

Case # 20-1589

No. _____

IN THE
Supreme Court of the United States

KRIS KASZUBA dba HOLLYWOOD GROUP, pro se

PETITIONER,

v.

**ANDREW HIRSHFELD replacing Andrei IANCU,
ACTING DIRECTOR OF THE U.S. PATENT and TRADEMARK
OFFICE**

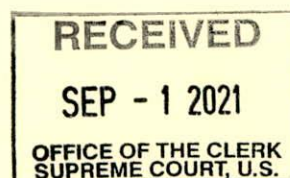
INTERVENOR.

**REPLY to Intervenor's Response, New Evidence &
New Questions**

KRIS KASZUBA, pro se
dba HOLLYWOOD GROUP
HOLLYWOOD BEER ®
2683 Via de la Valle, #G246
DEL MAR, CA 92014
kris@hollywoodbeer.org
858 353-6279

August 29, 2021

PETITIONER



REPLY to USPTO's RESPONSE, NEW EVIDENCE and QUESTIONS

OBJECTION:

1. Petitioner objects to the rewording by the USPTO of the Petitioner's three initial Petition Questions in the Respondent's Brief and is requesting that the Respondent's versions be given no consideration by this Court and stricken.

The rewording alters the intent and meaning of Petitioner's Questions.

2. The Respondent's Brief is not signed and dated July 2021 with no day.

The Certificate of Service is not signed.

NEW QUESTION # 4:

Did the Trademark Trial and Appeal Board err in its order to allow a Substitution of Attorney signed by only one of the two 50/50 equal partners which is not a majority of votes for an LLC to enter into a contract dated July 19, 2016 and therefore Hollywood Vodka LLC had no Constitutional Standing to proceed with the Trademark Cancellation Hearing? Appellant had objected in 2016 and was unjustly overridden by the Interlocutory Attorney of the TTAB.

New evidence has been discovered to be presented herein.

NEW QUESTION # 5:

Should Hollywood Vodka LLC now by its sole owner, Keith Fox, be the true Respondent before the Supreme Court and not the USPTO since Keith Fox is now self representing his “vodka” Trademark Application since May 5, 2021 and further Keith Fox has not updated his TTAB Cancellation file with the TTAB.

See Exhibit A.

APPELLANT's REPLY and NEW EVIDENCE FOR NEW QUESTIONS

1. Petitioner refutes the USPTO Response by Mr. Hirshfeld in totality since the Response does not conform to Supreme Court Rules. The response is not signed and dated July 2021 with no day. The Certificate of Service is not signed.

2. The USPTO stated with respect to Question 2 that Intervention by the USPTO Director under 35 U.S.C §143 was only found in the CAFC's Decision in a footnote.

The Petitioner has double checked and reports that Section 143 was referenced twice more, much earlier in the hearing as follows:

- Docket 17 on August 29, 2019 CAFC
Exhibit B
- Docket 21 on August 30, 2019 being an Order of the CAFC
Exhibit C

The USPTO has omitted and failed to report these important facts.

The USPTO is supposed to be the foremost expert in trademark law.

For the USPTO not to know that Section 143 pertains only to patent appeals and not trademark appeals for intervention is unbelievable and unconscionable.

Yet the USPTO entered as Intervenor as replacement for Hollywood Vodka at the CAFC which was unconstitutional and the USPTO lacked Standing to be a Participant and substitution for Hollywood Vodka LLC, the original Appellee.

QUESTION 4 NEW EVIDENCE

Petitioner has discovered that the two individuals of Hollywood Vodka LLC had a major falling out and disputes rendering the company legally inoperable.

On July 25, 2019, German Clavijo filed a lawsuit against his 50/50 partner Keith Fox and their company in Los Angeles Superior Court for Fraud No Contract.

The Complaint outlines in detail the total disarray of the company as follows:

See Exhibits **D, E, F** attached.

