

antitrust claims for failure to state a claim, and IV now seeks summary judgment on very similar claims. ECF No. 656. Because *Noerr–Pennington* immunity and collateral estoppel both bar Capital One’s antitrust claims, I will grant IV’s motion.

Procedural Background

IV I and II filed suit in this Court, alleging that Capital One infringed five of their patents. Compl., ECF No. 1. IV I and II ultimately voluntarily withdrew one patent infringement claim and proceeded with the others. ECF Nos. 80, 81. The parties engaged in extensive discovery and agreed to referral to a Special Master highly experienced in patent law, jointly selected by the parties and appointed pursuant to Fed. R. Civ. P. 53. ECF Nos. 134, 136, 143. He oversaw additional discovery, following which the parties extensively briefed the patent infringement claims. ECF Nos. 147, 147-1, 169, 169-1, 227, 246, 297, 300, 303. The Special Master issued two reports and recommendations, ECF Nos. 298 and 315, in which he ruled in favor of IV with respect to two of its patents, United States Patent Nos. 7,984,081 and 6,546,002 (“the ’081 Patent” and “the ’002 Patent”), and in favor of Capital One on the claims related to United States Patent Nos. 6,314,409 and 6,715,084 (“the ’409 Patent” and “the ’084 Patent”). Both parties challenged the Special Master’s rulings adverse to them, and further briefing ensued. ECF Nos. 307, 311, 312, 313, 319, 324, 325, 330, 335, 336, 344.

After reviewing the Special Master’s reports and recommendations and the parties’ extensive briefs, I overruled the Special Master with respect to the ’081 Patent and the ’002 Patent, finding that they were unenforceable. ECF Nos. 377, 378. I also ruled that collateral estoppel applied regarding the ’409 Patent and the ’084 Patent, barring IV from bringing claims against Capital One for infringement of those patents. ECF No. 382. The net effect of my ruling was that each of the patents that IV claimed Capital One had infringed was unenforceable, two

patents because I concluded that they were invalid pursuant to 35 U.S.C. § 101, and two patents because the United States District Court for the Southern District of New York in *Intellectual Ventures v. JPMC*, Case No. 13-3777-AKH, 2015 WL 1941331 (S.D.N.Y. Apr. 29, 2015), concluded that they were invalid, and issue preclusion barred me from reaching a different conclusion. On those grounds, I entered summary judgment in Capital One's favor on those four remaining patent infringement claims. ECF Nos. 378, 382. And, finding no just reason for delay, I entered a final judgment in favor of Capital One on the patent infringement claims, making that order immediately appealable. ECF No. 387. The Federal Circuit affirmed my rulings, *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 850 F.3d 1332 (Fed. Cir. 2017), thereby ending the patent infringement claims against Capital One.

Meanwhile, Capital One had sought leave to file three antitrust counterclaims, claiming monopolization and attempted monopolization, in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, and unlawful asset acquisition, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, as part of its Third Amended Answer, Defenses, and Counterclaims. ECF No. 106. IV I and II opposed the motion. ECF No. 118. I granted Capital One leave to file its counterclaims, ECF Nos. 194, 195, which it did, ECF No. 196; *see also* Fourth Amended Answer, Defenses, and Counterclaims, ECF Nos. 438 (redacted), 439 (sealed). It also filed a Third Party Complaint against additional Intellectual Ventures companies: Invention Investment Fund II, LLC; Intellectual Ventures Management, LLC; Invention Investment Fund I, L.P. ECF Nos. 228 (sealed), 230 (redacted). Capital One alleges that IV has tried, without success, to license to Capital One its extensive patent portfolio, which includes the patents that IV has sued Capital One, in this suit and the Virginia suit, for infringing. Capital One believes that IV's repeated claims against it are actionable under antitrust law.

I denied IV's motions to dismiss the counterclaims and Third Party Complaint, ECF Nos. 225, 296, finding that Capital One had pled them sufficiently to proceed to discovery. ECF No. 328. After another round of extensive (and expensive) discovery regarding liability on the antitrust counterclaims, I attended a tutorial involving the economic experts that the parties had identified. ECF No. 651. Also in attendance was the court technical advisor, Professor John M. de Figueiredo of Duke University Law and Business Schools, whose appointment the parties had confirmed on a status conference call, and who assisted the court in evaluating the economic evidence. ECF Nos. 606, 608.¹ At the close of discovery, IV filed the pending Motion for Summary Judgment, which the parties fully briefed.² In support of their positions, the parties jointly submitted a 13,344 page Joint Record, comprising 286 exhibits in sixteen, 3-inch binders. Having reviewed the parties' memoranda and exhibits, I now rule.

