

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

MBA

Mailed: February 14, 2012

Opposition No. 91190328

The Original Hollywood Brown  
Derby, Ltd.

v.

RTS Consultants, LLC

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Opposition No. 91192307

Opposition No. 91192317

William A. Klapperman

v.

RTS Consultants, LLC

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Opposition No. 91192673

Mary E. Byrd

v.

RTS Consultants, LLC

**Michael B. Adlin, Interlocutory Attorney:**

Although applicant's motion to consolidate the above-captioned proceedings, filed January 13, 2012, is conceded, in that none of the opposers responded thereto, applicant's motion to consolidate is nevertheless hereby **DENIED**.

"Consolidation is discretionary with the Board," and "[i]n

Opposition Nos. 91190328, 91192307, 91192317 and 91192673

determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense, which may be gained from consolidation ...." TBMP § 511 (3d ed. 2011). Here, it is clear that consolidation will not result in meaningful savings in time, effort or expense, and, in fact, consolidation may further delay final resolution of the parties' longstanding disputes.

Indeed, Mary E. Byrd – opposer in Opposition No. 91192673 and the pro se representative of opposer in Opposition No. 91190328 – “did not [even] respond” when asked to consent to applicant’s motion, and opposer in the remaining two proceedings “would not consent to the motion.” In other words, none of the plaintiffs could agree with applicant about consolidation (and one opposer apparently refuses to even talk to applicant), and it is therefore impossible to see how the parties will be able to jointly conduct an efficient trial. Furthermore, applicant’s motion, and the record in these cases, strongly suggest that the three plaintiffs have not even discussed trial with each other, much less appointed “one lead counsel to supervise and coordinate the conduct of the plaintiffs’ cases,” id., so consolidation could very well be counterproductive. In addition, Opposition No. 91190328 is nearly three years old, and in some of these proceedings (and probably all of them), nothing of substance has occurred, other than apparent but

Opposition Nos. 91190328, 91192307, 91192317 and 91192673 unsuccessful and cursory settlement discussions. See Board's Orders of September 23 and November 4, 2011 in Opposition No. 91190328. There is no basis upon which to assume that the parties will be more diligent at trial. Finally, applicant's motion effectively seeks an extension of time, but applicant failed to convene the teleconference required by the Board's order of November 4, 2011 in Opposition No. 91190328.

Accordingly, each of the four proceedings will remain separate. However, the Board will entertain a motion to suspend Opposition No. 91192307, Opposition No. 91192317 and/or Opposition No. 91192673 pending final resolution of Opposition No. 91190328, if the parties are able to establish that doing so may result in efficiencies under claim or issue preclusion or otherwise. In each of the four proceedings, dates remain as previously set, and the requirements of the Board's previous orders in Opposition No. 91190328 remain in place, meaning that in that case (and the others), the time to fish or cut bait has arrived.

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