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1 TAMARA BEATTY PETERSON (Nevada Bar No. 5218)  
tpeterson@bhfs.com  
2 LAURA E. BIELINSKI (Nevada Bar No. 10516)  
lbielinski@bhfs.com  
3 JOANNA M. MYERS (Nevada Bar No. 12048)  
jmyers@bhfs.com  
4 BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 City Parkway, Suite 1600  
5 Las Vegas, Nevada 89106-4614  
Telephone: (702) 382-2101  
6 Facsimile: (702) 382-8135

**2:12-cv-00016-JCM -CWH**

7 Attorneys for Plaintiff  
BOYD GAMING CORPORATION

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

11 BOYD GAMING CORPORATION, a  
12 Nevada Corporation,

13 Plaintiff,

14 v.

15 KING ZULU, LLC, an unknown entity  
16 doing business in Saint Kitts and Nevis,

17 Defendant.

Case No.

**FILED UNDER SEAL (MOTION TO  
TEMPORARILY FILE UNDER SEAL FILED  
CONCURRENTLY HEREWITH)**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

- (1) Cybersquatting under 15 U.S.C. § 1125(d)
- (2) Trademark Infringement under 15 U.S.C. § 1114
- (3) Unfair Competition under 15 U.S.C. § 1125(a)
- (4) Trademark Dilution under 15 U.S.C. § 1125(c)
- (5) Common Law Trademark Infringement
- (6) Common Law Intentional Interference with Prospective Economic Advantage

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

Boyd Gaming Corporation v. King Zulu, LLC

Doc. 1

1 TAMARA BEATTY PETERSON (Nevada Bar No. 5218)  
tpeterson@bhfs.com  
2 LAURA E. BIELINSKI (Nevada Bar No. 10516)  
lbielinski@bhfs.com  
3 JOANNA M. MYERS (Nevada Bar No. 12048)  
jmyers@bhfs.com  
4 BROWNSTEIN HYATT FARBER SCHRECK, LLP  
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5 Las Vegas, Nevada 89106-4614  
Telephone: (702) 382-2101  
6 Facsimile: (702) 382-8135

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24 For its complaint against Defendant King Zulu, LLC (“Defendant”), Plaintiff Boyd  
25 Gaming Corporation (“Boyd”) alleges the following:

26 **NATURE OF THE CASE**

27 This is an action for cybersquatting, trademark infringement, unfair competition and  
28 trademark dilution under federal statutes, with pendent common law claims for trademark

BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 infringement and intentional interference with prospective economic advantage. Boyd seeks  
2 damages, attorneys' fees, costs, and preliminary and permanent injunctive relief.

3 **JURISDICTION AND VENUE**

4 1. This Court has subject matter jurisdiction over this case pursuant to  
5 28 U.S.C. §§ 1331 and 1338(a). This Court has supplemental jurisdiction over Boyd's common  
6 law claims pursuant to 28 U.S.C. § 1367(a).

7 2. This Court has personal jurisdiction over Defendant based upon the following:  
8 (a) Defendant operates a website on the Internet that is accessible to residents of the State of  
9 Nevada; (b) Defendant's domain name resolves to a website that is interactive in that it allows  
10 Internet users to gamble; and (c) Defendant has committed tortious acts that Defendant knew or  
11 should have known would cause injury to a resident in the State of Nevada.

12 3. Venue is proper in the unofficial Southern Division of the United States District  
13 Court for the District of Nevada under 28 U.S.C. §§ 1391(b) and 1391(d).

14 **PARTIES**

15 4. Plaintiff Boyd Gaming Corporation is a Nevada corporation, which owns and  
16 operates resort hotel casinos throughout the United States.

17 5. Upon information and belief, Defendant King Zulu, LLC, is an entity of unknown  
18 origin doing business in Saint Kitts and Nevis which owns an Internet domain name used to  
19 operate an online casino accessible to United States residents.

20 **BOYD'S RIGHTS**

21 6. The Imperial Palace Hotel & Casino ("Imperial Palace") opened in Las Vegas,  
22 Nevada in 1979 on the Las Vegas Strip, and has continuously used the trademark IMPERIAL  
23 PALACE in connection with its various services, including casino services.

24 7. Additionally, over the course of its over thirty year tenure as a Las Vegas  
25 landmark, the Imperial Palace has continuously used its initials IP ("IP CASINO Mark") in  
26 connection with its services, including casino services.

27 8. In 1997, Boyd's predecessors in interest expanded the Imperial Palace brand to  
28 Biloxi, Mississippi, opening the Imperial Palace Hotel and Casino Biloxi.

