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Filing date: **09/06/2013**

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	Latin Motors International, LLC		
Entity	limited liability Company	Citizenship	Florida
Address	3101 NW 36 Street Miami, FL 33130 UNITED STATES		

Attorney information	Ury Fischer LOTT & FISCHER, PL Post Office Drawer 141098 Coral Gables, FL 33114-1098 UNITED STATES sdlott@lfiplaw.com, ufischer@lfiplaw.com, sdonna@lfiplaw.com, jzambrano@lfiplaw.com Phone:305-448-7089		
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**Registration Subject to Cancellation**

Registration No	3508327	Registration date	09/30/2008
Registrant	New Luxury Motors II, LLC 310 Ogden Avenue Downer's Grove, IL 60515 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 035. First Use: 2006/10/16 First Use In Commerce: 2006/10/16 All goods and services in the class are cancelled, namely: automobile dealership and online automobile dealership
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**Grounds for Cancellation**

Abandonment	Trademark Act section 14
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Attachments	pet to cancel - LM - 9 6 13.pdf(21400 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 Overnight Courier on this date.

Signature	/Ury Fischer/
Name	Ury Fischer

Date	09/06/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**Latin Motors International, LLC**, a  
Florida limited liability company,  
Petitioner,

v.

**New Luxury Motors II, LLC**, a  
Delaware limited liability company,  
Registrant.

Cancellation No.: \_\_\_\_\_

**PETITION TO CANCEL**  
Registration No. 3,508,327  
Issued: September 30, 2008  
Mark: **LM and Design**

**PETITION FOR CANCELLATION**

Petitioner, Latin Motors International, LLC, a limited liability company organized and existing under the laws of the State of Florida, located and doing business at 3101 NW 36<sup>th</sup> Street, Miami, Florida 33130, believes that it is or will be damaged by United States Trademark Registration No. 3,508,327, and, pursuant to 15 U.S.C. § 1064(3) and 37 CFR § 2.111, hereby petitions to cancel the same.

As grounds for this Petition, Petitioner alleges as follows:

1. According to the records of the United States Patent and Trademark Office (“PTO”), Registrant New Luxury Motors II, LLC is a limited liability company organized and existing under the laws of the State of Delaware, located and doing business at 310 Ogden Avenue, Downer’s Grove, Illinois 60515, and is the owner of United States Trademark Registration No. 3,508,327 for the mark **LM and Design**, which registration issued on the Principal Register on September 30, 2008, in connection with “automobile dealership and online automobile dealership” services in International Class 35. The registration sets out a first use date of October 16, 2006.

2. On information and belief, Registrant has abandoned the mark **LM and Design** in connection with “automobile dealership and online automobile dealership” services.

3. On further information and belief, Registrant has not used, for at least three years, the mark **LM and Design** in U.S. interstate commerce in connection with “automobile dealership and online automobile dealership” services.

4. Petitioner is the owner of United States Trademark Application Serial No. 85/913,751 for the mark **LM LATIN MOTORS and Design** in connection with “automobile dealership services” in International Class 35. The mark has been in use in commerce since at least as early as February 18, 2012.

5. Petitioner’s use of its mark has been valid and continuous since the time it first started using its mark. Petitioner’s mark is symbolic of the extensive good will and consumer recognition built up by Petitioner through substantial amounts of time, resources, and effort in advertising and promotion.

6. Petitioner has been damaged and continues to be damaged by Registrant’s registration insofar as the PTO has refused to register Petitioner’s trademark, under 15 U.S.C. § 1052(d) on the basis that Petitioner’s mark so resembles Registrant’s mark as to be likely to cause confusion, to cause mistake, or to deceive.

#### **Abandonment Through Non-Use**

7. According to 15 U.S.C. § 1064(3) and TBMP § 307.01, a Petition to Cancel a registration may be filed at any time if the registered mark has been abandoned.

8. Upon information and belief, Registrant does not use the **LM and Design** mark in U.S. interstate commerce in connection with “automobile dealership and online automobile dealership” services in International Class 35.

9. Such services are not offered or promoted on Registrant’s website and, despite extensive searching, Petitioner has been unable to find any evidence that Registrant has used the **LM and Design** mark in U.S. interstate commerce during the last three years.

10. Upon information and belief, Registrant has abandoned the mark **LM and Design**, as applied to “automobile dealership and online automobile dealership” services as set forth in Registration No. 3,508,327, and to the extent there ever was any use, has discontinued such use of said trademark in the United States with the intention not to resume the use thereof.

11. Upon information and belief, Registrant’s **LM and Design** mark is therefore abandoned, and Registration No. 3,508,327 should be cancelled from the Principal Register.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained and granted in favor of Petitioner and that Registration No. 3,508,327 be cancelled and removed from the Principal Register.

Date: September 6, 2013

Respectfully submitted,

**LOTT & FISCHER, PL**

/s/Ury Fischer  
Ury Fischer  
Stephen D. Lott  
P.O. Drawer 141098

Coral Gables, FL 33114-1098  
(305) 448-7089

Docket No. 12122-8810

*Attorneys for Petitioner*  
*Latin Motors International, LLC*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that the foregoing **PETITION FOR CANCELLATION** was served upon Registrant by delivering true and correct copies of same to Registrant and Attorney of Record for Registrant via Federal Express on September 6, 2013 as follows:

New Luxury Motors II, LLC  
310 Ogden Avenue  
Downer's Grove, IL 60515

Melanie S. Corcoran  
Baker & Hostetler LLP  
1900 East 9<sup>th</sup> Street  
3200 National City Center  
Cleveland, OH 44114

/s/ Stephen D. Lott \_\_\_\_\_  
Stephen D. Lott