

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88194402
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION	
MARK	https://tmng-al.uspto.gov/resting2/api/img/88194402/large
LITERAL ELEMENT	AUTOGRADE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ADDITIONAL STATEMENTS SECTION	
SECTION 2(f) Claim of Acquired Distinctiveness, based on Five or More Years' Use	The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.
CORRESPONDENCE INFORMATION (current)	
NAME	William H. Brewster
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	tmadmin@kilpatricktownsend.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	cjames@kilpatricktownsend.com; aweeks@kilpatricktownsend.com; byates@kilpatricktownsend.com
DOCKET/REFERENCE NUMBER	1100317
CORRESPONDENCE INFORMATION (proposed)	
NAME	William H. Brewster
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	tmadmin@kilpatricktownsend.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	cjames@kilpatricktownsend.com; aweeks@kilpatricktownsend.com; byates@kilpatricktownsend.com
DOCKET/REFERENCE NUMBER	1100317
SIGNATURE SECTION	
ORIGINAL PDF FILE	HS_20916999176-135705797_.f_Shayne_Brown_for_Request_for_Reconsideration_for_AUTOGRADE.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT18\IMAGEOUT18\881\944\88194402\xml4\RFR0002.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\881\944\88194402\xml4\RFR0003.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\881\944\88194402\xml4\RFR0004.JPG
SIGNATORY'S NAME	Shayne Brown

SIGNATORY'S POSITION	Assistant General Counsel
RESPONSE SIGNATURE	/Jonathan A. Weeks/
SIGNATORY'S NAME	Jonathan A. Weeks
SIGNATORY'S POSITION	Attorney for Applicant, Georgia Bar Member
SIGNATORY'S PHONE NUMBER	404-745-2577
DATE SIGNED	03/16/2020
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Mar 16 15:00:37 ET 2020
TEAS STAMP	USPTO/RFR-XXX.XXX.XX.XXX- 20200316150037642985-8819 4402-710a8ae2f769fef393d 843416547376eedd979d40984 7b7168bef2f89c21665c-N/A- N/A-20200316135705797846

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PTO Form 1960 (Rev 10/2011)
OMB No. 0651-0050 (Exp 09/20/2020)

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To the Commissioner for Trademarks:

Application serial no. **88194402** AUTOGRADE(Standard Characters, see <https://tmng-al.uspto.gov/resting2/api/img/88194402/large>) has been amended as follows:

Correspondence Information (current):

William H. Brewster
PRIMARY EMAIL FOR CORRESPONDENCE: tmadmin@kilpatricktownsend.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): cjames@kilpatricktownsend.com; aweeks@kilpatricktownsend.com; byates@kilpatricktownsend.com

The docket/reference number is 1100317.

Correspondence Information (proposed):

William H. Brewster
PRIMARY EMAIL FOR CORRESPONDENCE: tmadmin@kilpatricktownsend.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): cjames@kilpatricktownsend.com; aweeks@kilpatricktownsend.com; byates@kilpatricktownsend.com

The docket/reference number is 1100317.

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the owner/holder and the owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

ADDITIONAL STATEMENTS

SECTION 2(f) Claim of Acquired Distinctiveness, based on Five or More Years' Use

The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use of the mark in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement.

SIGNATURE(S)

Declaration Signature

Original PDF file:

[HS_20916999176-135705797_f_Shayne_Brown_for_Request_for_Reconsideration_for_AUTOGRADE.pdf](#)

Converted PDF file(s) (3 pages)

[Signature File1](#)

[Signature File2](#)

[Signature File3](#)

Signatory's Name: Shayne Brown

Signatory's Position: Assistant General Counsel

Request for Reconsideration Signature

Signature: /Jonathan A. Weeks/ Date: 03/16/2020

Signatory's Name: Jonathan A. Weeks

Signatory's Position: Attorney for Applicant, Georgia Bar Member

Signatory's Phone Number: 404-745-2577

The signatory has confirmed that he/she is a U.S.-licensed attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any U.S. Commonwealth or territory); and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S.-licensed attorney not currently associated with his/her company/firm previously represented the owner/holder in this matter: the owner/holder has revoked their power of attorney by a signed revocation or substitute power of attorney with the USPTO; the USPTO has granted that attorney's withdrawal request; the owner/holder has filed a power of attorney appointing him/her in this matter; or the owner's/holder's appointed U.S.-licensed attorney has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: William H. Brewster