¹ Unlike expert witnesses appointed under Rule 706, technical advisors are appointed under the court's inherent authority, and they do not testify at trial (and are not deposed or subject to cross examination). Joe S. Cecil & Thomas E. Willging, *Court-Appointed Experts in Reference Manual on Scientific Evidence* 527, 531 (Fed. Judicial Ctr. 1994). Accordingly, Professor de Figueiredo did not provide his independent opinion on the issues, but instead helped me understand the parties' experts' methodology, any assumptions underlying the experts' opinions, and how the methodology applies to the facts of this case. Thus, the purpose of the technical expert was to assist me in understanding the economic issues in this litigation and to enhance my ability to make an informed ruling on the pending motion. In this regard, Professor de Figueiredo's assistance was invaluable.

² The parties fully briefed the motion. ECF Nos. 657 (sealed opening brief), 668 (redacted opening brief), 662 (redacted opposition), 664 (sealed opposition), 669 (sealed reply), 671 (redacted reply). A hearing is not necessary. *See* Loc. R. 105.6.

Also pending are motions to seal the opening brief and opposition. ECF Nos. 658, 665. I have considered the motions and other filings in this case, included redacted versions of the sealed documents, and in the interest of protecting confidential, proprietary, trade secret, and/or commercially sensitive information, I will grant the motions to seal.

Intellectual Ventures also has filed objections to the Joint Record Exhibits, ECF No. 674 (redacted), 675 (sealed), as well as a motion to seal its objections, ECF No. 676. Its motion to seal is granted for the same reasons that the summary judgment briefings are sealed. However, the objections are overruled. And, although I relied on the sealed briefings for this Memorandum Opinion, its contents do not justify sealing it, because the public's interest in a public ruling outweighs the parties' interest in sealing information related to this case.

Parties' Arguments

The essence of Capital One's antitrust claim is that IV is a "patent troll,"³ and not just any patent troll, but a veritable Dovregubben.⁴ Capital One asserts that IV's business practice is to acquire a vast portfolio of thousands of patents that purportedly deal with technology essential to the types of services offered by commercial banks (such as ATM transactions, mobile banking, on-line banking, and credit card transactions). It then employs an aggressive marketing scheme whereby it makes an "offer" for banks to license (Capital One really would prefer to say "extorts" banks to license) its entire portfolio for a period of years at a jaw-droppingly high price. But, Capital One insists, when the banks ask for details about the patents covered in the portfolio in order to determine whether their services infringe them, IV refuses to disclose sufficient information to enable them to make an intelligent decision about whether they should agree to the license. And, if the bank balks at licensing the entire portfolio at IV's take-it-or-leave-it price, IV then threatens to file a patent infringement claim against the bank regarding only a few of the patents in the portfolio. Adding insult to injury, IV then makes it clear that should it lose the patent infringement case, it will simply file another (and if needed, another, and so on) regarding a different set of its patents, until the prospect of endless high-cost litigation forces the bank to capitulate and license the entire portfolio.⁵

³ A "patent troll" is an individual or company "who acquires by purchase or application to the Patent and Trademark Office a patent that he uses not to protect an invention but to obtain a license fee from, or legal judgment against, an alleged infringer." *Carhart v. Carhart-Halaska Int'l, LLC*, 788 F.3d 687, 691 (7th Cir. 2015). "Patent trolls are also known [as] 'patent assertion entities' (PAEs), [and] 'non-practicing entities' (NPEs)." *In re Packard*, 751 F.3d 1307, 1325 (Fed. Cir. 2014).

⁴ Dovregubben was the Troll King in Henrik Ibsen's 1867 play *Peer Gynt*.

⁵ Capital One is not the first to make these claims about IV's business practices. *E.g.*, Robin Feldman & Tom Ewing, *The Giants Among Us*, 2012 *Stan. Tech. L. Rev.* 1, 2–15 (2012).

Capital One characterizes IV's business model as comprised of three components: *accumulate* a vast portfolio of patents purportedly relating to essential commercial banking services, *conceal* the details of those patents so that the banks cannot determine whether their products infringe any of IV's patents, and serially *litigate* to force the banks to capitulate and license the portfolio at exorbitant cost. This conduct, Capital One insists, constitutes monopolization under § 2 of the Sherman Act, 15 U.S.C. § 2, attempted monopolization under § 2 of the Sherman Act, and unlawful asset acquisition under § 7 of the Clayton Act, 15 U.S.C. § 18.

