Texas common law.

II. THE PARTIES

2. Plaintiff **Traxxas, L.P. ("Traxxas")** is a Texas limited partnership that maintains its principal place of business in McKinney, Texas.

3. Defendant **Textron Inc.** is a Delaware corporation that does business in Texas, directly or through intermediaries, and maintains its principal place of business in Providence, Rhode Island.

4. Defendant **Textron Specialized Vehicles Inc.** is a Delaware corporation that does business in Texas, directly or through intermediaries, and maintains its principal place of business in Augusta, Georgia.

5. Defendant Textron Specialized Vehicles Inc. is a wholly owned subsidiary of Defendant Textron Inc.

III. JURISDICTION AND VENUE

6. Pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a), this Court has subject matter jurisdiction over the federal trademark infringement, unfair competition, and denial of federal trademark application claims because those claims arise under the Lanham Act, 15 U.S.C. § 1051 *et seq.*

7. Pursuant to 28 U.S.C. § 1367(a), this Court has subject matter jurisdiction over the state trademark infringement, unfair competition, trademark dilution, and unjust enrichment claims because those claims arise from the same nucleus of operative facts as the federal trademark infringement, unfair competition, and denial of trademark application claims.

8. This Court has specific personal jurisdiction over each defendant pursuant to due process and the Texas Long Arm Statute because each defendant, directly or through intermediaries, has conducted and does conduct substantial business in this forum, such

substantial business including but not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products into the stream of commerce with the expectation that they will be purchased by consumers in this forum; or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

9. Venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(d) for the reasons set forth above. Furthermore, venue is proper because each defendant, directly or through intermediaries, sells and offers to sell infringing products to persons in this District, as discussed below. Each of Defendants' infringing acts in this District gives rise to proper venue.

IV. BACKGROUND

A. Traxxas and Its Trademarks

10. Traxxas was started in 1986 and has grown to become the number-1 selling name in Ready-To-Run nitro and electric model vehicles for the last 30 years running.

11. Since at least December 1994, Traxxas has continuously used the standard characters "STAMPEDE" (the "Traxxas STAMPEDE Mark") in interstate commerce to identify, advertise, and promote its radio-controlled model vehicles and parts therefor, specifically off-road radio-controlled model vehicles, to the consuming public.

12. On January 2, 2001, the United States Patent and Trademark Office ("USPTO") duly and legally issued to Traxxas United States Trademark Registration No. 2,417,720 (the "Traxxas STAMPEDE Registration"), which comprises the typed drawing "STAMPEDE" as applied to radio-controlled model vehicles and parts therefor in International Class 028. A true and correct copy of the Traxxas STAMPEDE Registration is attached hereto as Exhibit A.

13. Traxxas' right to use its Traxxas STAMPEDE Mark has become incontestable.

14. As a result of Traxxas' long use and promotion of the Traxxas STAMPEDE Mark, the Traxxas STAMPEDE Mark has become distinctive to designate Traxxas, to distinguish Traxxas and its products from those of others, and to distinguish the source or origin of Traxxas' products. As a result of these efforts by Traxxas, the consuming public in Texas and throughout the United States widely recognizes and associates the Traxxas STAMPEDE Mark with Traxxas.

15. As a result of Traxxas' long use and promotion of the Traxxas STAMPEDE Mark in Texas and elsewhere, Traxxas has acquired valuable common law rights in the Traxxas STAMPEDE Mark.

16. The Traxxas STAMPEDE Mark is famous pursuant to 15 U.S.C. § 1125(c) and Texas Business and Commerce Code § 16.103.

B. Textron's STAMPEDE Application

17. On May 19, 2015, Textron Inc. filed with the USPTO Application Serial No. 86/634,354 (the "Textron STAMPEDE Application") for the standard characters "STAMPEDE" as applied to "Off road vehicles, namely, all-terrain vehicles and utility terrain vehicles" in International Class 012.

18. On December 28, 2015, in response to an office action, Textron Inc. amended the Textron STAMPEDE Application to exclude tires and wheels.

