PATENT

U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:22-cv-01345-CJB

The Nielsen Company (US), LLC v. TVision Insights, Inc.
Assigned to: Judge Christopher J. Burke
Related Cases: 1:21-cv-01592-CJB
1:22-cv-00057-CJB
1:22-cv-01344-CJB
1:25-cv-00575-RGA
1:23-cv-01346-RGA-CJB
Cause: 35:1 Patent Infringement

Date Filed: 10/12/2022
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

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		RGA] filed by The Nielsen Company (US), LLC.Reply Brief due date per Local Rules is 2/28/2024. (Attachments: # 1 Exhibit A-K)(Moore, David) (Entered: 02/21/2024)
02/21/2024	99	NOTICE of Subsequent Authority by The Nielsen Company (US), LLC (Attachments: # 1 Exhibit A)(Brown, Andrew) (Entered: 02/21/2024)
02/27/2024	100	REDACTED VERSION of (98 in 1:22-cv-01345-CJB) Answering Brief in Opposition, (162 in 1:22-cv-00057-CJB) Answering Brief in Opposition, by The Nielsen Company (US), LLC. (Attachments: # 1 Exhibit A-K)(Moore, David) (Entered: 02/27/2024)
02/28/2024	101	[SEALED] REPLY BRIEF re 91 MOTION to Consolidate Cases *[Motion of TVision Insights, Inc. to Consolidate Case Nos. 22-057-CJB and 22-1345-CJB for All Purposes and for Referral to Judge Andrews for Trial with Case No. 23-1346-RGA]* filed by TVision Insights, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6)(Russell, Andrew) (Entered: 02/28/2024)
03/04/2024	102	ORAL ORDER Setting Videoconference: The Court hereby ORDERS as follows with respect to Defendant's Motion to Consolidate Case Nos. 22-57-CJB and 22-1345-CJB for All Purposes And for Referral to Judge Andrews for Trial with Case No. 23-1346-RGA (the "Motion"), (D.I. 151 in C.A. No. 22-57-CJB; D.I. 91 in C.A. 22-1345-CJB; D.I. 13 in C.A. No. 23-1346-RGA-CJB): (1) A videoconference using the Microsoft Teams platform is set for April 8, 2024 at 10:00 AM before Judge Christopher J. Burke.; (2) By no later than March 25, 2024, the parties shall send an e-mail to the Court's Courtroom Deputy, Ms. Benyo, indicating the names and e-mail addresses of all individuals who will participate in the videoconference.; and (3) The Court may choose to resolve the Motion prior to the videoconference and will, in that event, cancel the videoconference (however, if any party advises the Court in advance that a newer attorney will argue the Motion, see Standing Order Regarding Courtroom Opportunities for Newer Attorneys, https://www.ded.uscourts.gov/sites/ded/files/StandingOrder2017.pdf, then the Court will go forward with the conference).Ordered by Judge Christopher J. Burke on 3/4/2024. Associated Cases: 1:22-cv-00057-CJB, 1:22-cv-01345-CJB(dlb) (Entered: 03/04/2024)
03/06/2024	103	REDACTED VERSION of 101 Reply Brief, by TVision Insights, Inc.. (Gellar, Lindsey) (Entered: 03/06/2024)
03/22/2024	104	ORAL ORDER: The Court, having reviewed Defendant's motion to stay ("Motion") the patent-related portion of the instant case in favor of a pending inter partes review proceeding ("IPR"), (D.I. 85), and the briefing related thereto, (D.I. 86; D.I. 88; D.I. 89; D.I. 99), hereby ORDERS that the Motion will be resolved as follows and for the following reasons: (1) If the case only involved the patent-related claims, the Court would grant a stay. That is because, while there is some nuance to the facts, a good case can be made that each of the three stay-related factors favors a stay. This is so because: (a) All asserted claims of the one patent-in-suit (the 243 patent) are at issue in the instituted IPR, (D.I. 86 at 1-2), and when instituting, the PTAB seemed to go out of its way to note that it is "highly likely" that Defendant's "compelling" challenge will prevail there on at least some, if not all claims, (id., ex. 1 at 46, 52); WSOU Invs., LLC v. Netgear, Inc., Civil Action No. 21-1117-MN-CJB, 2022 WL 17337924, at *1 (D. Del. Nov. 30, 2022).; (b) While the Court has done some work on the case (e.g., resolving scheduling disputes and a motion to strike), and while we are well into document discovery, more of the case is ahead of us than behind us (in that fact discovery does not close until August 2024, no depositions have yet occurred, and trial is not scheduled until November 2025). (D.I. 89 at 2); and (c) From the evidence before the Court, it appears that while the parties may be said to compete in some ways (i.e., indirectly, or as to products/technology not at issue in this case), it is not clear from the record that they directly compete with each other with regard to use of the patented technology in suit, (D.I. 86 at 2-3; D.I. 88 at 3-4; D.I. 89 at 2).; (2) That said, Defendant has a significant antitrust-related counterclaim ("antitrust

