

ESTTA Tracking number: **ESTTA1107537**

Filing date: **01/13/2021**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Zero Motorcycles, Inc.
Granted to Date of previous extension	01/13/2021
Address	380 EL PUEBLO DRIVE SCOTTS VALLEY, CA 95066 UNITED STATES
Attorney information	MIKE RODENBAUGH RODENBAUGH LAW 548 MARKET ST BOX NO. 55819 SAN FRANCISCO, CA 94104 UNITED STATES Primary Email: mike@rodenbaugh.com Secondary Email(s): marie@rodenbaugh.com 415 738-8087
Docket Number	VE-Zero

**Applicant Information**

Application No.	88915909	Publication date	09/15/2020
Opposition Filing Date	01/13/2021	Opposition Period Ends	01/13/2021
Applicant	SAS Quelet RUE DE ETAINS DAMPIERRE LES BOIS, 25490 FRANCE		

**Goods/Services Affected by Opposition**

Class 012. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Bodies for vehicles; Electric vehicles, namely, passenger vehicles; Electrically-powered motor vehicles; Vehicle bodies; Automotive body kits comprising external structural parts of automobiles; Doorpanels for land vehicles; Roof panels for land vehicles; Self-propelled electric vehicle

**Grounds for Opposition**

Priority and likelihood of confusion

Trademark Act Section 2(d)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3669900	Application Date	05/27/2007
Registration Date	08/18/2009	Foreign Priority Date	NONE
Word Mark	ZERO MOTORCYCLES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2007/06/29 First Use In Commerce: 2007/06/29 Electric vehicles, namely, motorcycles;Motorcycles		

U.S. Registration No.	4590623	Application Date	06/11/2009
Registration Date	08/26/2014	Foreign Priority Date	NONE
Word Mark	ZERO MX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2009/01/07 First Use In Commerce: 2009/01/07 Electric motorcycles; Motorcycles and structural parts therefor; Motorcycles for motocross		

U.S. Registration No.	4489899	Application Date	02/06/2009
Registration Date	03/04/2014	Foreign Priority Date	NONE
Word Mark	ZERO S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2008/08/08 First Use In Commerce: 2008/08/08 Electric motorcycles; Motorcycles and structural parts therefor		

U.S. Registration No.	4489903	Application Date	07/30/2009
Registration Date	03/04/2014	Foreign Priority Date	NONE
Word Mark	ZERO DS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2008/10/22 First Use In Commerce: 2008/10/22 Electric motorcycles; Motorcycles and structural parts therefor; Motorcycles for motocross		

U.S. Registration No.	5186862	Application Date	07/22/2014
Registration Date	04/18/2017	Foreign Priority Date	NONE

Word Mark	ZERO MMX
Design Mark	
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2016/06/28 First Use In Commerce: 2016/06/28 Electric motorcycles; Motorcycles and structural parts therefor

U.S. Registration No.	4925052	Application Date	07/22/2014
Registration Date	03/29/2016	Foreign Priority Date	NONE
Word Mark	ZERO FX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2012/10/02 First Use In Commerce: 2012/10/02 Electric motorcycles; Motorcycles and structural parts therefor		

U.S. Registration No.	5076013	Application Date	07/22/2014
Registration Date	11/08/2016	Foreign Priority Date	NONE
Word Mark	ZERO SR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2013/11/05 First Use In Commerce: 2013/11/05 Electric motorcycles, excluding saddlesfor the same vehicles; Motorcycles and structural parts therefor, excluding saddles for the same vehicles		

U.S. Registration No.	5080281	Application Date	02/26/2015
Registration Date	11/15/2016	Foreign Priority Date	NONE
Word Mark	ZERO DSP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2013/11/06 First Use In Commerce: 2013/11/06 Electric motorcycles; Motorcycles and structural parts therefor; Motorcycles for motocross		

U.S. Registration No.	5084633	Application Date	02/26/2015
Registration Date	11/22/2016	Foreign Priority Date	NONE
Word Mark	ZERO SP		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 012. First use: First Use: 2013/11/06 First Use In Commerce: 2013/11/06 Electric motorcycles; Motorcycles and structural parts therefor		
----------------	--	--	--