- Keith Fox was accused of mishandling funds from the Hollywood Vodka Bank Account.
- Clavijo closed the company's joint checking account on August 12, 2016
- Keith Fox opened his own Hollywood Vodka Bank Account Nov 6 2016
- Clavijo opened his own Hollywood Vodka Bank Account
- Clavijo stated there was dissension and inability to operate the company
- On June 3, 2019 Clavijo made a written demand of Keith Fox "Notice of Shareholder Demand to act . . ."
- A Civil Harassment Order

The importance of this evidence is that effective June 3, 2016, Hollywood Vodka

LLC was legally inoperative and no decision or signing of documents could be made on the part of the company.

And yet, Keith Fox, a 50% non majority owner in an unlawful company entered into a contract to retain Weinberg Gonser LLP to represent the Cancellation Proceeding at the Trademark Trial and Appeal Board. The Appearance of New Attorney POA was signed on July 19, 2016 just weeks after Mr. Clavijo's Written Demands to Keith Fox and entered as Docket 33. At that time Mr. Kaszuba challenged and objected to the new appearance on the basis that only one person signed as co-owner on the Power of Attorney to the new Attorney firm. The Interlocutory Attorney erred and unjustly sided with Hollywood Vodka and its single and non majority owner. See Exhibit G.

As of June 2016, the TTAB proceeding should have ceased and been dismissed. This unlawful Power of Attorney by Keith Fox resulted in 5 more years of unnecessary and unjustified proceedings for the Petitioner, the TTAB, the CAFC and now the Supreme Court.

Given all the above, it appears that Keith Fox committed a FRAUD on the TTAB, USPTO, his new law firm and on Kris Kaszuba and his business Hollywood Group and his trademark, Hollywood Beer legally registered for 13 years.

The evidence clearly shows why Hollywood Vodka never made an appearance at the CAFC Appeal and why his attorneys, not properly or legally appointed, did not

respond to the Clerk's two letters of the status of their appearance at the CAFC. Hollywood Vodka LLC and the two 50/50 owners were legally dysfunctional and and unable to operate legally as a corporation.

QUESTION 5 NEW EVIDENCE:

Hollywood Vodka LLC now by its owner, Keith Fox should be the true Respondent before the Supreme Court and make an appearance and not the USPTO since Keith Fox is self representing his "vodka" Trademark Application since May 5, 2021 without his co/owner German Clavijo. Exhibit H.

Given the overwhelming evidence re the disputed, illegal and disappated partnership, the USPTO and Solicitor General should not have to use the government's solicitors, personnel and costly resources to defend a TTAB decision which was full of deceit and untruthfulness by Petitioner of Hollywood Vodka LLC. Keith Fox should be held criminally and civilly responsible for his signing an unlawful contract.

And further Keith Fox, (or German Clavijo) have not updated the Attorney representation in the TTAB Proceeding file at the TTAB.

CREDIBILITY and CHARACTER:

Petitioner, Kris Kaszuba is a small business owner who has worked for several engineering companies as a Project Manager with an University Degree.

The Appellant has owned HollywoodBeer.org and HollywoodBeer.net for over 12 years. I do not believe that anyone at the TTAB or the CAFC looked at my websites to see and know that I do operate a Hollywood Beer business.

The Petitioner has operated his registered business "Hollywood Group" for 12 years since 2008 and files his small business Schedule C taxes with the IRS for years.

The Petitioner has been active with trademarks and is working on several patents.

Petitioner was considered for the Public Advisory Committee by the USPTO As evidenced by attached letter from Eleanor K. Meltzer, Esq Chief of Staff, USPTO. See attached Exhibit I.

Keith Fox has some business background and had told German Clavijo that he had worked at a major Movie Company in Hollywood, California. In his lawsuit Mr. Clavijo stated that Keith's Fox Movie Experience was not true.

See Exhibit J.

German Clavijo apparently has some business experience but little info is available. See Exhibit K.

Hollywood Vodka stated on their website that their vodka was produced and bottled in Los Angeles, CA which is not true, rather this is a misrepresentation, And false advertising.

Petitioner can provide evidence that their vodka was produced in China. See Exhibit L.

The docket shows that Hollywood Vodka in their trademark application have used 5 different lawyers. Their last attorney withdrew on May 4, 2021.

