

ESTTA Tracking number: **ESTTA88186**

Filing date: **06/30/2006**

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

| | |
|------------------------|---|
| Proceeding | 91164633 |
| Party | Plaintiff WELLS FARGO & COMPANY |
| Correspondence Address | EUNICE P. DE CARVALHO FAEGRE & BENSON LLP 2200 WELLS FARGO CENTER 90 SOUTH SEVENTH STREET MINNEAPOLIS, MN 55402-3901 trademarkmpls@faegre.com |
| Submission | Motion to Consolidate |
| Filer's Name | Laura Gayle Coates |
| Filer's e-mail | lcoates@faegre.com, trademarkmpls@faegre.com |
| Signature | /Laura Gayle Coates/ |
| Date | 06/30/2006 |
| Attachments | 310059 INSTACASH Cons Mot to Consolidate Proceedings and Extend Disc.pdf (4 pages)(93719 bytes) |

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

In the Matter of Application Serial No. 78/293,550
For the Mark: INSTA CASH
Filed: August 8, 2003
Date of Publication: September 14, 2004

WELLS FARGO & COMPANY

Opposition Nos. 91167053 and
91164633

Opposer,

**STIPULATED MOTION TO
CONSOLIDATE PROCEEDINGS
AND EXTEND DISCOVERY AND
TESTIMONY PERIODS**

vs.

NETELLER INC,

Applicant.

Pursuant to TBMP § 511, Opposer Wells Fargo & Company and Applicant Neteller Inc. hereby jointly move the Board to consolidate this proceeding (Opposition No. 91164633) involving registration of INSTACASH and design (Serial No. 78/293,550) and Opposition No. 91167053 involving registration of INSTACASH (Serial No. 78/492,560). If the Board grants the parties' stipulated motion, the parties request that the Board issue a single Scheduling Order for all matters, in the manner stated herein.

Consolidation is appropriate as the two proceedings have substantial overlap in factual and legal issues. The two proceedings both relate to Applicant's effort to register INSTACASH; opposition to both applications is based on Opposer's family of INSTANT CASH marks (INSTANT CASH, US. Reg. No. 2,074,879; and INSTANT CASH & CHECK U.S. Reg. Nos. 2,117,763; 2,016,944; and 2,209,567);

and the oppositions are both premised on Opposer's belief that Applicant's INSTACASH applications so resemble its registered INSTANT CASH marks, as to be likely to cause consumer confusion, mistake and/or deception. Thus, as the two opposition proceedings concern substantially the same, if not identical, issues of fact and law, consolidation would reduce the parties' and the Board's time, effort, and expense.

Pending a resolution of this motion, the parties further move the Board to reset the discovery and testimony periods. Specifically, the parties move for the Board to set a new schedule by extending the dates set forth in the Scheduling Order corresponding to Opposition No. 91167053 by a period of 60 days. The parties need additional time to continue settlement discussions.

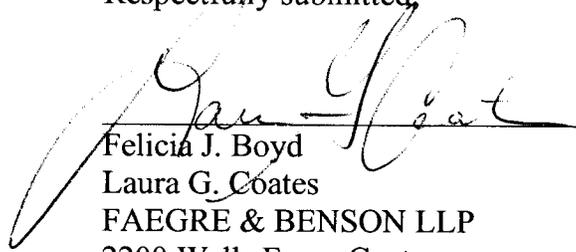
If this Stipulated Motion to Extend Discovery/Testimony Periods is granted, the remaining discovery and testimony dates will be as follows:

| | |
|--|-----------------|
| Discovery period to close: | October 6, 2006 |
| 30-day testimony period for party in position of plaintiff to close: | January 4, 2007 |
| 30-day testimony period for party in position of defendant to close: | March 5, 2007 |
| 15-day rebuttal testimony period for plaintiff to close: | April 19, 2007 |

Counsel for Applicant stipulated to the motion to consolidated the proceedings via e-mail on June 28, 2006. Counsel for Applicant stipulated to the motion to extend discovery and testimony periods via e-mail and telephone on June 30, 2006.

Dated: June 30, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Felicia J. Boyd", is written over a horizontal line. The signature is fluid and cursive.

Felicia J. Boyd

Laura G. Coates

FAEGRE & BENSON LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402

Tel.: (612) 766-7000

Attorneys for Opposer
Wells Fargo & Company

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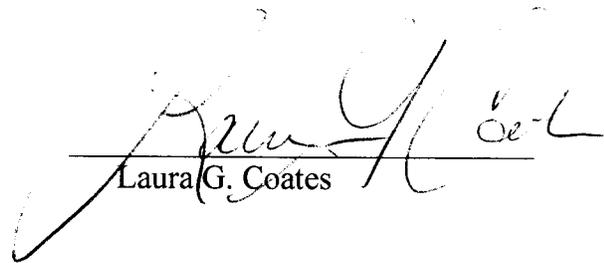
CERTIFICATE OF SERVICE

This certifies that a copy of the Consented Motion to Consolidate Proceedings was served this 30th day of June, 2006, by first class mail, postage prepaid, upon counsel for Applicant:

Neil F. Kathol
Brownlee LLP
2000 Watermark Tower
530 - 8th Avenue S.W.
Calgary, Alberta T2P 3S8
CANADA

Ira S. Dorman, Esq.
Attorney at Law
330 Roberts Street, Suite 200
East Hartford, CT 06108

Dated: June 30, 2006



Laura G. Coates