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

Proceeding	91194280
Party	Plaintiff Pirelli Tyre S.p.A., Pirelli & C. S.p.A.
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Attachments	Pirelli's Reply re Motion to Consolidate ZERO MX w others.pdf (4 pages) (12772 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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PIRELLI TYRE S.P.A. v. ZERO MOTORCYCLES, INC., PIRELLI TYRE S.P.A. AND PIRELLI & C. S.P.A., v. ZERO MOTORCYCLES, INC.,	Consolidated Opposition No. 91192093 Opposition No. 91192475 Cancellation No. 92051520 Cancellation No. 92051859
PIRELLI TYRE S.P.A. AND PIRELLI & C. S.P.A., v. ZERO MOTORCYCLES, INC.,	Opposition No. 91194280

PIRELLI’S REPLY REGARDING MOTION TO CONSOLIDATE

Opposers/Petitioners Pirelli Tyre S.p.A. and Pirelli & C. S.p.A (collectively “Pirelli”), through their undersigned counsel, hereby submit their reply regarding their motion to consolidate Opposition No. 91194280 with the consolidated proceedings for Opposition Nos. 91192093 and 91192475 and Cancellation Nos. 92051520 and 92051859.

In its Response to Pirelli’s Motion to Consolidate, Applicant does not oppose the consolidation and indeed even explicitly states that it “generally consents to consolidation of Pirelli’s latest action with those already filed by Pirelli and consolidated with [Applicant’s] consent.” Reponse at 1. Applicant, however, alleges that consolidation “may be unnecessary at this moment” because of Applicant’s motion to stay this and the consolidated proceedings. Pirelli contends that whether or not this

action is stayed, consolidation is appropriate and will result in judicial economy and efficiencies for both the Board and the parties that justify consolidation.

Consolidation is appropriate because the consolidated oppositions and cancellations and this opposition involve common factual and legal issues. Further consolidation of the oppositions and cancellation, and this opposition, will reduce the number of filings before the Board, and assist both the Board and the parties in maintaining all of the cases on the same schedule.

In addition, given the similarity of the marks at issue and the similar grounds for opposition, much of the discovery and evidence at trial will likely be the same in all of the cases, in the event that a settlement is not reached. If proceedings move forward, the parties are likely to present the same arguments and evidence in all proceedings. Absent consolidation, both parties will be compelled to conduct piecemeal discovery and prosecution of the three separate proceedings. Accordingly, consolidation of these cases will result in a significant savings of time and resources for both the parties and the Board.

Even if this matter and the other proceeding are stayed pending resolution of the jurisdictional issue in the district court, it would be better for the Board and the parties to have this matter consolidated before it is stayed. That way, once the district court proceeding is resolved and this matter is reopened, the cases will require no further filings regarding consolidation, such as the "refilling" suggested by Applicant, as the case will have already been consolidated and can proceed on the same schedule without duplicative filings. Applicant does not object to, and indeed, favors consolidation of these matters if they are to proceed at the Board.

Thus, Pirelli respectfully requests that the Board grant their Motion to Consolidate Opposition No. 91192073 and Opposition No. 91194280.

This request is made in good faith and are not for the purpose of mere delay.

Respectfully submitted,

Dated: May 6, 2010

By: /s/Virginia L. Carron
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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing PIRELLI'S REPLY REGARDING MOTION TO CONSOLIDATE was served by agreement, by email transmission this 6th day of May 2010, upon counsel for Applicant:

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