

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bharat Biotech International Limited : BEFORE THE
Trademark: ZIKAVAX : TRADEMARK TRIAL
Serial No: 87570858 : AND
Attorney: John M. Mueller : APPEAL BOARD
Address: Baker & Hostetler LP :
312 Walnut Street :
Suite 3200 : ON APPEAL
Cincinnati, OH 45202 :

MOTION TO CONSOLIDATE

Applicant has proposed to register the marks “ZIKAVAX” (SN 87570858) and “ZICAVAC” (SN 87570862) both for “Vaccine formulations” in Class 5. In both applications, the examining attorney refused registration pursuant to Section 2(e)(1) of the Trademark Act. In both applications, applicant has argued against the Section 2(e)(1) refusal. The refusal has been made final in both applications, and applicant has appealed and filed an appeal brief.

The marks at issue are very similar, with both marks, “ZIKAVAX” and “ZICAVAC”, being near phonetic equivalents. The arguments and issues regarding the Section 2(e)(1) Refusal are interrelated and very similar in both applications. The evidence is partially overlapping and similar in nature in both applications.

As *ex parte* appeals are pending in both co-pending applications and the cases involve common issues of law and fact (namely, the cases involve similar marks, the same refusal

and requirements, and the same evidence), the examining attorney hereby requests that the referenced appeals be consolidated for purposes of efficiency. *See* TBMP §1214.

A similar motion is being filed concurrently for the appeal in the co-pending case listed above.

Respectfully submitted,

/Kimberly M. Ray/
Trademark Examining Attorney
Law Office 122
(571) 272-7834
Kimberly.ray@uspto.gov

John Lincoski
Managing Attorney
Law Office 122