

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : XNOR.AI, INC.
Serial No. : 88/103,688
Filing Date : September 4, 2018
Trademark : TINY YOLO

RESPONSE TO SUSPENSION INQUIRY OR LETTER OF SUSPENSION

The Examining Attorney has suspended action on the pending application for Applicant's Mark, TINY YOLO, given the pending cancellation action between the parties, Cancellation No. 92071250.

In response to the Suspension Letter, and as further support for Applicant's arguments against confusion between Applicant's Mark, TINY YOLO, App. No. 88/103,688, and the Cited Registration, YOLO, Reg. No. 3,454,313, as detailed in the Response to the Office Action dated June 14, 2019, Applicant submits the attached Letter of Consent concerning the use and registration of Applicant's Mark, TINY YOLO, and the Cited Registration, YOLO. As stated in the Letter of Consent, Applicant and the owner of the Cited Registration, Tradax IP Licensing Limited, have agreed that there is and will be no likelihood of confusion as between the parties' respective marks, based, in part, on the differences between the parties' goods and services, the sophisticated and discriminating nature of Applicant's customers, the differences in the parties' target markets, and the co-existence of the parties in the marketplace for at least the last 4 years in connection with their respective marks without any known instances of confusion.

In addition, the owner of the cited YOLO registration, Tradax IP Licensing Limited, has consented to Applicant's use and registration of Applicant's Mark TINY YOLO and has agreed not to object or raise any claims adverse to Applicant's ownership, use, efforts to register, or

registration of TINY YOLO on the Principal or Supplemental Register. The parties have also agreed to keep each other informed and to cooperate with each other and take steps to avoid any likelihood of confusion as outlined in the Letter of Consent.

In light of such Letter of Consent and the great weight that should be afforded thereto, Applicant respectfully requests that the Examiner withdraw the likelihood of confusion refusal cited against Applicant's Mark, and requests that its application be approved for publication. *See* TMEP 1207.01(d)(viii); *see also In re Four Seasons Hotels Ltd.*, 987 F.2d 1565, 1566–67, 26 USPQ2d 1071 (Fed. Cir. 1993) (consent agreements ought to “carry great weight” in the likelihood of confusion analysis); *In re American Cruise Lines, Inc.*, 128 USPQ2d 1157, at *7 (TTAB 2018) [precedential] (“Accordingly, ‘clothed’ consent agreements where ‘competitors have clearly thought out their commercial interests’ should be given great weight, and the USPTO should not substitute its judgment concerning likelihood of confusion for the judgment of the real parties in interest without good reason, that is, unless the other relevant factors clearly dictate a finding of likelihood of confusion.”).