CONCLUSION

Good cause exists for the petition for certiorari to be granted based on the new evidence and two new Questions submitted herein.

A grant would correct errors of law that result from the Trademark Board, TTAB and the Federal Circuit refusing to follow this Court's decision in Lexmark.

Also, good cause exists to conform the rule of law applicable to both "administrative trademark judges" and "administrative patent judges."

Respectfully, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

/kk/ electronically signed

August 29, 2021

Kris Kaszuba, pro se

Hollywood Group, Owner of HOLLYWOOD BEER ®

2683 Via de la Valle # G246

Del Mar, CA 92014

kris@hollywoodbeer.org

858 353-6279

Exhibit A - Keith Fox not represented by an Attorney

USPTO TSDR Case Viewer



Case Id
86069833

Document Description

1. Change Address or Representation Form

Mail/Create Date

May. 05, 2021

OWNER SECTION(proposed)	
STATEMENT TEXT	By submission of this request, the undersigned requests that the following be made of record for the owner/holder:
NAME	HOLLYWOOD VODKA LLC
MAILING ADDRESS	3950 spring garden lane
CITY	Estero
STATE	Florida
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	33928
PHONE	9103689585
EMAIL	XXXX
CORRESPONDENCE SECTION(current)	
NAME	HOLLYWOOD VODKA LLC
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	IP@pmlegal.law
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	IP@pmlegal.law; AKM@pmlegal.law; TIB@pmlegal.law
CORRESPONDENCE SECTION (proposed)	
NAME	HOLLYWOOD VODKA LLC
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	keith@hollywoodvodka.tv
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	Jason@fandrichlaw.com; keithafox@yahoo.com
SIGNATURE SECTION	
SIGNATURE	/Keith Fox/
SIGNATORY NAME	Keith Fox
SIGNATORY DATE	05/05/2021
SIGNATORY POSITION	Owner member
SIGNATORY PHONE NUMBER	9103689585
ROLE OF AUTHORIZED SIGNATORY	Owner/Holder not represented by an attorney

Exhibit B - USPTO INTERVENTION - 35 U.S.C §143

Court of Appeals Docket #: 19-1547 Kaszuba v. Iancu Appeal From: United States Patent and Trademark Office Fee Status: fee paid	Docketed: 02/15/2019
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Case Type Information:

- 1) BCA or PTO
- 2) Trdmrk Trial & App Bd (IP)
- 3) -

Originating Court Information:

District: PATO-1 : 92061976
Trial Judge: Marc A. Bergsman, Administrative Trademark Judge
Trial Judge: Susan J. Hightower, Administrative Trademark Judge
Trial Judge: Thomas W. Wellington, Administrative Trademark Judge
Date Filed: 08/05/2015
Date Rec'd COA:
 02/11/2019