19. On April 5, 2016, the USPTO issued a Notice of Publication concerning the Textron STAMPEDE Application.

20. On May 10, 2016, Traxxas filed in the USPTO a Notice of Opposition to the Textron STAMPEDE Application on the grounds of priority and likelihood of confusion, citing

the Traxxas STAMPEDE Registration. A true and correct copy of Traxxas' Notice of Opposition is attached hereto as Exhibit B and incorporated by reference.

C. Textron's Infringing Activities

21. Defendant Textron Specialized Vehicles Inc., directly or through intermediaries, makes, sells, offers for sale, distributes, and advertises in the United States off-road vehicles under the name "STAMPEDE" (the "Infringing Mark").

22. Defendant Textron Inc. purports to own the Infringing Mark and to exclusively license the Infringing Mark to its wholly owned subsidiary Textron Specialized Vehicles Inc.

23. By purporting to exclusively license the Infringing Mark to its wholly owned subsidiary Textron Specialized Vehicles Inc., Defendant Textron Inc. makes, sells, offers for sale, distributes, and advertises in the United States off-road vehicles under the Infringing Mark through its intermediary Textron Specialized Vehicles Inc.

24. Examples of Textron's use of the Infringing Mark are attached hereto as Exhibit C.

25. The Infringing Mark is identical in appearance to the Traxxas STAMPEDE Mark.

26. The Infringing Mark is confusingly similar to the Traxxas STAMPEDE Mark.

27. Textron is using the Infringing Mark in commerce.

28. Each defendant, directly or through intermediaries, purposefully and voluntarily places products bearing the Infringing Mark into the stream of commerce with the expectation that they will be purchased by consumers in this District.

29. Textron's products bearing the Infringing Mark are sold and offered for sale in this District.

30. Textron is not affiliated with or sponsored by Traxxas and has not been authorized by Traxxas to use the Traxxas STAMPEDE Mark or any confusingly similar marks.

D. Effect of Textron's Infringing Activities

31. Textron's unauthorized use of the Infringing Mark is likely to cause confusion, to cause mistake, or to deceive customers and potential customers of the parties, at least as to some affiliation, connection, or association of Textron with Traxxas, or as to the origin, sponsorship, or approval of Textron's products by Traxxas.

32. Textron's unauthorized use of the Infringing Mark falsely designates the origin of its products and falsely and misleadingly describes and represents facts with respect to Textron and its products.

33. Textron's unauthorized use of the Infringing Mark enables Textron to trade on and receive the benefit of goodwill built up at great labor and expense by Traxxas over many years, and to gain acceptance for its products not solely on their own merits, but on the reputation and goodwill of Traxxas, its Traxxas STAMPEDE Mark, and its products.

34. Textron's unauthorized use of the Infringing Mark is likely to cause dilution of the famous Traxxas STAMPEDE Mark.

35. Textron's unauthorized use of the Infringing Mark unjustly enriches Textron at Traxxas' expense. Textron has been and continues to be unjustly enriched, obtaining a benefit from Traxxas by taking undue advantage of Traxxas and its goodwill.

36. Specifically, Textron has taken unfair advantage of Traxxas by trading on and profiting from the goodwill in the Traxxas STAMPEDE Mark developed and owned by Traxxas, resulting in Textron wrongfully obtaining a monetary and reputational benefit for its own business and products.

37. Textron's unauthorized use of the Infringing Mark removes from Traxxas the ability to control the nature and quality of products provided under the Traxxas STAMPEDE Mark and places the valuable reputation and goodwill of Traxxas in the hands of Textron, over whom Traxxas has no control.

38. Unless this Court restrains these acts of Textron, these acts will continue and will continue to cause irreparable injury to Traxxas and to the public for which there is no adequate remedy at law.

39. Traxxas notified Textron of Traxxas' rights in the Traxxas STAMPEDE Mark and of Textron's infringement by letter dated May 6, 2016.

40. Traxxas has further notified Textron of Traxxas' rights in the Traxxas STAMPEDE Mark by filing its Notice of Opposition to the Textron STAMPEDE Application.