1           9.     In 2005, the Biloxi property was rebranded the IP Casino Resort & Spa (“IP  
2 Casino”), expanding the use and fame of the IP CASINO Mark.

3           10.    Boyd purchased the IP Casino in 2011 and acquired the exclusive rights in the IP  
4 CASINO Mark, evidenced by Boyd’s federal trademark registrations and applications listed in  
5 Paragraph 12(a)-(j) below, including the right to sue for past infringement.

6           11.    In sum, since the Imperial Palace opened in 1979, Boyd and its predecessors in  
7 interest have continuously used the IP CASINO Mark in connection with a variety of goods and  
8 services, including casino services, at the Imperial Palace and then at the IP Casino.

9           12.    Boyd owns numerous federal trademark registrations and applications  
10 incorporating the IP CASINO Mark on the Principal Register of the United States Patent and  
11 Trademark Office (“USPTO”) in connection with a variety of goods and services:

- 12           a)     **IP (and Design)** for casino and hotel services (Reg. No. 1,870,042) in  
13 International Classes 41 and 42.
- 14           b)     **IP CASINO** for hotel, restaurant and bar services; entertainment services,  
15 namely casino gaming; casino players rewards program, entertainment  
16 services in the nature of presenting live musical performances; and spa  
17 services (Ser. No. 85,332,474) in International Classes 41, 43, and 44.
- 18           c)     **IP IMPERIAL PALACE HOTEL & CASINO · LAS VEGAS,**  
19 **NEVADA (and Design)** for casino services, hotel, restaurant, bar, night  
20 club, live entertainment, and retail gift store services (Reg. No. 3,830,583)  
21 in International Classes 35, 41 and 43;
- 22           d)     **IP REWARDS** for casino services featuring stored value membership cards  
23 for redeeming cash, discounts, and other benefits (Reg. No. 3,622,977) in  
24 International Class 41.
- 25           e)     **IP REWARDS PREFERRED** for casino services featuring stored value  
26 membership cards for redeeming cash, discounts, and other benefits (Reg.  
27 No. 3,622,987) in International Class 41.
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- f) **IP REWARDS ELITE** for casino services featuring stored value membership cards for redeeming cash, discounts, and other benefits (Reg. No. 3,622,985) in International Class 41.
- g) **IP REWARDS PREMIUM** for casino services featuring stored value membership cards for redeeming cash, discounts, and other benefits (Reg. No. 3,622,986) in International Class 41.
- h) **IP CASINO RESORT SPA MORE THAN YOU EXPECT!** for casino services and hotel, restaurant and bar services (Reg. No. 3,549,359) in International Classes 41 and 43.
- i) **IP CASINO RESORT SPA** for hotel, restaurant and bar services; entertainment services in the nature of presenting live musical performances and casino gaming; casino services and casino players rewards program; spa services (Ser. No. 85,332,492) in International Classes 41, 43, and 44.
- j) **IP CASINO RESORT · SPA (and Design)** for hotel, restaurant and bar services; entertainment services in the nature of presenting live musical performances and casino gaming; casino services and casino players rewards program; spa services (Ser. No. 85,332,513) in International Classes 41, 43, and 44.

13. Boyd and its predecessors in interest have protected the rights in the IP CASINO Mark by, among other things, asserting their rights against trademark and copyright infringers upon discovering infringing activity.

14. Boyd and its predecessors in interest have also invested substantial sums of money to advertise, promote and protect the IP CASINO Mark in print, broadcast and Internet media.

15. Additionally, Boyd and its predecessors in interest have made extensive use of the IP CASINO Mark on, among other things, signage, wearing apparel, souvenirs and promotional materials.





1 36. Defendant has registered, trafficked in, and/or used a domain name that is  
2 confusingly similar to and/or dilutive of the IP CASINO Mark.

3 37. The IP CASINO Mark was distinctive and/or famous at the time Defendant  
4 registered the Infringing Domain Name.

5 38. Upon information and belief, Defendant has and/or had a bad faith intent to profit  
6 from the IP CASINO Mark.

7 39. As a direct and proximate result of Defendant's infringement, Boyd and its  
8 predecessors in interest have suffered, and Boyd will continue to suffer, monetary loss and  
9 irreparable injury to its business, reputation, and goodwill.

10 **COUNT II**

11 **(Federal Trademark Infringement – 15 U.S.C. § 1114)**

12 40. Boyd incorporates the allegations in the preceding paragraphs as if fully set forth  
13 herein.

