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Filing date: **07/31/2009**

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

Proceeding	91173105
Party	Defendant Michael Dalton
Correspondence Address	Michael Dalton P.O. Box 18137 670 Northland Blvd. Cincinnati, OH 45218-0137 UNITED STATES DALTONME@hotmail.com
Submission	Defendant's Notice of Reliance
Filer's Name	Michael Dalton
Filer's e-mail	DALTONME@hotmail.com
Signature	/ Michael Dalton /
Date	07/31/2009
Attachments	EvidenceIntroduced.pdf ( 8 pages )(678938 bytes )

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

Honda Motor Co. LTD	:	
	:	
Opposer	:	
	:	
vs.	:	Opposition No. 91173105
	:	
	:	
Michael Dalton	:	
	:	
Applicant	:	

**Notice of Reliance ,Filing of Testimony,**  
**And**  
**Evidense Introduced.**

Now comes, Michael Dalton, Defendant – Applicant, pursuant to Trademark Rules and hereby introduces into evidence the following:

AA. Dalton’s Testimonial Deposition and Exhibits.

Applicant hereby gives notice that he intends to rely upon the testimonial deposition of Michael Dalton taken during Applicants testimony Period, along with exhibits introduced during that deposition. Mr. Dalton’s certified transcript has been filled with the board, along with exhibits identified and marked therein.

BB. Official Record

Applicant hereby gives his notice of reliance on copies of an official record of the Patent and Trademark Office. The documents are exact copies of the official record archived in the TESS system of registered marks. The official record is relevant because it demonstrates that the term **Dashboard** has a history of becoming a registered mark and is not generic and / or descriptive in nature.

CC. Official Record

Applicant hereby gives his notice of reliance on copies of an official record of the Patent and Trademark Office. The official record is relevant because it demonstrates that the term **Dealer** has a history of becoming a registered mark and is not generic and or descriptive in nature.

DD. Official Record

Applicant hereby gives his notice of reliance on copies of an official record of the whois directory provided by NetworkSolutions. The documents are exact copies of the official record archived in the NetworkSolutions whois directory and in general circulation among members of the public or that segment of the public that is relevant under an issue in this proceeding. The official record is relevant because it demonstrates that the term, domain name, and source identifier, DealerDashboard, has been registered to the applicant with various domain extensions at least as early as 10/05/1999. The documents also demonstrate defensive measures taken by applicant to protect the exclusive use of the mark, DealerDashboard, and various potential market-confusing variations. It identifies the mark, DealerDashboard, as a source identifier and domain name with applicants exclusive, continuous, use since 10/05/1999 and for a period exceeding six years prior to opposer's opposition filed 09/27/2006.

EE. Official Record

Applicant hereby gives his notice of reliance on copies of an official record of the Patent and Trademark Office. The documents are exact copies of the official record archived in the TESS system regarding opposition 91163349. The official record is relevant because it demonstrates that the term dealer dashboard within the automotive

industry is viewed as unique with the ability of becoming a registered mark and is not generic and or descriptive in nature.

FF. Official Record

Applicant hereby gives his notice of reliance on copies of the wayback machine provided by the Internet Archive. The documents are exact copies of the wayback machine archived at <http://www.archive.org> in general circulation among members of the public or that segment of the public that is relevant under an issue in this proceeding. The documents are relevant because it demonstrates that the term, domain name, and source identifier, DealerDashboard, has been infringed upon by those claiming to have rights in the mark. The documents demonstrate that Nowcom.com, a member of the Hanley Group and sister company to WestLake Financial, while claiming a trademark right in the term Dealer Dashboard was also engaged in the exploitation of other brands. In this, case WD-40. It also demonstrates that the applicant, Michael Dalton, had a first and prior use to the source identifier DealerDashboard.com

GG. Publications

Applicant hereby gives his notice of reliance on a copy of a print out of the website Harley-Davidson.com. The document is an exact copy of the website harley-davidson.com archived at: [http://www.harley-davidson.com/CO/CAR/en/JobDescription.asp?/locale=en\\_US&bmLocale-EN](http://www.harley-davidson.com/CO/CAR/en/JobDescription.asp?/locale=en_US&bmLocale-EN) ... The document is in general circulation among members of the public or that segment of the public that is relevant under an issue in this proceeding. The document is relevant because it demonstrates that the term, domain name, and source identifier, DealerDashboard, has been infringed upon by those claiming to have rights in the mark. The document

demonstrates that Harley-Davidson is claiming a common-law trademark right in the term Dealer Dashboard by utilization of the TM insignia. It also demonstrates that the applicant, Michael Dalton, had a first and prior use to the source identifier DealerDashboard.com and Dealer-Dashboard.com and that within the automotive industry the term DealerDashboard is not generic and or descriptive in nature but unique with the ability of becoming a registered mark and rebuts Opposer's exhibits regarding Harley-Davidson.

