

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

IN THE MATTER OF)	
)	
Southern Iowa Mechanical Site,)	
Ottumwa, Iowa)	Docket No. CERCLA-07-2009-0006
)	
Titan Tire Corporation)	
)	
and)	Petition No.
)	CERCLA 106(b) 09-01
)	
Dico, Inc.,)	
)	
Petitioners.)	
)	
Petition for Reimbursement Under)	
Section 106(b)(2) of the Comprehensive)	
Environmental Response, Compensation, and)	
Liability Act of 1980, as amended (“CERCLA”),)	
42 U.S.C. § 9606(b)(2))	

PETITIONERS’ MOTION FOR LEAVE TO FILE AN
AMENDED BRIEF IN OPPOSITION TO
RESPONDENT’S MOTION TO DISMISS THE PETITION
ON THE BASIS OF “RIPENESS”

Petitioners Titan Tire Corporation and Dico, Inc. (collectively, “Petitioners”) hereby move this Environmental Appeals Board (the “Board”) for leave to file an “Amended Brief in Opposition to Respondent’s Motion to Dismiss the Petition on the Basis of ‘Ripeness’” (the “Amended Brief”) in order to correct a typographical error that appears in the original Brief in Opposition which was filed by Petitioners on Monday, December 14, 2009. A copy of the Amended Brief is attached as Exhibit A to this motion. Petitioners further request that the

Amended Brief be deemed filed as of the date of filing of the Original Brief, and that Exhibits A and B to the Original Brief be incorporated by reference into the Amended Brief.

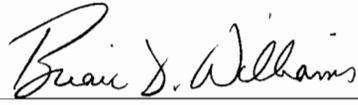
In support of this motion, Petitioners state as follows:

1. Petitioners filed their original “Brief in Opposition to EPA’s Motion to Dismiss the Petition on the Basis of ‘Ripeness’” (the “Original Brief”) in this matter on December 14, 2009;
2. Petitioners have discovered a typographical error on page 2 of the Original Brief, in the second paragraph under section A. (“Background”), in which they mistakenly referred to the alleged detection of “PCPs” in adhesive backing, instead of “PCBs”. In the Amended Brief, this typographical error has been corrected.
3. Respondent EPA will not be prejudiced in any way by granting Petitioners leave to file the Amended Brief to correct this typographical error.

WHEREFORE, for each of the foregoing reasons, Petitioners request that they be permitted to file the Amended Brief attached hereto as Exhibit A, that the Amended Brief be deemed filed as of December 14, 2009, and that Exhibits A and B to the Original Brief be incorporated by reference into the Amended Brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original of this Motion for Leave to File an Amended Brief in Opposition, together with the Amended Brief, have been mailed, postage prepaid, via certified mail, return receipt requested, this 16th day of December, 2009, to the following:

Clerk of the Environmental Appeals Board
MC 1103B
U.S. EPA
Ariel Rios Building
1200 Pennsylvania Avenue, N.W
Washington, D.C. 20460-0001

In addition, on this same date true copies of this Motion for Leave to File an Amended Brief in Opposition and exhibits were sent by e-mail and by U.S. mail to the following:

DeAndré Singletary
USEPA, Region VII
Remedial Project Manager
Iowa/Nebraska Remedial Branch
Superfund Division
901 North Fifth Street
Kansas City, KS 66101

Daniel Shiel, Esq.
Regional Counsel
USEPA, Region VII
901 North 5th Street
Kansas City, KS 66101

In addition, the Motion for Leave to File an Amended Brief in Opposition and exhibits were electronically submitted to the Environmental Appeals Board on the same date as stated above.



Attorney for Petitioners