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

Ex Parte Appeal - Serial No.	97418983
Appellant	Hyundai Motor Company
Applied for mark	HYUNDAI TRANSLEAD TRAILER FINANCE
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Submission	Request for remand/amendment
Attachments	Hyundai Translead Trailer Finance in Class 36 - Request for Remand.pdf(78478 bytes) Hyundai Translead Trailer Finance in Class 36 - Request for Reconsideration Remarks.pdf(135106 bytes) Hyundai Translead Trailer Finance in Class 36 - Exhibit A.pdf(873811 bytes) Hyundai Translead Trailer Finance in Class 36 - Declaration in Support of Unity of Control.pdf(77161 bytes)
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Date	07/22/2024

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

Applicant: HYUNDAI MOTOR COMPANY :
Serial No: 97418983 :
Mark: **HYUNDAI TRANSLEAD TRAILER** :
FINANCE :
Filed: May 19th, 2022 :
Our Ref: HUND 2308811 :

**REQUEST FOR REMAND TO EXAMINING ATTORNEY FOR CONSIDERATION OF
COEXISTENCE AGREEMENT AND UNITY OF CONTROL DECLARATION AND
REQUEST FOR SUSPENSION OF APPEAL**

Pursuant to TBMP Section 1209.04, Applicant HYUNDAI MOTOR COMPANY, through its undersigned counsel, requests remand of the Application referenced above to the jurisdiction of the assigned Examining Attorney and suspension of the current appeal, including suspension of the time for Applicant to file its main brief, due currently on July 23rd, 2024.

Applicant requests remand and suspension of the appeal so that the Examining Attorney can consider the appended Request for Reconsideration, along with a Coexistence Agreement comprising a consent to registration signed by both Applicant and the owner of cited U.S. Registration Nos. 4519889, 4519890, and 4498717.

As to cited U.S. Registration Nos. 2562908, 4040582, 4920297, 4920298, 5985297, 5207013, 5207014, and 6739792, Applicant submits a signed Declaration in Support of Unity of Control attesting to the unity of control over the owners of these registrations by Applicant such that no likelihood of confusion would result from registration of Applicant's mark.

Good cause for the remand is present as the consent to registration embodied in the appended Coexistence Agreement and the Declaration in Support of Unity of Control both comprise new evidence not heretofore available which Applicant believes will ultimately resolve the refusal to register under Trademark Act §2(d), now on appeal.

In further support of its request, Applicant directs the Board to TBMP Section 1207.02 to allow for submission of evidence on appeal where such evidence was not previously available. This is the case with the Declaration in Support of Unity of Control, obtained only very recently after Applicant's internal review and consideration by its offices in the Republic of Korea. As to the Coexistence Agreement, the TBMP section states that "because a consent agreement offered in response to a refusal to register under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), is inherently difficult and time consuming to obtain, and may be highly persuasive of registrability, the Board will grant a request to suspend and remand for consideration of a consent agreement if the request, accompanied by the consent agreement, is filed at any time prior to the rendering of the Board's final decision on the appeal." See also: *In re N.A.D., Inc.*, 224 USPQ 969, 970 (Fed. Cir. 1985). In sum, Applicant submits its request is proper, is based on recently obtained new evidence, and is presented early in the appeal in advance of any briefing.

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REQUEST FOR RECONSIDERATION

The above-named Applicant submits herewith a copy of a signed Coexistence Agreement (see copy at Exhibit A) comprising a consent to registration, and requests reconsideration of the refusal under Lanham Act Section 2(d) based on an asserted likelihood of confusion with the marks in U.S. Registration Nos 4519889, 4519890, and 4498717.

Applicant also submits a Declaration in Support of Unity of Control as to the refusal under Lanham Act Section 2(d) based on an asserted likelihood of confusion with the marks in U.S. Registration Nos. 2562908, 4040582, 4920297, 4920298, 5985297, 6739792, 5207013, and 5207014.

The Coexistence Agreement is signed by the current Applicant and by the owner of the referenced cited registrations. The Agreement states in part that: “[t]he parties are confident that the marks can co-exist in the United States without a likelihood of marketplace confusion.” The parties further state their commitment to cooperate in the unlikely event that instances of actual confusion arise.

Applicant submits that the Coexistence Agreement provides uncontroverted evidence that there is no likelihood of confusion between the marks and goods or services at issue.

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