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Filing date: **11/05/2018**

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

Proceeding	91238235
Party	Defendant Zola Inc.
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Submission	Motion to Suspend for Civil Action
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Date	11/05/2018
Attachments	Motion to Suspend.pdf(3883333 bytes)

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

In re Application Serial No. 87/307,497)	
Reg. No. 4573734)	
)	
Mark: ZOLA)	
)	
PREZOLA LIMITED,)	
)	
Petitioner/Opposer,)	
)	
v.)	Opposition No. 91238235
)	(Parent Case)
)	Cancellation No. 92067549
)	
ZOLA, INC.)	
)	
Applicant/Registrant.)	
)	

MOTION TO SUSPEND FOR CIVIL ACTION

In accordance with Rule 2.117 of the Trademark Rules of Practice, and by and through its undersigned counsel, Applicant/Registrant Zola, Inc. (“Zola”) respectfully requests suspension of the above-styled consolidated opposition and cancellation proceedings (“Proceeding”) because the claims asserted by Petitioner Prezola Limited (“Prezola”) are the subject of a pending civil action.

The parties to this Proceeding are currently involved in a civil action, *Zola, Inc. v. Prezola Ltd.*, Civil Action No. 1:18-cv-10213, which is pending in the United States District Court for the Southern District of New York. In the civil action, Zola has, *inter alia*, requested a declaratory judgment that its ZOLA mark does not infringe Prezola’s PREZOLA Mark on the grounds that (a) Prezola does not have priority in its PREZOLA Mark in the United States vis-à-

vis the ZOLA Mark and/or (b) Zola's ZOLA Mark has not caused, nor is it likely to cause, confusion with Prezola's PREZOLA Mark. Moreover, Zola has requested an order directing the United States Patent and Trademark Office to dismiss the Proceeding on the same grounds. A copy of the Complaint is attached as **Exhibit 1**.

The same issues raised in the above referenced pending civil litigation, including priority and likelihood of confusion, have also been raised by Prezola in the Proceeding. Moreover, Zola's requested relief includes a request for the Board to dismiss the Proceeding. Thus, the outcome of the civil action will have a bearing on this Proceeding.

WHEREFORE, Zola requests that this Proceeding be suspended until termination of the above referenced civil action.

Respectfully submitted,

/s/ Anita B. Polott
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Dated: November 5, 2018

Attorneys for Zola, Inc.

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)	

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2018, a true and accurate copy of the foregoing Motion to Suspend for Civil Action was served on counsel for Prezola Limited, by emailing a copy to:

Charles P. Guarino
MOSER TABOADA
cguarino@mtiplaw.com

/s/ Peter G. Byrne

Peter G. Byrne

EXHIBIT 1

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