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

Proceeding no.	91291970
Party	Plaintiff Turbo Systems Switzerland Ltd
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Submission	Motion to Consolidate
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Attachments	2024-06-18 Consented Motion to Consolidate Opposition Proceedings - G LSS050.002M.pdf(904020 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TURBO SYSTEMS SWITZERLAND LTD,

Opposer,

v.

CUMMINS INC.,

Applicant.

)
) Consolidated Opposition No.: 91291970

) Serial No.: 97/746992

) Mark:



) Serial No.: 97/747097

) Mark:



CONSENTED MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS

Pursuant to Federal Rule of Civil Procedure 42(a) and T.B.M.P. § 511, Opposer Turbo Systems Switzerland Ltd hereby moves to consolidate Opposition Nos. 91288559 and 91291970 (the “Oppositions”) and reset the remaining trial dates in Opposition No. 91288559 with Opposition No. 91291970. The Oppositions before the Board involve the same Opposer and Applicant as well as common questions of law and fact. Applicant Cummins Inc. consents to consolidating the Oppositions.

T.B.M.P. § 511 permits a party to petition the Board to consolidate proceedings when the cases involve common questions of law or fact. When determining whether to consolidate proceedings, the Board weighs the savings in time, effort, and expense, which may be gained from consolidation, against any prejudice or inconvenience that may be caused thereby. *Id.* The Board also considers the identity of the parties. *Id.*

The current Oppositions involve common questions of law and fact, and the same Opposer and Applicant. Opposer asserts the same registrations for its ACCELLERON marks in the Oppositions. The opposed applications were filed by the same Applicant, Cummins, Inc. The opposed applications seek to register marks containing “ACCELERA” and cover the same goods and services. Turbo Systems Switzerland Ltd and Cummins Inc. are the only parties involved in the Oppositions.

Consolidation will save the Board and the parties the time, effort, and expense that would be required in maintaining the Oppositions on separate schedules. This motion is sought for purposes of judicial economy and not for reasons of delay. To avoid duplicative litigation and promote judicial economy, while preserving the interest of the parties in the Oppositions, the above Oppositions should be consolidated into one proceeding.

For the reasons set forth above, Opposer requests consolidation of Opposition Nos. 91288559 and 91291970 while retaining the separate character of the Oppositions and requiring separate judgments for each of the Oppositions pursuant to Federal Rule of Civil Procedure 42(a) and T.B.M.P. § 511. Opposer further requests that the Board reset the remaining trial dates to the dates presently set for Opposition No. 91291970 such that Opposition Nos. 91288559 and 91291970 proceed on the same schedule.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 18, 2024

By: /Hans L. Mayer/

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **CONSENTED MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS** has been served on Applicant's counsel of record on June 18, 2024 via electronic mail to:

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Date: June 18, 2024

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