V. CLAIMS

A. Federal Trademark Infringement

41. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

42. Textron's acts complained of herein constitute infringement of Traxxas' federally registered Traxxas STAMPEDE Mark in willful violation of 15 U.S.C. § 1114(1).

B. Federal Unfair Competition

43. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

44. Textron's acts complained of herein constitute unfair competition in violation of 15 U.S.C. § 1125(a).

C. Texas Trademark Infringement

45. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

46. Textron's acts complained of herein constitute trademark infringement in violation of Texas state common law.

D. Texas Unfair Competition

47. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

48. Textron's acts complained of herein constitute unfair competition in violation of Texas state common law.

E. Texas Trademark Dilution

49. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

50. Textron's acts complained of herein constitute dilution of Traxxas' famous Traxxas STAMPEDE Mark in willful violation of Texas Business and Commerce Code § 16.103.

F. Texas Unjust Enrichment

51. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

52. Textron's acts complained of herein constitute unjust enrichment of Textron at Traxxas' expense in violation of Texas state common law.

G. Denial of the Textron STAMPEDE Application

53. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

54. By virtue of Traxxas' prior and senior rights arising from both prior use and prior registration of its Traxxas STAMPEDE Mark, Textron is barred from obtaining registration of the Textron STAMPEDE Mark because Textron's use of and attempt to register the Textron STAMPEDE Mark, without Traxxas' authorization, creates a likelihood of confusion with the Traxxas STAMPEDE Mark under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

VI. DAMAGES

55. Traxxas repeats and incorporates by reference the allegations of the foregoing paragraphs as if fully set forth herein.

56. Textron's acts complained of herein have damaged Traxxas in an amount to be proven at trial, but no less than Textron's profits under 15 U.S.C. § 1117(a).

VII. PRAYER FOR RELIEF

Traxxas respectfully requests the following relief:

a. A judgment in favor of Traxxas that Textron has infringed the Traxxas STAMPEDE Mark under federal and Texas state common law, as described herein;

b. A judgment in favor of Traxxas that Textron has unfairly competed with Traxxas under federal and Texas state common law, as described herein;

c. A judgment in favor of Traxxas that Textron has diluted Traxxas' famous Traxxas STAMPEDE Mark under federal and Texas state common law, as described herein;

d. A judgment in favor of Traxxas that Textron has been unjustly enriched at Traxxas' expense under Texas state common law, as described herein;

e. A judgment and order directing the USPTO to deny the Textron STAMPEDE Application and refuse issuance of a registration from the Textron STAMPEDE Application;

f. A preliminary injunction enjoining Textron, its officers, directors, agents, subsidiaries, employees, successors, and assigns, and all persons acting in privity, concert, or participation with it, from using the Traxxas STAMPEDE Mark and any other mark or design that is confusingly similar to or likely to cause dilution of the Traxxas STAMPEDE Mark (including but not limited to the Infringing Mark), and from any attempt to retain any part of the goodwill misappropriated from Traxxas;

g. A permanent injunction:

(1) enjoining Textron, its officers, directors, agents, subsidiaries, employees, successors, and assigns, and all persons acting in privity, concert, or participation with it, from using the Traxxas STAMPEDE Mark and any other mark or design that is confusingly similar to or likely to cause dilution of the Traxxas STAMPEDE Mark (including but not limited to the Infringing Mark), and from any attempt to retain any part of the goodwill misappropriated from Traxxas;