14 41. By registering a domain name containing the IP CASINO Mark and using the  
15 same to direct users to an online gaming website, Defendant intentionally and knowingly used  
16 and continues to use in commerce reproductions, counterfeits, copies and/or colorable imitations  
17 of Boyd's trademark in connection with the sale, offering for sale, or advertising of services in a  
18 manner that is likely to cause confusion or mistake, or to deceive consumers as to an affiliation,  
19 connection, or association with Boyd and/or its predecessors in interest.

20 42. Defendant's use of a domain name containing the IP CASINO Mark has created a  
21 likelihood of confusion among consumers who may falsely believe that the Infringing Domain  
22 Name and Infringing Website is associated with the Imperial Palace or IP Casino or that Boyd or  
23 its predecessors in interest have sponsored or approved of Defendant's services or commercial  
24 activities.

25 43. Defendant's use of a domain name containing the IP CASINO Mark is also likely  
26 to cause initial interest confusion.

27 44. Defendant's continued and knowing use of the IP CASINO Mark without Boyd or  
28 its predecessors in interest's consent or authorization constitutes intentional infringement of



1 Boyd's federal registered trademarks in violation of Section 32 of the Lanham Act, 15 U.S.C. §  
2 1114.

3 45. As a direct and proximate result of Defendant's infringement, Boyd and its  
4 predecessors in interest have suffered, and Boyd will continue to suffer, monetary loss and  
5 irreparable injury to its business, reputation, and goodwill.

6 **COUNT III**

7 **(Unfair Competition: False Designation of Origin – 15 U.S.C. § 1125(a)(1)(A))**

8 46. Boyd incorporates the allegations in the preceding paragraphs as if fully set forth  
9 herein.

10 47. Defendant's use of a domain name that is confusingly similar to the IP CASINO  
11 Mark constitutes intentional conduct by Defendant to make false designations of origin and false  
12 descriptions about Defendant's services and commercial activities, in violation of 15 U.S.C. §  
13 1125(a)(1)(A).

14 48. Defendant's actions have created a likelihood of confusion among consumers who  
15 will falsely believe that the services Defendant offers through the Infringing Website are  
16 produced by, or affiliated or associated with, Boyd or its predecessors in interest, when in fact  
17 they are not.

18 49. Upon information and belief, Defendant acted knowingly, deliberately, and  
19 willfully with the intent to trade on Boyd and its predecessors in interest's reputation.

20 50. Defendant's conduct is willful, wanton and egregious.

21 51. As a direct and proximate result of Defendant's infringement, Boyd and its  
22 predecessors in interest have suffered, and Boyd will continue to suffer, monetary loss and  
23 irreparable injury to its business, reputation, and goodwill.

24 **COUNT IV**

25 **(Federal Trademark Dilution – 15 U.S.C. § 1125(c))**

26 52. Boyd incorporates the allegations in the preceding paragraphs as if fully set forth  
27 herein.

28 53. The IP CASINO Mark is inherently distinctive.





BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 CITY PARKWAY, SUITE 1600  
LAS VEGAS, NV  
(702) 382-2101

1 participation with Defendant, from: (1) using the IP CASINO Mark or confusingly similar  
2 variations thereof, alone or in combination with any other letters, words, letter strings, phrases or  
3 designs, in commerce or in connection with any business or for any purpose whatsoever  
4 (including, but not limited to, on websites, in domain names, in hidden text and metatags); and (2)  
5 registering or trafficking in any domain names containing the IP CASINO Mark or confusingly  
6 similar variations thereof, alone or in combination with any other letters, words, phrases or  
7 designs;

8 B. A permanent injunction requiring the current domain name registrar to transfer the  
9 <ipcasino.com> Internet domain name to Boyd;

10 C. An award of compensatory, consequential, statutory, exemplary, and/or punitive  
11 damages to Boyd in an amount to be determined at trial;

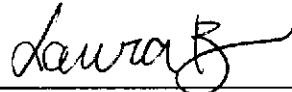
12 D. An award of interest, costs and attorneys' fees incurred by Boyd in prosecuting  
13 this action pursuant to 15 U.S.C. § 117(a)(3); and

14 E. All other relief to which Boyd is entitled.

15 DATED this 5th day of January, 2012.

Respectfully submitted,

BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

17  
18 By:   
19 Tamara Beatty Peterson (Nevada Bar No. 5218)  
20 Laura E. Bielinski (Nevada Bar No. 10516)  
21 Joanna M. Myers (Nevada Bar No. 12048)  
22 100 City Parkway, Suite 1600  
23 Las Vegas, Nevada 89106-4614

24  
25 Attorneys for Plaintiff  
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27  
28