		claim") at issue in the case, and it does not propose to stay the case as to that claim.; (3) Plaintiff suggests that the Court should wait to decide the Motion until it resolves Plaintiff's pending motion to dismiss the antitrust claim (the "motion to dismiss"). (D.I. 88 at 1) But that is not workable for the Court, as it will still take it a while to get to the motion to dismiss; in the interval, we would lose a lot of the efficiency gains that a stay could provide.; (4) That said, it also does not make sense to the Court to stay only the patent-related portion of the case (as Defendant asks), as opposed to the entire case. In part this is because the antitrust claim is significantly related to the merits of Plaintiff's claims of infringement as to the 243 patent (indeed, arguably the antitrust claim should trail the patent claims here, not go ahead of them). (D.I. 68; D.I. 99) And this is also in part because staying only the patent portion of the case will not save the Court that much work, since it would still need to proceed forward in the interim with a substantial antitrust matter.; (5) Therefore, Defendant can choose. If it agrees to stay the entire case (including the antitrust claim), then the Court will grant the Motion to that effect. If it does not do so, then the entire case will proceed forward. By no later than March 28, 2024, Defendant shall file a one-page letter with the Court, advising the Court of its decision; and (6) The videoconference scheduled on the Motion for March 25 is hereby CANCELED. Ordered by Judge Christopher J. Burke on 3/22/2024. (dlb) (Entered: 03/22/2024)
03/28/2024	105	Letter to The Honorable Christopher J. Burke from Andrew E. Russell regarding stay of case - re 104 Oral Order. (Russell, Andrew) Modified on 2/13/2025 (smg). (Entered: 03/28/2024)
04/01/2024	106	ORAL ORDER: In light of the Court's March 22, 2024 oral order, (D.I. 104), and Defendant's March 28, 2024 letter, D.I. 105), the Court hereby ORDERS as follows: (1) Defendant's Motion to Stay Pending Inter Partes Review, (D.I. 85), is GRANTED such that the entire case is stayed pending the issuance of the Final Written Decision in the inter partes review of United States Patent No. 11,470,243.; (2) Within five business days of the issuance of a Final Written Decision, the parties shall jointly file a letter, of no more than three single-spaced pages, providing their views as to whether a case schedule should be entered.; and (3) In light of the stay, for the Court's administrative purposes, the Court hereby DENIES Plaintiff's Motion to Dismiss Defendant's Counterclaims, (D.I. 76), without prejudice to renew after the stay is lifted. Ordered by Judge Christopher J. Burke on 4/1/2024. (dlb) (Entered: 04/01/2024)
04/08/2024	107	ORAL ORDER: The Court, having reviewed the parties' briefing with regard to Defendant's Motion to Consolidate Case Nos. 22-57-CJB and 22-1345-CJB for All Purposes And for Referral to Judge Andrews for Trial with Case No. 23-1346-RGA (the "Motion"), (D.I. (91 in 1:22-cv-01345-CJB, 151 in 1:22-cv-00057-CJB), D.I. (13 in 1:23-cv-01346-RGA-CJB)), hereby ORDERS that today's teleconference is CANCELED. The Court will issue an order resolving the Motion later today. Ordered by Judge Christopher J. Burke on 4/8/2024. Associated Cases: 1:22-cv-00057-CJB, 1:22-cv-01345-CJB, 1:23-cv-01346-RGA-CJB(mlc) (Entered: 04/08/2024)
04/08/2024	108	ORAL ORDER: The Court, having reviewed the parties' briefing with regard to Defendant's Motion to Consolidate Case Nos. 22-57-CJB ("the 889 case") and 22-1345-CJB ("the 243 case") for All Purposes And for Referral to Judge Andrews for Trial with Case No. 23-1346-RGA ("the 030 case") (the "Motion"), (D.I. 151 in Civil Action No. 22-057-CJB; D.I. 91 in Civil Action No. 22-1345-CJB; D.I. 13 in Civil Action No. 23-1346-RGA-CJB (hereinafter, the Court will refer to the "D.I." number in Civil Action No. 22-57-CJB, unless otherwise indicated)), having reviewed the parties' letter briefing, (D.I. 152; D.I. 162; D.I. 169), and having considered Federal Rule of Civil Procedure 42(a) and the "risk of prejudice and confusion wrought by consolidation against the risk of inconsistent rulings on common factual and legal questions, the burden on the parties and the court, the length of time, and the relative expense of proceeding with separate lawsuits