(2) requiring Textron, its officers, directors, agents, subsidiaries, employees, successors, and assigns, and all persons acting in privity, concert, or participation with it, to deliver up and destroy all products bearing the Infringing Mark, as well as all signage, advertisements, commercials, Internet postings and advertisements, and any other material bearing or using the Infringing Mark or any other mark or design that is confusingly

similar to or likely to cause dilution of the Traxxas STAMPEDE Mark; and

(3) requiring Textron to file with this Court and to serve upon Traxxas, within thirty days after the entry and service on Textron of the injunction, a report in writing and under oath setting forth in detail the manner and form in which Textron has complied with the injunction;

h. A judgment and order directing an accounting to determine Textron's profits resulting from the activities complained of herein, including Textron's profits for any continuing post-verdict or post-judgment activities, and that such profits be paid over to Traxxas, increased as the Court finds to be just under the circumstances of this case;

i. A judgment and order requiring Textron to pay Traxxas its damages sustained as a result of Textron's activities described herein, including supplemental damages for any continuing post-verdict or post-judgment activities with an accounting as needed;

j. A judgment and order requiring Textron to pay Traxxas its costs, expenses, and pre-judgment and post-judgment interest; and

k. Such other and further relief as the Court deems just and proper.

VIII. JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Traxxas requests a jury trial of all issues triable of right by a jury.

Dated: June 15, 2016

Respectfully Submitted,

By: /s/ William E. Davis, III
William E. Davis, III
Texas State Bar No. 24047416
bdavis@bdavisfirm.com
Debra Coleman
Texas State Bar No. 24059595
dcoleman@bdavisfirm.com
The Davis Firm, PC
213 N. Fredonia Street, Suite 230
Longview, Texas 75601
Telephone: (903) 230-9090
Facsimile: (903) 230-9661

Counsel for Plaintiff Traxxas, L.P.

EXHIBIT A

Traxxas Trademark Reg. No. 75923470
(STAMPEDE)

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,417,720

Registered Jan. 2, 2001

TRADEMARK
PRINCIPAL REGISTER

STAMPEDE

TRAXXAS CORPORATION (TEXAS CORPORATION)
12150 SHILOH ROAD
DALLAS, TX 75228

FOR: RADIO-CONTROLLED MODEL VEHICLES AND PARTS THEREFOR, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 12-0-1994; IN COMMERCE 12-0-1994.

SER. NO. 75-923,470, FILED 2-18-2000.

RICHARD DONNELL, EXAMINING ATTORNEY

EXHIBIT B

Traxxas Notice of Opposition
re: Textron App. Serial No. 86/634,354

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov
ESTTA Tracking number: **ESTTA745470**
Filing date: **05/10/2016**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Traxxas LP
Granted to Date of previous extension	06/04/2016
Address	6250 Traxxas Way McKinney, TX 75070 UNITED STATES

Attorney information	Gregory W. Carr CARR Law Firm PLLC 6170 Research Road, Suite 111 Frisco, TX 75033 UNITED STATES gcarr@carrip.com, trademarks@carrip.com

Applicant Information

Application No	86634354	Publication date	04/05/2016
Opposition Filing Date	05/10/2016	Opposition Period Ends	06/04/2016
Applicant	Textron Inc. 40 Westminster Street Providence, RI 02903 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Off road vehicles, namely, all-terrain vehicles and utility terrain vehicles, excluding tires and wheels

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2417720	Application Date	02/18/2000
Registration Date	01/02/2001	Foreign Priority Date	NONE
Word Mark	STAMPEDE		

Design Mark	STAMPEDE
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 radio-controlled model vehicles and parts therefor

Attachments	75923470#TMSN.png(bytes) STAMPEDE - Grounds for Opposition - 5-8-2016.pdf(157917 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	/Gregory W. Carr/
Name	Gregory W. Carr
Date	05/10/2016

As grounds for this Opposition, Opposer alleges:

1. Traxxas LP ("Opposer") has, since at least December of 1994, used and continues to use the mark "STAMPEDE" (the "Opposer's STAMPEDE mark") to identify, advertise, and promote its radio-controlled model vehicles and parts therefor (the "Goods").

2. Opposer registered its mark STAMPEDE on January 2, 2001 (Reg. No. 2,417,720) for the Goods after making an application for registration on February 18, 2000. Opposer's right to use Opposer's STAMPEDE mark has become incontestable.