U.S. Registration No.	5084632	Application Date	02/26/2015
Registration Date	11/22/2016	Foreign Priority Date	NONE
Word Mark	ZERO FXP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2014/09/30 First Use In Commerce: 2014/11/05 Electric motorcycles; Motorcycles and structural parts therefor		

U.S. Registration No.	5246839	Application Date	02/26/2015
Registration Date	07/18/2017	Foreign Priority Date	NONE
Word Mark	ZERO DSR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2015/10/29 First Use In Commerce: 2015/10/29 Electric motorcycles; Motorcycles and structural parts therefor; Motorcycles for motocross		

U.S. Registration No.	5246838	Application Date	02/26/2015
Registration Date	07/18/2017	Foreign Priority Date	NONE
Word Mark	ZERO FXS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2015/10/30 First Use In Commerce: 2015/10/30 Electric motorcycles; Motorcycles and structural parts therefor		

U.S. Registration No.	5916734	Application Date	02/21/2019
Registration Date	11/19/2019	Foreign Priority Date	NONE
Word Mark	ZERO SR/F		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2019/04/10 First Use In Commerce: 2019/04/10 Electric motorcycles; Motorcycles and structural parts therefor		

Attachments	Zero_20210113_Notice of Opposition.pdf(110458 bytes )
Signature	/Marie E. Richmond/
Name	Marie E. Richmond
Date	01/13/2021

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

ZERO MOTORCYCLES, INC.,	:	
	:	Opposition No.
Opposer,	:	
	:	Serial No. 88915909
vs.	:	Mark: VE-ZERO
	:	Published: September 15, 2020
SAS Quelet, DBA Chalot, Inc.,	:	
	:	
Applicant.	:	
	:	

**NOTICE OF OPPOSITION**

ZERO MOTORCYCLES, INC. (“Opposer” or “Zero Motorcycles”), a Delaware corporation with a principal place of business at 380 El Pueblo Drive, Scotts Valley, California 95066, will be damaged by registration of the trademark shown in application serial no. 8915909 for the mark VE-ZERO (the “Subject Mark”) and states the following as its Notice of Opposition to that application.

[CONTINUED ON NEXT PAGE]

## FACTS

### Opposer's Business and Trademarks

1. Opposer Zero Motorcycles produces and sells high performance electric motorcycles and electric powertrain parts and technology throughout the United States and internationally. Since Zero Motorcycles developed its first prototype in 2006, Zero Motorcycles has become a leading global and United States producer of electric motorcycles.

2. Zero Motorcycles has been using the ZERO MOTORCYCLES and other ZERO-formative marks in commerce in the United States since at least June 29, 2007.

3. Zero Motorcycles is the owner of the following United States trademark registrations for ZERO MOTORCYCLES and other ZERO-formative trademarks:

- a. ZERO MOTORCYCLES, registration no. 3669900, in International Class 12 (electric vehicles, namely, motorcycles; motorcycles);
- b. ZERO MX, registration no. 4590623, in International Class 12 (electric motorcycles; motorcycles and structural parts therefor; motorcycles for motocross);
- c. ZERO S, registration no. 4489899, in International Class 12 (electric motorcycles; motorcycles and structural parts therefor);
- d. ZERO DS, registration no. 4489903, in International Class 12 (electric motorcycles; motorcycles and structural parts therefor; motorcycles for motocross);

- e. ZERO MMX, registration no. 5186862, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor);
- f. ZERO FX, registration no. 4925052, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor);
- g. ZERO SR, registration no. 5076013, in International Class 12  
(electric motorcycles, excluding saddles for the same vehicles;  
motorcycles and structural parts therefor, excluding saddles for the  
same vehicles);
- h. ZERO DSP, registration no. 5080281, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor;  
motorcycles for motocross);
- i. ZERO SP, registration no. 5084633, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor);
- j. ZERO FXP, registration no. 5084632, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor);
- k. ZERO DSR, registration no. 5246839, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor;  
motorcycles for motocross);
- l. ZERO FXS, registration no. 5246838, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor);  
and,
- m. ZERO SRF, registration no. 5916734, in International Class 12  
(electric motorcycles; motorcycles and structural parts therefor).



