U.S. District Court [LIVE]
Western District of Texas (Austin)
CIVIL DOCKET FOR CASE #: 1:24−cv−01326−ADA

Yondr, Inc. v. Be Smarter, LLC et al
Assigned to: Judge Alan D Albright
Cause: 15:1114 Trademark Infringement

Date Filed: 10/31/2024
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Yondr, Inc.

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Date Filed	#	Docket Text
10/31/2024	1	COMPLAINT *for Patent Infringement, Trademark Infringement, Violations of the Lanham Act, Trade Libel and Unfair Competition* (Filing fee $ 405 receipt number ATXWDC−19412062), filed by Yondr, Inc.. (Attachments: # 1 Civil Cover Sheet, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E)(Raskin, Joshua) (Attachment 1 replaced on 11/1/2024 to flatten document) (cr5). (Entered: 10/31/2024)
10/31/2024	2	REQUEST FOR ISSUANCE OF SUMMONS by Yondr, Inc.. (Raskin, Joshua) (Entered: 10/31/2024)
10/31/2024	3	NOTICE of Attorney Appearance by Joshua L. Raskin on behalf of Yondr, Inc. (Raskin, Joshua) (Entered: 10/31/2024)
10/31/2024		Case assigned to Judge Robert Pitman. CM WILL NOW REFLECT THE JUDGE INITIALS AS PART OF THE CASE NUMBER. PLEASE APPEND THESE JUDGE INITIALS TO THE CASE NUMBER ON EACH DOCUMENT THAT YOU FILE IN THIS CASE. (kp) (Entered: 11/01/2024)
10/31/2024		If ordered by the court, all referrals and consents in this case will be assigned to Magistrate Judge Mark Lane. (kp) (Entered: 11/01/2024)
10/31/2024		DEMAND for Trial by Jury by Yondr, Inc.. (kp) (Entered: 11/01/2024)
11/01/2024	4	Notice of Filing of Patent/Trademark Form (AO 120). AO 120 forwarded to the Director of the U.S. Patent and Trademark Office. (Raskin, Joshua) (Entered: 11/01/2024)
11/01/2024	5	Notice of Filing of Patent/Trademark Form (AO 120). AO 120 forwarded to the Director of the U.S. Patent and Trademark Office. (Raskin, Joshua) (Entered: 11/01/2024)
11/01/2024	6	Pro Hac Vice Letter to Anne M. Rock, Omar A. Nesheiwat, and Matthew J. Levinstein. (kp) (Entered: 11/01/2024)
11/01/2024	7	Summons Issued as to Be Smarter, LLC. (kp) (Entered: 11/01/2024)
11/07/2024	8	SUMMONS Returned Executed by Yondr, Inc.. Be Smarter LLC. c/o James Guerra served on 11/4/2024 , answer due 11/25/2024. (Raskin, Joshua) Modified on 11/7/2024 (dm). (Entered: 11/07/2024)
11/08/2024	9	REQUEST FOR ISSUANCE OF SUMMONS by Yondr, Inc.. *To James Guerra* (Raskin, Joshua) (Entered: 11/08/2024)
11/12/2024	10	Summons Issued as to James Guerra. (dm) (Entered: 11/12/2024)
11/14/2024	11	MOTION to Appear Pro Hac Vice by Joshua L. Raskin *for Anne M. Rock* (Filing fee $ 100 receipt number ATXWDC−19467338) by on behalf of Yondr, Inc.. (Raskin, Joshua) (Entered: 11/14/2024)
11/14/2024	12	MOTION to Appear Pro Hac Vice by Joshua L. Raskin *for Omar A. Nesheiwat* (Filing fee $ 100 receipt number ATXWDC−19467494) by on behalf of Yondr, Inc.. (Raskin, Joshua) (Entered: 11/14/2024)

11/20/2024	13	ORDER GRANTING 11 Motion to Appear Pro Hac Vice as to Anne M. Rock. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Robert Pitman. (dm) (Entered: 11/20/2024)
11/20/2024	14	ORDER GRANTING 12 Motion to Appear Pro Hac Vice as to Omar A. Nesheiwat. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Robert Pitman. (dm) (Entered: 11/20/2024)
11/22/2024	15	NOTICE of Attorney Appearance by Melissa Samano Ruiz on behalf of Be Smarter, LLC, James Guerra. Attorney Melissa Samano Ruiz added to party Be Smarter, LLC(pty:dft), Attorney Melissa Samano Ruiz added to party James Guerra(pty:dft) (Ruiz, Melissa) (Entered: 11/22/2024)