3. Textron Inc. ("Applicant") has applied for registration of the designation "STAMPEDE" ("Applicant's STAMPEDE designation"), in the United States Patent and Trademark Office, as shown in U.S. Application Ser. No. 86/634,354 (the "Application"), having a filing date of May 19, 2015. Applicant's Application seeks registration based on an alleged intent to use Applicant's STAMPEDE designation in Class 12 for "[o]ff road vehicles, namely, all-terrain vehicles and utility terrain vehicles, excluding tires and wheels ("Applicant's Goods").

4. Applicant seeks to register Applicant's STAMPEDE designation for Applicant's Goods in International Class 012, as evidenced by the publication of the Application in the Official Gazette on April 5, 2016.

5. Applicant's STAMPEDE designation is identical to Opposer's STAMPEDE mark.

6. Applicant's STAMPEDE designation is confusingly similar to Opposer's STAMPEDE mark.

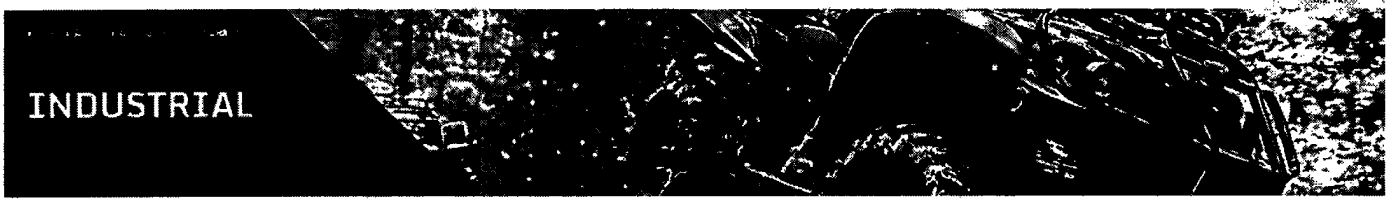
7. By virtue of Opposer's prior and senior rights arising from both prior use and prior registration of Opposer's STAMPEDE mark, Applicant is barred from obtaining a

registration of Applicant's STAMPEDE designation, because the intended use and attempt to register by Applicant of Applicant's STAMPEDE designation for the Applicant's Goods, without authorization by Opposer, creates a likelihood of confusion, under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), that there exists a common source, affiliation, and sponsorship with the Goods provided by Opposer in connection with Opposer's STAMPEDE mark.

8. If Applicant is permitted to obtain the registration sought, and thereby obtain a *prima facie* exclusive right to use Applicant's STAMPEDE designation in commerce for the Applicant's Goods, Opposer will be harmed in that a cloud will be placed on Opposer's title in and to Opposer's STAMPEDE mark and Opposer's right to enjoy the free and exclusive use thereof, and Opposer will be unfairly restricted in its rights to Opposer's STAMPEDE mark. Additionally, if Applicant is permitted to obtain a registration of Applicant's STAMPEDE designation, Opposer believes it will harmed by the apparent and, indeed, actual dilution or diminution of both its right to oppose other applications to federally register marks confusingly similar to Opposer's STAMPEDE mark and its right to seek relief from infringement of Opposer's STAMPEDE mark. Further, the intended use and registration of Applicant's STAMPEDE designation, unauthorized by Opposer, misappropriates the goodwill of Opposer and unfairly gives Applicant's Goods a ready acceptance in the marketplace that is undeserved.

EXHIBIT C

Example Textron STAMPEDE Uses



About
Our Businesses
Textron Aviation
Bell Helicopter
Textron Systems
Industrial
Textron Financial
Our Leadership
Our Company
Our Commitment
News
News Releases
Email Alerts
Media Resources
Media Contacts
Photo & Logo Request
Investors
Stock Information
Events & Information
Financial Reports
Corporate Governance
Investor Resources
Careers
Hear From Our Employees
Life at Textron
Students & Recent Graduates
Experienced Professionals
Manufacturing & Operations
Military Veterans
Find a Career
Contact Us

DRIVING TECHNOLOGY FORWARD

No matter where you go, you'll see the iconic brands from our industrial businesses. Our Kautex business designs and produces plastic fuel systems for many of the automobiles that we drive. Textron Specialized Vehicles and its family of businesses manufacture golf cars and other vehicles under the E-Z-GO, Cushman, Bad Boy Off Road, TUG Technologies and Douglas Equipment brands. They are found in airports, on job sites and along trails. Leading golf courses and municipal parks rely on Jacobsen turf care vehicles to maintain their grounds. Contractors and technicians count on high-quality, innovative products from Greenlee, Sherman + Reilly and HD Electric to safely, efficiently and reliably complete their jobs.