4. The foregoing registrations are valid and subsisting and constitute *prima facie* evidence of the validity of the marks and registration, and of Opposer's ownership of and exclusive right to use the marks in commerce and provide constructive notice of ownership thereof by Opposer.

5. As a result of Opposer's widespread use of the aforementioned marks, consumers and the general public have come to associate Opposer's ZERO MOTORCYCLES and ZERO-formative marks (collectively the "Zero Marks") with Opposer Zero Motorcycles.

6. Opposer's use of the Zero Marks commenced well prior to the filing of the Subject Mark by applicant SAS Quelet DBA Chalot, Inc. ("Applicant").

#### **Applicant's Business and Application**

7. Upon information and belief, Applicant is a French corporation with its principal place of business located in Dampierre les Bois, France.

8. Applicant applied for the VE-ZERO mark, application no. 88915909, on May 14, 2020, under §1(b) of the Trademark Act, in International Class 12.

9. The goods at issue in this opposition are included in Class 12, identified as: "Bodies for vehicles; Electric vehicles, namely, passenger vehicles; Electrically-powered motor vehicles; Vehicle bodies; Automotive body kits comprising external structural parts of automobiles; Door panels for land vehicles; Roof panels for land vehicles; Self-propelled electric vehicle".

10. The Subject Mark was published for opposition on September 15, 2020. Opposer now timely files this Notice of Opposition.

[CONTINUED ON NEXT PAGE]

## **GROUND FOR OPPOSITION**

### **Priority & Likelihood of Confusion**

11. Opposer repeats and realleges each and every allegation set forth herein.

12. Opposer Zero Motorcycles has priority of rights based on Opposer's United States registrations and applications for its Zero Marks. Opposer began using the ZERO MOTORCYCLES mark in 2007, over 13 years prior to the filing of the trademark application for the Subject Mark.

13. The Subject Mark is confusingly similar to Opposer's Zero Marks as it contains the identical, dominant term 'zero' and is similar in sound, pronunciation, appearance, and commercial impression to Opposer's Zero Marks.

14. The goods identified in connection with the Subject Mark are similar to the goods associated with Opposer's Zero Marks. Applicant's goods include: "Bodies for vehicles; Electric vehicles, namely, passenger vehicles; Electrically-powered motor vehicles; Vehicle bodies; Automotive body kits comprising external structural parts of automobiles; Door panels for land vehicles; Roof panels for land vehicles; Self-propelled electric vehicle"; whereas Opposer's goods include "electric vehicles, namely, motorcycles" and "motorcycles and structural parts therefor". As such the goods are very similar and related.

15. In light of the similarity of the parties' marks and the highly related nature of the parties' goods, the Subject Mark is likely to cause confusion, mistake or deceive in violation of Section 2(d), 15 U.S.C. § 1052(d).

[CONTINUED ON NEXT PAGE]

**CONCLUSION**

WHEREFORE, Opposer will be damaged by the registration of the Subject Mark, Opposer respectfully requests that this opposition will be granted and that application no. 88915909 for the mark VE-ZERO will not proceed to registration.

The opposition fee in the amount of \$600.00 for an opposition in one class was filed in conjunction with Opposer's first Notice of Opposition. This paper is filed electronically.

RESPECTFULLY SUBMITTED,

DATED: January 13, 2021

By: /s/ Mike Rodenbaugh

Mike Rodenbaugh  
RODENBAUGH LAW  
584 Market Street  
Box 55819  
San Francisco, CA 94104  
Tel/fax: (415) 738-8087

*Attorney for Opposer*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on the Applicant's correspondent by email at the address(es) provided on the USPTO trademark record for the Subject Application:

Kendall John Brady  
kbrady@kenbradylaw.com  
info@kenbradylaw.com

Dated: January 13, 2020

Respectfully submitted,

By: /s/ Marie Richmond

Marie Richmond  
Rodenbaugh Law  
548 Market Street  
San Francisco, CA 94104  
Tel: (415) 738-8087  
California Bar No. 292962