11/22/2024	16	NOTICE of Attorney Appearance by Arthur Gollwitzer, III on behalf of Be Smarter, LLC, James Guerra. Attorney Arthur Gollwitzer, III added to party Be Smarter, LLC(pty:dft), Attorney Arthur Gollwitzer, III added to party James Guerra(pty:dft) (Gollwitzer, Arthur) (Entered: 11/22/2024)
11/22/2024	17	Unopposed MOTION for Extension of Time to File Answer re 1 Complaint, by Be Smarter, LLC, James Guerra. (Attachments: # 1 Proposed Order)(Gollwitzer, Arthur) (Entered: 11/22/2024)
11/25/2024		Text Order GRANTING 17 Unopposed Motion for Extension of Time to Answer entered by Judge Robert Pitman. IT IS ORDERED that Defendant shall answer or otherwise respond on or before December 13, 2024. (This is a text−only entry generated by the court. There is no document associated with this entry.) (qtlc) (Entered: 11/25/2024)
11/25/2024		Reset Deadlines: Be Smarter, LLC answer due 12/13/2024; James Guerra answer due 12/13/2024. (dm) (Entered: 11/25/2024)
12/13/2024	18	*Defendants' Affirmative Defenses,* ANSWER to 1 Complaint, with Jury Demand , COUNTERCLAIM against Yondr, Inc. by James Guerra, Be Smarter, LLC. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit)(Gollwitzer, Arthur) (Entered: 12/13/2024)
12/23/2024	19	Unopposed MOTION for Extension of Time to File Response/Reply *to Defendants' Counterclaims* by Yondr, Inc.. (Attachments: # 1 Proposed Order)(Raskin, Joshua) (Entered: 12/23/2024)
12/26/2024		Text Order GRANTING 19 Motion for Extension of Time to File Response entered by Judge Robert Pitman. IT IS ORDERED that Plaintiff shall answer or otherwise respond to Defendants' counterclaims on or before January 17, 2025. (This is a text−only entry generated by the court. There is no document associated with this entry.) (tclc) (Entered: 12/26/2024)
12/26/2024		Set/Reset Deadlines: Yondr, Inc. answer to counterclaim due 1/17/2025. (bc) (Entered: 01/13/2025)
01/17/2025	20	MOTION to Dismiss *Defendants Counterclaims For (1) Tortious Interference with Business Relations And (2) Declaratory Judgment of Invalidity or Unenforceability of Registered Trademark No. 6,995,045* by Yondr, Inc.. (Attachments: # 1 Declaration of Joshua Raskin, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Proposed Order)(Raskin, Joshua) (Entered: 01/17/2025)
01/17/2025	21	ANSWER to 18 Answer to Complaint, Counterclaim , COUNTERCLAIM against Be Smarter, LLC, James Guerra by Yondr, Inc..(Raskin, Joshua) (Entered: 01/17/2025)
01/31/2025	22	*Defendant Be Smarter's First* AMENDED COUNTERCLAIM *Defendant Be Smarter's First* against Yondr, Inc. amending, filed by Be Smarter, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F)(Gollwitzer, Arthur) (Entered: 01/31/2025)

02/03/2025		Text Order MOOTING 20 Motion to Dismiss entered by Judge Robert Pitman. In light of the First Amended Counterclaim, (Dkt. 22), this motion to dismiss is MOOT. (This is a text−only entry generated by the court. There is no document associated with this entry.) (tclc) (Entered: 02/03/2025)
02/14/2025	23	*COUNTERCLAIM DEFENDANTS* ANSWER to 22 Amended Counterclaim, , COUNTERCLAIM against Yondr, Inc. by Yondr, Inc..(Raskin, Joshua) (Entered: 02/14/2025)
02/14/2025	24	Order for Proposed Scheduling Order. Proposed scheduling order due to the Court within sixty (60) days after the appearance of any defendant. Proposed Scheduling Order due by 2/28/2025. Signed by Judge Mark Lane. (dm) (Entered: 02/14/2025)
02/28/2025	25	NOTICE of Attorney Appearance by Leisa Talbert Peschel on behalf of Be Smarter, LLC, James Guerra. Attorney Leisa Talbert Peschel added to party Be Smarter, LLC(pty:dft), Attorney Leisa Talbert Peschel added to party James Guerra(pty:dft) (Peschel, Leisa) (Entered: 02/28/2025)