06/27/2019	14	6 paper copies of the Informal Opening Brief [13] received from Appellant Kris Kaszuba. [618519] [CJF] [Entered: 07/02/2019 11:21 AM]
07/30/2019	15	ORDER filed. ECF No. 13 is accepted for filing as Mr. Kaszuba's formal opening brief. Mr. Kaszuba's motions to file his brief electronically and for an extension of time, both filed before his opening brief was submitted, [11] [12] are deemed moot. The revised official caption and short caption, reflecting Hollywood Vodka LLC's nonparticipation in this appeal, are reflected in this order. Within 30 days of the date of filing of this order, the Director of the United States Patent and Trademark Office is directed to inform this court whether he intends to seek leave to intervene. (Per Curiam). Service: 07/30/2019 by clerk. [624435] [LMS] [Entered: 07/30/2019 10:39 AM]
07/30/2019	16	BRIEF FILED for Kris Kaszuba. Number of Pages: 23. Service: 06/28/2019 by clerk. [624441] [MJL] [Entered: 07/30/2019 10:56 AM]
08/29/2019	17	Notice of Intervention pursuant to the provisions of 35 USC Section 143 from the Director of the United States Patent and Trademark Office. Service: 08/29/2019 by US mail. [631873] [19-1547] [Thomas Casagrande] [Entered: 08/29/2019 10:25 AM]
08/29/2019	18	Entry of appearance for Thomas L. Casagrande as principal counsel for Intervenor - Director, U.S. Patent and Trademark Office. Service: 08/29/2019 by US mail. [631874] [19-1547] [Thomas Casagrande] [Entered: 08/29/2019 10:27 AM]
08/29/2019	19	Entry of appearance for Christina J. Hieber as of counsel for Intervenor - Director, U.S. Patent and Trademark Office. Service: 08/29/2019 by US mail. [631875] [19-1547] [Christina Hieber] [Entered: 08/29/2019 10:29 AM]
08/29/2019	20	Entry of appearance for Thomas W. Krause as of counsel for Intervenor - Director, U.S. Patent and Trademark Office. Service: 08/29/2019 by US mail. [631879] [19-1547] [Thomas Krause] [Entered: 08/29/2019 10:30 AM]
08/30/2019	21	ORDER filed. The modified official caption is reflected in the order. Intervenor brief is due 10/09/2019. Service as of this date by the Clerk of Court. [632383] [MMA] [Entered: 08/30/2019 02:15 PM]
10/02/2019	22	MOTION of Intervenor Iancu to extend the time to 10/30/2019 to file the Intervenor's brief. [Consent: not addressed]. Service: 10/02/2019 by email, US mail. [639832] [19-1547] [Thomas Casagrande] [Entered: 10/02/2019 06:23 PM]
10/03/2019	23	RESPONSE of Appellant Kris Kaszuba to the motion to extend time to file brief [22] filed by Intervenor Iancu in 19-1547. Service: 10/04/2019 by clerk. [640216] [MMA] [Entered: 10/04/2019 10:04 AM]

Exhibit C - USPTO INTERVENTION - 35 U.S.C §143

Case: 19-1547 Document: 21 Page: 1 Filed: 08/30/2019

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

KRIS KASZUBA, dba Hollywood Group,
Appellant

v.

ANDREI IANCU, Director, U.S. Patent and
Trademark Office,
Intervenor

2019-1547

Appeal from the United States Patent and Trademark
Office, Trademark Trial and Appeal Board in No.
92061976

ORDER

Upon notification from the Director of the United States Patent and Trademark Office that pursuant to 35 U.S.C. § 143, the Director intervenes in the above-captioned appeal,

IT IS ORDERED THAT:

- 1) The Director of the United States Patent and Trademark Office is added as an intervenor. The revised official caption is reflected above.
- 2) The Intervenor's brief is due within forty days of the filing of this order.

FOR THE COURT

August 30, 2019

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

Exhibit D - Clavijo & Fox Separate Company Bank Accounts

1 acting in a fraudulent manner towards corporate funds and towards plaintiff.

2
3 33. Thereafter, plaintiff proceeded to take steps to protect H-V, including opening a separate
4 corporate bank account to which FOX had no access, which plaintiff capitalized it with his own
5 monies, in order to continue to pay for ongoing corporate business expenses. In or about August 12,
6 2016, plaintiff closed the former business checking account of H-V, based upon several unexplained
7 transactions by FOX.
8

9
10 34. On information and belief, and in or about November 2, 2016, FOX opened up another H-V
11 Business checking account without inclusion of plaintiff.
12

13
14 35. As of July 28, 2016 plaintiff formed a reasonable suspicion that defendant Fox was not acting
15 in the best interest of the company and was using corporate funds for unauthorized purposes. Fox
16 reacted to being confronted on said date by plaintiff by instituting a policy of complete non-
17 cooperation with plaintiff in the operation and management of H-V, causing the company to be
18 unable to function.
19