KILPATRICK TOWNSEND & STOCKTON LLP

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ATLANTA, Georgia 30309-4528

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Serial Number: 88194402

Internet Transmission Date: Mon Mar 16 15:00:37 ET 2020

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6547376eedd979d409847b7168bef2f89c21665c

-N/A-N/A-20200316135705797846

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Cox Automotive, Inc.)
)
MARK: AUTOGRADE) Udeme U. Attang
) Examining Attorney
SERIAL NO.: 88194402) Law Office 115
)
FILING DATE: November 14, 2018)

DECLARATION OF SHAYNE BROWN

I, the undersigned, Shayne Brown, declare under penalty of perjury as follows:

1. My name is Shayne Brown. I am over the age of 21 and am competent to testify. I am Assistant General Counsel of Cox Automotive, Inc. (“Applicant”). I give this declaration in further support of Applicant’s application to register the mark AUTOGRADE. I make this declaration to establish that the mark AUTOGRADE has become distinctive of Applicant’s services within the meaning of Section 2(f) of the Lanham Act, 15 U.S.C. § 1052(f).
2. The facts set forth below are based on my personal knowledge and the documents, books, and other records maintained by Applicant in the ordinary course of business and available to me in my employment capacity.
3. First used at least as early as February 23, 2010, the AUTOGRADE mark is a recognized brand that is associated by the relevant consuming public with Applicant’s computer software platform for evaluating the condition of vehicles.

4. The AUTOGRADE platform is available to the vehicle remarketing industry by virtue of a license between Cox Automotive and its related entities and the Auto Auction Services Corporation (“AASC”). AASC is a technology service provider for the vehicle remarketing industry. Boasting a membership of nearly 2,000 commercial clients and serving more than 15,000 individuals in the industry, the AASC provides hardware, software, data connections and processes to facilitate vehicle auctions as well as the business of the auto remarketing industry generally. All members of AASC have the ability to sublicense the AUTOGRADE service.

5. To illustrate the significance of the reach of services offered under the AUTOGRADE brand, in 2019 alone more than 7,700,000 requests for vehicle reports were made using the AUTOGRADE platform, in 2018 there were approximately 6,600,000, in 2017 there were approximately 5,910,000, in 2016 there were approximately 5,120,000, and in 2015 there were approximately 3,800,000.

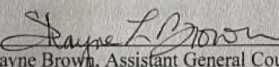
6. Because of the extensive promotion, exposure to the public, and the period of time the AUTOGRADE mark has been used in connection with a platform for evaluating the condition of vehicles, the relevant consuming public immediately associates the AUTOGRADE mark with Applicant’s services.

7. Applicant’s exclusive and continuous use of the AUTOGRADE mark in the market over the past decade has succeeded in creating a strong association in the mind of the relevant consuming public between the AUTOGRADE mark and the services provided under it and

constitutes prima facie evidence that the mark has acquired distinctiveness as used in commerce with Applicant's applied-for goods, thereby entitling Applicant to the statutory presumption of acquired distinctiveness under Section 2(f) of the Trademark Act, 15 U.S.C. §1052(f).

8. For the foregoing reasons, the AUTOGRADE mark has acquired distinctiveness in the marketplace in connection with software platform services featuring computer software platforms for evaluating the condition of vehicles and providing an indication of the condition of vehicles and providing temporary use of on-line non-downloadable software used for inventory management, evaluating the condition of vehicles, and providing an indication of the condition of vehicles.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this Declaration are true; all statements made of his own knowledge are true; and that all statements made on information and belief are believed to be true.


Shayne Brown, Assistant General Counsel
Cox Automotive, Inc.

Date: March 16, 2020