02/28/2025	26	Proposed Scheduling Order by Yondr, Inc.. (Raskin, Joshua) (Entered: 02/28/2025)
02/28/2025	27	Rule 26(f) Discovery Report/Case Management Plan *plaintiff* by Yondr, Inc.. (Raskin, Joshua) (Entered: 02/28/2025)
03/04/2025	28	NOTICE *CONCERNING REFERENCE TO UNITED STATES MAGISTRATE JUDGE* by Yondr, Inc. (Raskin, Joshua) (Entered: 03/04/2025)
03/05/2025	29	NON−CONSENT to Trial by US Magistrate Judge by Be Smarter, LLC, James Guerra. (Gollwitzer, Arthur) (Entered: 03/05/2025)
03/07/2025	30	Order for Joint Proposed Scheduling Order. Joint Proposed Scheduling Order due by 3/21/2025. Signed by Judge Mark Lane. (dm) (Entered: 03/10/2025)
03/12/2025	31	MOTION to Appear Pro Hac Vice by Joshua L. Raskin *for Matthew J. Levinstein* (Filing fee $ 100 receipt number ATXWDC−19903613) by on behalf of Yondr, Inc.. (Raskin, Joshua) (Entered: 03/12/2025)
03/19/2025	32	MOTION for Entry of Scheduling Order Deadlines by Yondr, Inc.. (Attachments: # 1 Proposed Order)(Raskin, Joshua) (Entered: 03/19/2025)
03/24/2025	33	ORDER GRANTING 31 Motion to Appear Pro Hac Vice as to Matthew J. Levinstein. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Robert Pitman. (dm) (Entered: 03/24/2025)
03/25/2025	34	ORDER REASSIGNING CASE. Case reassigned to Judge Alan D Albright for all proceedings. Judge Robert Pitman no longer assigned to case. Signed by Judge Robert Pitman. (bot2) (Entered: 03/27/2025)
04/03/2025		Parties shall comply with Judge Albright's Standing Order Governing Proceedings (OGP) − Patent Cases. (bot4) (Entered: 04/03/2025)
05/21/2025	35	NOTICE of Attorney Appearance by Robert Pierce Earle on behalf of Yondr, Inc.. Attorney Robert Pierce Earle added to party Yondr, Inc.(pty:pla) (Earle, Robert) (Entered: 05/21/2025)
05/21/2025	36	NOTICE of Attorney Appearance by Stephen Burbank on behalf of Yondr, Inc.. Attorney Stephen Burbank added to party Yondr, Inc.(pty:pla) (Burbank, Stephen) (Entered: 05/21/2025)
05/23/2025	37	MOTION to Appear Pro Hac Vice by Robert Pierce Earle *on behalf of Jeremiah S. Helm* (Filing fee $ 100 receipt number ATXWDC−20229044) by on behalf of Yondr, Inc.. (Attachments: # 1 Proposed Order Proposed Order)(Earle, Robert) (Entered: 05/23/2025)
05/23/2025	38	MOTION to Appear Pro Hac Vice by Robert Pierce Earle *on behalf of Rhett D. Ramsey* (Filing fee $ 100 receipt number ATXWDC−20231014) by on behalf of Yondr, Inc.. (Attachments: # 1 Proposed Order Proposed Order)(Earle, Robert) (Entered: 05/23/2025)

05/23/2025	39	MOTION to Appear Pro Hac Vice by Robert Pierce Earle *on behalf of Stephen C. Jensen* (Filing fee $ 100 receipt number ATXWDC−20231055) by on behalf of Yondr, Inc.. (Attachments: # 1 Proposed Order Proposed Order)(Earle, Robert) (Entered: 05/23/2025)
06/06/2025	40	ORDER GRANTING 37 Motion to Appear Pro Hac Vice as to Jeremiah S. Helm. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Alan D Albright. (dm) (Entered: 06/06/2025)
06/06/2025	41	ORDER GRANTING 38 Motion to Appear Pro Hac Vice as to Rhett D. Ramsey. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Alan D Albright. (dm) (Entered: 06/06/2025)
06/06/2025	42	ORDER GRANTING 39 Motion to Appear Pro Hac Vice as to Stephen C. Jensen. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Alan D Albright. (dm) (Entered: 06/06/2025)
06/06/2025	43	MOTION to Appear Pro Hac Vice by Robert Pierce Earle *on behalf of Ben K. Shiroma* (Filing fee $ 100 receipt number ATXWDC−20297039) by on behalf of Yondr, Inc.. (Attachments: # 1 Proposed Order Proposed Order)(Earle, Robert) (Entered: 06/06/2025)