Nonsense, IV indignantly responds. It counters Capital One's charges by arguing that it legitimately purchased or otherwise acquired its large portfolio of patents that relate to multiple technology markets. It then offers to license its portfolio to banks (and other types of businesses), beginning its negotiation with an opening offer, and expecting the bank to counteroffer, thereby initiating a back-and-forth exchange that it hopes will result in a mutually-agreeable licensing fee. IV vehemently denies that it conceals the details of its individual patents or that Capital One could not determine what they relate to by reviewing publicly available information. As IV sees things, when Capital One declined to make a counter offer to its opening bid, it then selected a number of its patents and brought suit against Capital One, first in the Eastern District of Virginia, and then, when that suit was unsuccessful, in this Court, with respect to a different set of patents. Moreover, IV claims that Capital One is, in essence, an "efficient infringer"—an entity that engages in its business without care for whether it infringes on patents held by others, with the knowledge that a patent infringement case is expensive to bring, and many patent holders lack the funds to do so to protect their rights. As such, Capital

One can play the odds, infringing patents with near impunity until the rare patent holder with the resources to sue does so, and then negotiate a favorable license fee.

IV points out that each of its patents is presumptively valid, and that it has an absolute right to file litigation to enforce them. And, in IV's view, if enforcing its patents through litigation has any monopoly effect (which IV denies it does), it has immunity under the *Noerr–Pennington* doctrine.⁶ Moreover, IV argues that Capital One is barred by both claim and issue preclusion from asserting its antitrust counterclaims because it brought virtually the exact claims in the Eastern District of Virginia suit, lost, and elected not to appeal. Further, IV challenges Capital One's definition of the relevant market for purposes of antitrust analysis, insisting that its portfolio consists of numerous distinct technology markets, not some monolithic "financial services portfolio" as claimed by Capital One.

IV also asserts that Capital One's antitrust theory is fundamentally flawed, because no liability can attach unless Capital One can prove that IV exercises monopoly power within a relevant market. "Monopoly power is the power to control prices or exclude competition." *United States v. E. I. du Pont de Nemours & Co.*, 351 U.S. 377, 391 (1956); see *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 481 (1992) (quoting *E.I. du Pont*); *United States v. Grinnell Corp.*, 384 U.S. 563, 571 (1966) (same). IV insists that it does neither, because the correct market definition would recognize that what IV owns is a series of patents that relate to multiple, distinct technology markets. And IV could exercise monopoly power only if Capital One can show that its patents include those affecting alternative substitute technologies that

⁶ Under the *Noerr–Pennington* doctrine, "[t]hose who petition government for redress," including by filing suit in court, "are generally immune from antitrust liability." *Prof'l Real Estate Inv'rs, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 56, 57 (1993) (citing *E. R.R. Presidents Conf. v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961); *United Mine Workers of Am. v. Pennington*, 381 U.S. 657 (1965)).

Capital One otherwise could turn to in order to avoid having to license IV's patents. Capital One has not made this showing, IV contends, entitling it to summary judgment.

Antitrust Analysis and Economic Theory

Underlying the legal issues in this case are two important but competing policies. On one hand, we value innovation that leads to new inventions that advance science and technology, protecting that creative effort by issuing patents. A patent, by its very nature, vests its owner with a type of legal monopoly, which it can enforce against anyone who infringes the patent. Enforcing a patent through litigation protects this monopoly, even though in other circumstances we view monopolies as harmful.

The other important policy implicated by this case, of course, is the strong desire to ensure vigorous competition in the marketplace, so that consumers (whether businesses or individuals) can purchase at the lowest possible price. To promote the benefits of robust competition, antitrust law aims to prevent a company from having the ability to control the price of its product or exclude competitors to the extent that it can charge sustained supracompetitive prices (prices substantially above what a competitive price would be if consumers could simply buy a close substitute product from a competitor at lower cost).

The exercise of monopoly power with regard to a single patent (or even a few patents) usually does not offend antitrust law. But it is another matter to acquire a vast portfolio of patents that are essential to technology employed by an entire industry and then to compel its licensing at take-it-or-leave-it prices because it is not economically feasible to determine if alternative technologies, not covered by the accumulation of patents, are available. This

acquisition and compelled licensing could amount to the ability to exercise monopoly power on an entirely different scale.

