

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
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Mailed: June 17, 2016

Opposition No. 91207516 (parent)

Tencent Holdings Limited

v.

Delson Group Inc.

and

Opposition No. 91215611

Opposition No. 91225628

Opposition No. 91225630

Delson Group, Inc.

v.

Tencent Holdings Limited

**M. Catherine Faint,
Interlocutory Attorney:**

On June 3, 2016 the Board held a telephone conference involving James Li, Atty., and counsel for Delson Group, Inc. (“Delson”), Aaron D. Hendelman, Atty. counsel for Tencent Holdings Ltd. (“THL”), and Interlocutory attorney Catherine Faint, Board attorney responsible for resolving interlocutory matters in this case.¹

¹ Also present on the teleconference call were Anthony Appel for Delson and Matthew J. Kuykendall for THL.

Before the Board was Delson's oral motion to compel a date for the deposition of Mr. Wallerstein prior to the filing of answers and the re-opening of discovery in this now consolidated case.

The Board carefully considered the arguments raised, as well as the supporting correspondence and the record of this case, in coming to a determination regarding the above matters. During the telephone conference, the parties were each allowed to make further statements, and the Board made the following findings and determinations.

Motion to Compel Date for Deposition

Delson argues that the deposition of Mr. Wallerstein was first noticed about two years ago and the Board's order of September 30, 2015 required the deposition to be held within thirty days of the order. THL then filed a motion for reconsideration and the case was suspended for consideration of that motion. Delson is concerned that it needs to preserve evidence in the form of the discovery deposition of Mr. Wallerstein, and that the deposition should be held as soon as possible in July 2016. Delson's counsel also stated that his client wished to attend the deposition, but would be busy for three months after July 10, 2016.

THL responded that it was committed to moving forward with this case, but that the scheduling of the deposition prior to joinder in the related cases is premature. THL's counsel stated that Mr. Wallerstein will be deposed, it is just a matter of when. THL also argues there is no prejudice to Delson and that Mr. Wallerstein would be in China for the month of July 2016.

By its order of September 30, 2015, the Board granted Delson's motion to compel the deposition of Mr. Wallerstein. The Board's order of May 26, 2016, inter alia, denied THL's motion for reconsideration of the order compelling the deposition, granted THL's motion to amend the pleadings in the parent case, and added new pending opposition proceedings to this already consolidated case. In issuing that order, the Board set the time for THL to answer in both the pending oppositions and for Delson to answer the amended pleadings in the parent case. As is usual in consolidated cases, the Board also re-set the time for discovery to re-open in the consolidated proceedings.

The Board noted that Delson will get only one opportunity under the Rules to conduct the discovery deposition of Mr. Wallerstein, and as pleadings are not yet closed in this case, the deposition should be conducted after discovery re-opens on July 31, 2016. This case is now consolidated and the Board will see the case proceed in an orderly manner going forward. Further, the Board expects the parties to cooperate in discovery, to conduct a thorough discovery conference and to proceed with good faith efforts to resolve any discovery issues. *See* TBMP § 408 (2015).

Accordingly, Delson's motion to conduct the discovery deposition in July 2016 is **denied**.

However, during the teleconference the Board discussed with counsel for both sides that Mr. Wallerstein's deposition could be held in August 2016 and that counsel would work together to set the date for that deposition. The Board will convene a teleconference on Wednesday, June 22, 2016 at 2:00 p.m. EDT. Dial-in

information for the teleconference will be sent to counsel via email. At the teleconference the Board will expect to hear from the parties regarding their agreed date for conducting the deposition of Mr. Wallerstein.

Schedule

Dates otherwise remain as set in the Board's order of May 26, 2016.

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.