06/06/2025	44	Opening Claim Construction Brief by Be Smarter, LLC, James Guerra. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5)(Gollwitzer, Arthur) (Entered: 06/06/2025)
06/09/2025	45	ORDER GRANTING 43 Motion to Appear Pro Hac Vice as to BEN K. SHIROMA. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center Signed by Judge Alan D Albright. (cc3) (Entered: 06/09/2025)
06/18/2025	46	Unopposed MOTION to Withdraw as Attorney *Joshua L. Raskin, Anne M. Rock, Omar A. Nesheiwat, and Matthew J. Levinstein* by Yondr, Inc.. (Attachments: # 1 Proposed Order)(Raskin, Joshua) (Entered: 06/18/2025)
06/27/2025	47	RESPONSE *YONDR, INC.'S RESPONSIVE CLAIM CONSTRUCTION BRIEF* to 44 Claim Construction Brief by Yondr, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Declaration of David Smith, # 4 Appendix A to Declaration of David Smith, # 5 Appendix B to Declaration of David Smith, # 6 Appendix C to Declaration of David Smith)(Helm, Jeremiah) (Entered: 06/27/2025)
07/11/2025	48	Reply Claim Construction Brief regarding 47 Response, by Be Smarter, LLC, James Guerra. (Attachments: # 1 Exhibit A− Summary of Disputed Claim Terms and Proposed Definitions)(Gollwitzer, Arthur) (Entered: 07/11/2025)
07/25/2025	49	BRIEF *Sur Reply Claim Construction Brief* regarding 44 Claim Construction Brief by Yondr, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Shiroma, Ben) (Entered: 07/25/2025)
07/29/2025	50	Joint Claim Construction Brief or Statement regarding 44 Claim Construction Brief by Yondr, Inc.. (Shiroma, Ben) (Entered: 07/29/2025)
07/30/2025		Text Order DENYING WITHOUT PREJUDICE TO REFILING 32 Motion for Entry of Scheduling Order entered by Judge Alan D Albright. On or before August 4, 2025, the parties shall move for entry of a scheduling order which matches the exemplary schedule in Appendix A of the Standing Order Governing Proceedings (OGP) − Patent Cases. (This is a text−only entry generated by the court. There is no document associated with this entry.) (zelc) (Entered: 07/30/2025)
08/04/2025	51	Joint MOTION for Entry of Scheduling Order Deadlines by Yondr, Inc.. (Attachments: # 1 Proposed Order)(Shiroma, Ben) (Entered: 08/04/2025)

08/04/2025		DEFICIENCY NOTICE: re 51 Joint MOTION for Entry of Scheduling Order Deadlines . **Certificate of service reflects service via CM/ECF. Not all parties are registered to receive e−notices as is indicated by a missing email addresses for the attorney information on the docket sheet. Please file an Amended Certificate of Service as a SEPARATE PLEADING. Use the "Certificate of Service" event under the "Service of Process" menu. State parties served by CM/ECF and the alternate means of service to parties NOT registered for CM/ECF.** (tgp) (Entered: 08/05/2025)
08/05/2025	52	CERTIFICATE OF SERVICE by Yondr, Inc. *Amended Certificate of Service re:* Deficiency Notice,, 51 Joint MOTION for Entry of Scheduling Order Deadlines (Shiroma, Ben) (Entered: 08/05/2025)
08/05/2025		Text Order DENYING WITHOUT PREJUDICE TO REFILING 51 Motion for Entry of Scheduling Order entered by Judge Alan D Albright. The parties shall submit a proposed schedule that includes 09/22/2025 as the date of the *Markman* Hearing, and includes specific dates for all deadlines thereafter (i.e., not "[X] weeks after *Markman*"). (This is a text−only entry generated by the court. There is no document associated with this entry.) (zelc) (Entered: 08/05/2025)
08/06/2025	53	Second MOTION for Entry of Scheduling Order Deadlines *Second Joint Motion for Entry of a Scheduling Order* by Yondr, Inc.. (Attachments: # 1 Proposed Order)(Shiroma, Ben) (Entered: 08/06/2025)