Exhibit E - 50/50 Partners Hollywood Vodka LLC

1 13. There is a present and ongoing dissension and inability of the 50/50 owner operators of H-V
2 to operate the company, which has stalemated and prevented the development and growth of H-V and
3 rendered it impossible to allow for reasonable corporate decision-making and/or sale of inventory and
4 has resulted in unpaid financial obligations, inadequate corporate capitalization, lack of ability to
5 conduct the business of the corporate entity H-V, the sale of vodka, continue business operations and
6 service recurring business accounts and receivables, all of which threatens the continued viability of
7 H-V and which FOX has refused to remedy, leading to the institution of the subject action in regard
8 to the derivative claims.
9
10

Exhibit F - SHAREHOLDER DEMANDS NOTICE

11 14. Plaintiff is, and at all times relevant hereto after the formation of the company, has held the
12 position of member-manager of H-V with a 50% ownership interest and held such interest at the time
13 that defendant FOX committed the acts and omissions complained of herein.
14

15 15. Plaintiff made a written demand, dated June 3, 2019 upon defendants in an effort to secure
16 from FOX, in his capacity as the other member-manager and 50% owner of H-V, action deemed
17 necessary to protect the Corporation from abuse and damage due to FOX's acts and omissions as
18 herein alleged. This demand entitled '*Notice of Shareholder Demand and Shareholder Demand that*
19 *Director(s) take action on behalf of H-V pursuant to California Corporations Code, section*
20 *17709.23(a) and Wyoming Limited Liability Company Act, Article 9, section 17-29-902*', a true and
21 correct copy of which is attached hereto as exhibit A, incorporated herein by reference, was made in
22 an attempt to have FOX act to stop any further damaging acts and omissions of the nature specifically
23 described in the demand letter and incorporated herein below, upon which FOX has failed to act.
24
25
26

Exhibit G - Keith Fox POA as Co-owner

Los Angeles, CA 90024
TEL: (424) 239-2682
FAX: (424) 238-3060

Attorneys for Petitioner
Hollywood Vodka LLC

ACKNOWLEDGED AND APPROVED:

HOLLYWOOD VODKA LLC,
a Wyoming limited liability company

By: 

Name: Keith Fox

Title: Co - Owner

Date: 7/19/16

Exhibit H - Keith Fox pro se, no Attorney

USPTO TSDR Case Viewer



Case Id
86069833

Document Description

1. Change Address or Representation Form

Mail/Create Date

May. 05, 2021

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NAME	HOLLYWOOD VODKA LLC
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	keith@hollywoodvodka.tv
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	Jason@fandrichlaw.com; keithafox@yahoo.com
SIGNATURE SECTION	
SIGNATURE	/Keith Fox/
SIGNATORY NAME	Keith Fox
SIGNATORY DATE	05/05/2021
SIGNATORY POSITION	Owner member
SIGNATORY PHONE NUMBER	9103689585
ROLE OF AUTHORIZED SIGNATORY	Owner/Holder not represented by an attorney

Exhibit I - Kris Kaszuba, USPTO ADVISORY COMMITTEE



UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

MAY 18 2009

Mr. Kris Kaszuba
3857 Pell Place, #301
San Diego, California 92130

Dear Mr. Kaszuba:

Thank you for your interest in serving as a member of the United States Patent and Trademark Office (USPTO) Patent Public Advisory Committee.

The Public Advisory Committees consist of citizens of the United States chosen to represent the interests of the diverse users of the USPTO and are responsible for reviewing the policies, goals, performance, budget, and user fees of the patent and trademark operations, respectively, and advising the Under Secretary and Director on these matters.

As you may be aware, the Secretary of Commerce appoints all new members to both USPTO Public Advisory Committees. Please know that your nomination will be given full consideration in the selection process.

Once again, thank you for your interest in becoming a member of this most important committee.

Sincerely,


Eleanor K. Melitzer
Chief of Staff
(571) 272-7660

Exhibit J - Keith Fox, Hollywood Vodka LLC



Exhibit K - German Clavijo, Hollywood Vodka LLC

really makes this an amazing city to live in!" - G.C. Clavijo Co-owner/Founder Hollywood Vodka LLC #liveyourdream #losangeles #hollywood #cocktail #happyhour #vodka #california



**Exhibit L - Produced in Los Angeles is not true
Made & produced in China**