E-Z-GO

E-Z-GO is known worldwide for golf cars, utility vehicles and personal transportation vehicles. Our products include the RXV and TXT fleet golf cars, Freedom RXV and Freedom TXT personal golf cars, Express personal utility vehicles and the 2Five street-legal low-speed vehicle.

VISIT THIS SITE ›

SEE AVAILABLE JOBS ›

Cushman

You can find Cushman vehicles at job sites, campuses, golf courses and airports transporting people and materials. From our rugged Hauler 4x4 and Titan utility vehicles to the Refresher Oasis food-and-beverage vehicle, there's a Cushman product for every customer need.

VISIT THIS SITE ›

SEE AVAILABLE JOBS ›

Bad Boy Off Road

We pioneered the electrically powered 4x4 vehicle category, popular among outdoor enthusiasts for its silent operation and emissions-free drivetrains. We have vehicles for work and play, including the HD Electric utility vehicle, the hybrid Ambush iS, the Onslaught 550 ATV and Stampede 900 4x4.

VISIT THIS SITE ›

SEE AVAILABLE JOBS ›

Douglas Equipment

Douglas specializes in towbarless and conventional aircraft tractors and runway friction measurement systems. Based in the U.K., Douglas has a proven track record in the ground support equipment industry with a unique brand and products that complement our TUG Technologies business.

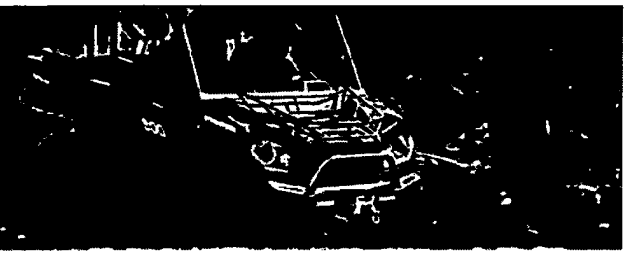
VISIT THIS SITE ›

SEE AVAILABLE JOBS ›

BAD BOY OFF ROAD

STAMPEDE 900

Its 80HP EFI engine is designed, built and precision-tuned for high-performance. Explore the game-changing Stampede™ and find out what happens in a side-by-side that's designed to dominate.



< BACK TO SIDE-BY-SIDE

2-PASSENGER
STAMPEDE 900

- 80HP EFI Engine
- On-Demand AWD
- Four-Wheel Double A-Arm Suspension with Front & Rear Sway Bars
- Class-leading 24-cu-ft of Storage with Extended Cab

DETAILS

BUILD & PRICE >

FIND A DEALER

REQUEST A QUOTE
LET STARTED

CUSTOMIZE YOUR BAD BOY
PARTS & ACCESSORIES

What are you looking for?

Side-By-Side +
ATV +
Parts & Accessories +
Shopping Tools +
Owners +
Community +
About +

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
TRAXXAS, L.P.

(b) County of Residence of First Listed Plaintiff Collin, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
William E. Davis, III, The Davis Firm, PC
213 N. Fredonia Street, Suite 230, Longview, Texas 75601
(903) 230-9090

DEFENDANTS
TEXTRON INC. and
TEXTRON SPECIALIZED VEHICLES INC.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS
Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☒ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
15 U.S.C. 1051 et seq.
Brief description of cause:
Infringement of federally registered trademark and related Lanham Act and Texas state law claims

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND $ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE _____ DOCKET NUMBER _____

DATE 06/15/2016
SIGNATURE OF ATTORNEY OF RECORD /s/ William E. Davis, III

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____