#### HH. Publications

Applicant hereby gives his notice of reliance on a copy of a print out of a PDF slide show for Harley-Davidson. The document is an exact copy of the PDF represented in The Google search and available at the website address:

[http://www.google.com/url?q=https://www.sdn.sap.com/irj/boc/index%3Frid%3D/library/uuid/d03abe46-6843-2b10-d5a1-e17e69dd81ef%26overridelayout%3Dtrue&ei=WLxvSqvyFoznlAetq6DMBQ&sa=X&oi=spellmeleon\\_result&resnum=1&ct=result&usg=AFQjCNElvugZOJI135KOe\\_jxJh\\_PiBoTmA](http://www.google.com/url?q=https://www.sdn.sap.com/irj/boc/index%3Frid%3D/library/uuid/d03abe46-6843-2b10-d5a1-e17e69dd81ef%26overridelayout%3Dtrue&ei=WLxvSqvyFoznlAetq6DMBQ&sa=X&oi=spellmeleon_result&resnum=1&ct=result&usg=AFQjCNElvugZOJI135KOe_jxJh_PiBoTmA). The document presentation is in general circulation among members of the public or

that segment of the public that is relevant under an issue in this proceeding. The document is relevant because it demonstrates that the term, domain name, and source identifier, DealerDashboard, has been infringed upon by those claiming to have rights in the mark. The document demonstrates that Harley-Davidson is claiming a common-law trademark right in the term Dealer Dashboard by utilization of the Dealer Dashboard TM insignia on slide 7. It also demonstrates that the applicant, Michael Dalton, had a first and prior use

to the source identifier DealerDashboard.com and Dealer-Dashboard.com and that within the automotive industry the term DealerDashboard is not generic and or descriptive in nature but unique with the ability of becoming a registered mark and rebuts Opposer's exhibits regarding Harley-Davidson.

## II. Publications

Applicant hereby gives his notice of reliance on the screen-shot copies of the Nielsen Company. The documents are exact copies of the Nielsen Company archived on the website server: <http://nielsenmedia.com> and in general circulation among members of the public or that segment of the public that is relevant under an issue in this proceeding. The documents are relevant because it demonstrates that Nielsen's representative sample size of 25,000 opt-in participants are a reliable indicator of the public at large and rebuts the Opposer's position, during Dalton's discovery deposition, that ranking.com's sample size of 250,000, or opt-in methodology invalidates the ranking of DealerDashboard.com by ranking.com.

## JJ. Publications

Applicant hereby gives his notice of reliance on the screen-shot copies of the Wiki Encyclopedia and the search term sample size. The documents are exact copies of the Wiki Encyclopedia archived on the website: [http://en.wikipedia.org/wiki/Sample\\_size](http://en.wikipedia.org/wiki/Sample_size) and in general circulation among members of the public or that segment of the public that is relevant under an issue in this proceeding. The documents are relevant because it demonstrates that typically, all else being equal; a larger sample size leads to increased precision in estimates of various properties of the population. This can be seen in such statistical rules as the law of large numbers and the central limit theorem. Nielsen's

representative sample size of 25,000 opt-in participants are a reliable indicator of the public at large and rebuts the Opposer's position, during Dalton's discovery deposition, that ranking.com's sample size of 250,000, or opt-in methodology invalidates the ranking of DealerDashboard.com by ranking.com.

KK. Publications

Applicant hereby gives his notice of reliance on the copies of search results on the search term HONDA as provided by the websites Yahoo.com, AOL.com, and Google.com. The documents are exact copies of the official search results on 07/15/2009 on the term HONDA and available in general circulation among members of the public or that segment of the public that is relevant under an issue in this proceeding. The Honda search results are relevant because it rebuts opposer's representations during the Dalton discovery deposition and Mangham testimony deposition that the number of search results or, so called, hits, on a brand name is representative that a term is or has become generic and or descriptive in nature.

LL. Official Record and or Publications

Applicant hereby gives his notice of reliance on copies of:

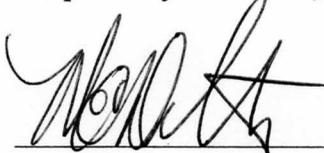
- a.) the official record of Network Solutions whois search on the term goallinesoltuions.com identifying the administrative contact as Graham Line.
- b.) the official record of Circa.ca whois search on the term delaerdashboard.ca identifying the registration as anonymous and hosted at 10dollar.ca
- c.) the 10dollar.ca whois search on the term dealerdashboard.ca indentifying the registration as anonymous.

- d.) the screen-shot of dealerdashboard.ca indentifying a website redirect to goallinesolutions.
- e.) The official record of Circa.ca whois search on the term goallinesolutions.ca identifying the domain as unowned and available for registration.
- f.) the official record of 10dollar.ca search on the term goallinesolutions.ca identifying the domain names goallinesolution.net, .org, .info, .biz as unowned and available for registration.

The documents are exact copies of the official record archived at networksolutions.com, cira.ca, 10dollar.ca, and the screen-shot of dealerdashboard.ca on 07/30/2009.

The official record and screen-shot documents are relevant because it demonstrates that the credibility of goallinesolutions.com is in question with an anonymous registration and redirect of an infringing term dealerdashboard.ca, identifying an attempt to exploit the applicant's brand, **DealerDashboard**, and indentifies dealer dashboard as not generic and or descriptive in nature.

Respectfully submitted,



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**Certificate of Service**

I, Michael Dalton, that a true and complete copy of the foregoing Notice of Reliance and Notice of Filing has been served on July 31, 2009 by standard US mail to attorney for Opposer, Dyan Finguerra-DuCharme, 399 Park Ave, New York, New York 10022

A handwritten signature in black ink, appearing to read 'Michael Dalton', written over a horizontal dashed line.

Michael Dalton, applicant pro se  
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