08/07/2025	54	SCHEDULING ORDER: Final Pretrial Conference set for 8/31/2026 before Judge Alan D Albright, Jury Selection and Trial set for 9/21/2026 before Judge Alan D Albright, Markman Hearing set for 9/22/2025 at 9:30 AM before Judge Alan D Albright, Amended Pleadings due by 1/9/2026, Discovery due by 4/17/2026, Joinder of Parties due by 10/31/2025, and Dispositive Motions due by 6/26/2026. Signed by Judge Alan D Albright. (cc3) (Entered: 08/07/2025)
08/27/2025	55	MOTION to Stay *pending Patent Office Review and Supporting Memorandum* by Be Smarter, LLC, James Guerra. (Attachments: # 1 Proposed Order)(Gollwitzer, Arthur) (Entered: 08/27/2025)
08/27/2025	56	CORRECTED MOTION to Stay *pending Patent Office Review and Supporting Memorrandum* by Be Smarter, LLC, James Guerra. (Attachments: # 1 Exhibit A − IPR Petition for US 9819788, # 2 Exhibit B − PGR Petition for US 12133078, # 3 Exhibit C − Petition to Cancel, # 4 Exhibit D − 3,138 Federal District Court Cases for Alan D Albright, # 5 Proposed Order)(Gollwitzer, Arthur) (Entered: 08/27/2025)
08/28/2025		Text Order GRANTING 46 Motion to Withdraw as Attorney. entered by Judge Alan D Albright. It is ORDERED that Joshua L. Raskin, Anne M. Rock, Omar A. Nesheiwat, Matthew J. Levinstein, and the law firm of Greenberg Traurig, LLP are hereby WITHDRAWN as counsel of record in this matter for Plaintiff Yondr, Inc. (This is a text−only entry generated by the court. There is no document associated with this entry.) (zelc) (Entered: 08/28/2025)
09/10/2025	57	Response in Opposition to Motion, filed by Yondr, Inc., re 56 CORRECTED MOTION to Stay *pending Patent Office Review and Supporting Memorrandum* filed by Defendant Be Smarter, LLC, Defendant James Guerra, 55 MOTION to Stay *pending Patent Office Review and Supporting Memorandum* filed by Defendant Be Smarter, LLC, Defendant James Guerra (Attachments: # 1 Affidavit Declaration of Jeremiah S. Helm, # 2 Exhibit A, # 3 Exhibit B, # 4 Proposed Order)(Helm, Jeremiah) (Entered: 09/10/2025)
09/15/2025	58	REPLY to Response to Motion, filed by Be Smarter, LLC, James Guerra, re 56 CORRECTED MOTION to Stay *pending Patent Office Review and Supporting Memorrandum* filed by Defendant Be Smarter, LLC, Defendant James Guerra (Attachments: # 1 Exhibit E)(Gollwitzer, Arthur) (Entered: 09/15/2025)
09/16/2025	59	ORDER DENYING 56 Motion to Stay Pending Inter Partes Review. Signed by Judge Alan D Albright. (dm) (Entered: 09/16/2025)
09/22/2025	60	Minute Entry for proceedings held before Judge Alan D Albright: Markman Hearing held on 9/22/2025. Written order forthcoming. (Minute entry documents are not available electronically.). (Court Reporter Kristie Davis.)(dm) (Entered: 09/23/2025)

09/24/2025	61	CLAIM CONSTRUCTION ORDER. Signed by Judge Alan D Albright. (dm) (Entered: 09/24/2025)
09/26/2025	62	Transcript filed of Proceedings held on 9−22−25, Proceedings Transcribed: Markman Hearing. Court Reporter/Transcriber: Kristie Davis (kmdaviscsr@yahoo.com), Telephone number: 2546660904. Parties are notified of their duty to review the transcript to ensure compliance with the FRCP 5.2(a)/FRCrP 49.1(a). A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a Notice of Redaction Request must be filed within 21 days. If no such Notice is filed, the transcript will be made available via PACER without redaction after 90 calendar days. The clerk will mail a copy of this notice to parties not electronically noticed Redaction Request due 10/17/2025, Redacted Transcript Deadline set for 10/27/2025, Release of Transcript Restriction set for 12/26/2025, (kd) (Entered: 09/26/2025)