

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

mbm

Mailed: July 6, 2017

Opposition No. 91209039 (**Parent**)

Boyd Gaming Corporation

v.

B Hotel Group, LLC

Opposition Nos. 91227967, 91227968,
91227970, 91227971, 91227972, 91227973,
91228065, 91228066, 91228067, 91228068,
91228069, 91228070, 91228071, 91228072,
91228073, 91228074, 91228075, 91228076,
91228077, 91232831

B Hotel Group, LLC

v.

Boyd Gaming Corporation

Mary Beth Myles, Interlocutory Attorney:

On May 17, 2017, B Hotel Group, LLC (“B Hotel Group”) filed a motion to consolidate Opposition No. 91232831 with Consolidated Parent 91209039, which is consolidated with nineteen child cases, namely, Opposition Nos. 91227967, 91227968, 91227970, 91227971, 91227972, 91227973, 91228065, 91228066, 91228067, 91228068, 91228069, 91228070, 91228071, 91228072, 91228073, 91228074, 91228075, 91228076, and 91228077. The Board notes initially that an answer has

Opposition Nos. 91232831, 91227967, 91227968, 91227970, 91227971, 91227972, 91227973, 91228065, 91228066, 91228067, 91228068, 91228069, 91228070, 91228071, 91228072, 91228073, 91228074, 91228075, 91228076, 91228077, 91232831

been filed in each proceeding for which consolidation is sought. Boyd Gaming Corporation (“Boyd Gaming”) did not file a response to B Hotel Group’s motion to consolidate. B Hotel Group’s motion to consolidate is granted as conceded and well taken.

When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154, 1156 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382, 1384 n.3 (TTAB 1991). In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense that may be gained from consolidation against any prejudice or inconvenience that may be caused thereby.

Consolidation is discretionary with the Board and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See, e.g., Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423, 1424 n.1 (TTAB 1993); *Regatta Sport Ltd.*, 20 USPQ2d at 1156.

It is noted that the parties to these proceedings are identical and the issues are similar or related. Accordingly, the motion to consolidate is granted. Opposition No. 91232831 is hereby consolidated with Opposition Nos. 91209039, 91227967, 91227968, 91227970, 91227971, 91227972, 91227973, 91228065, 91228066, 91228067, 91228068, 91228069, 91228070, 91228071, 91228072, 91228073, 91228074, 91228075, 91228076, and 91228077, and may be presented on the same

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record and briefs. See *Hilson Research Inc.*, 27 USPQ2d at 1424 n.1; *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618, 1619 n.1 (TTAB 1989).

The Board file will be maintained in **Opposition No. 91209039** as the “parent case.” From this point on, only a single copy of any motion and any paper should be filed, and each such motion or paper should be filed in the parent case only, but caption all consolidated proceeding numbers, listing the parent case first.¹

Despite being consolidated, each proceeding retains its separate character and requires entry of a separate judgment. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings; a copy of the decision shall be placed in each proceeding file.

Upon consolidation, in accordance with Board practice, discovery, disclosure and trial dates are reset to conform to the dates latest set in the proceedings that are being consolidated. In this instance, however, the Board previously suspended proceedings in the parent case, Opposition No. 91209039, insofar as discovery had closed in the parent case, but remained open in each of the child cases. The next deadline in parent case Opposition No. 91209039 is Boyd Gaming’s pretrial disclosures. The next deadline in each of the child cases and Opposition No. 91232831 is expert disclosures. Accordingly, trial dates in each of the child cases are reset to conform to the dates latest set in the proceedings that are being consolidated. Opposition No. 91209039 will remain *suspended* until Boyd Gaming’s deadline to

¹ The parties should promptly inform the Board of any other Board proceedings or related cases within the meaning of Fed. R. Civ. P. 42, so that the Board can consider whether further consolidation is appropriate.

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file its pretrial disclosures, as set forth below. At that time, these consolidated proceedings will all move contemporaneously according to the schedule provided below.

Expert Disclosures Due for Child Cases	September 21, 2017
Discovery Closes for Child Cases ²	October 21, 2017
Boyd Gaming Corp.'s Pretrial Disclosures, as plaintiff in Opposition No. 91209039	December 5, 2017
30-day testimony period for Boyd Gaming Corp., as plaintiff in Opposition No. 91209039 to close	January 19, 2018
B Hotel Group, LLC's Pretrial Disclosures	February 3, 2018
30-day testimony period for B Hotel Group, LLC, as defendant in Opposition No. 91209039 and plaintiff in the Child Cases to close	March 20, 2018
Boyd Gaming Corp.'s Rebuttal Disclosures Due	March 4, 2018
30-day testimony period for Boyd Gaming Corp., as defendant in Child Cases, and rebuttal testimony, as plaintiff in Opposition No. 91209039, to close	May 19, 2018
B Hotel Group, LLC's Rebuttal Disclosures Due	June 3, 2018
15-day rebuttal period for B Hotel Group, LLC, as plaintiff in the Child Cases to close	July 3, 2018

² Inasmuch as discovery has already closed in Opposition No. 91209039, the parties are **precluded** from propounding any further discovery solely related to the issues subject to this particular opposition proceeding.

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Brief for Boyd Gaming Corp., as plaintiff in Opposition No. 91209039 due	September 1, 2018
Brief for B Hotel Group, LLC, as defendant in Opposition No. 91209039 and as plaintiff in the Child Cases due	October 1, 2018
Brief for Boyd Gaming Corp., as defendant in the Child Cases, and reply brief, if any, as plaintiff in Opposition No. 91209039, due	October 31, 2018
Reply brief, if any, for B Hotel Group, LLC, as plaintiff in the Child Cases due	November 15, 2018

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).