In a very real sense, antitrust law is founded on economic theory about how efficient markets should operate. In an ideally competitive market where there are no barriers to entry or exit by competing businesses, the availability of the same product (or a close substitute) from many sources will tend to drive the price downwards to a point slightly above the cost to make the product—the so-called “competitive price.” Think of pizzerias. There are lots of them, and entry and exit from this business is relatively free and unrestricted. If one restaurant decides to charge too much for a slice of pizza, there are many others nearby where the consumer can buy at a lower cost. The ready supply of close substitutes keeps costs competitive—slightly above the cost of making the pizza.

But, if circumstances are such that one pizzeria can exclude competition or control prices by charging more than a competitive price because consumers are unable to avoid paying it by turning to lower-priced alternatives, then it has the ability to exercise market power. And the power to control prices or exclude competitions is the essence of monopoly power. *See Grinnell Corp.*, 384 U.S. at 571. Antitrust law is designed to prevent the acquisition and exercise of monopoly power. *See id.*; 15 U.S.C. § 2.

Each of the above important competing policies is at play in this case. Capital One argues, through its highly credentialed and impressive economic expert, Professor Fiona Scott Morton of Yale University, that IV possesses monopoly power in connection with its large financial services patent portfolio, which touches on essential technologies that commercial banks have heavily invested in and cannot realistically design around to avoid the reach of IV’s

patents. Because of the size of this portfolio (between 7,725 and 35,000 patents, depending on whether Capital One or IV's expert is correct),⁷ IV is able to charge supracompetitive prices to license the portfolio. And IV's concealment of the details regarding the patents leaves Capital One unable (without incurring ruinous cost) to ferret out the particulars of each patent and assess whether it infringes any patents. Also at play is IV's aggressive policy of threatening (and bringing) expensive serial patent infringement suits. IV's aggregation of such a large portfolio, combined with its concealment and aggressive litigation strategies will, according to Capital One, eventually force it to capitulate and pay IV's supracompetitive price to license the entire portfolio.

As Professor Scott Morton sees it, antitrust analysis commonly used to determine whether a proposed merger will result in anticompetitive effects, simply does not work for the facts of this case. That is because merger analysis is *ex ante*, focusing on whether, if the merger is approved, the new entity will be able to charge a small but significant non-transitory increase in price (referred to as "SSNIP")⁸ that it could maintain over time without competition from others making that price increase unsustainable. Put differently, SSNIP analysis is best done *before* the entity of interest has acquired monopoly power. Scott Morton reasons that this case requires *ex post* analysis because Capital One already had incurred significant costs to acquire the technology to compete with other commercial banks in essential services such as on-line

⁷ According to Professor Scott Morton, IV has approximately 40,000 patents, 7,725 of which are financial services patents. Scott Morton Report ¶¶ 96 n.59, 170 n.136. Professor Gilbert asserts that "the portfolio that Intellectual Ventures initially offered to license to Capital One includes a much larger number of patents. Capital One's complaint characterizes Intellectual Ventures' offer as covering 35,000 patents." Gilbert Report ¶ 40 (citing Third-Party Compl. ¶ 40).

⁸ See U.S. Dep't of Justice & Fed. Trade Comm'n, *Horizontal Merger Guidelines* § 4.1.1 (Aug. 19, 2010), available at <https://www.justice.gov/atr/horizontal-merger-guidelines-08192010> (discussing SSNIP).

banking, remote banking, and ATM and credit card transactions when IV began licensing its massive financial services patent portfolio. In other words, IV already had acquired monopoly power when it approached Capital One to license its patents. Because Capital One already had incurred substantial sunk costs in the technology in which it had invested, it was unable to design around IV's enormous portfolio to adopt non-infringing technologies the way it could have done if it knew of the breadth and scope of IV's patents before it incurred the cost of the technologies it adopted.

Under her proposed *ex post* analysis, it is IV's conduct after having acquired monopoly power that is critical to antitrust scrutiny. Through its trio of patent aggregation, concealment and litigation, IV has acquired insurmountable bargaining power enabling it to exercise "hold-up" power by demanding take-it-or-leave-it supracompetitive prices to license its financial services portfolio. And even though it has resisted doing so to date, eventually Capital One will be forced to capitulate to the threat of exorbitantly expensive patent litigation to purchase a license that it does not want, despite the fact that IV's singular lack of success in prosecuting any of its patent suits against IV (or other banks) suggests that its massive portfolio is in truth composed of nothing more than an amalgamation of weak patents. And, but for IV's practice of accumulation, concealment and litigation, it could never command a price to license its portfolio of weak patents at anything near the supracompetitive price it sought from Capital One.

Scott Morton analogizes IV's financial services patent portfolio to a "cluster market" that IV promotes as a single product (for which there are no close substitutes) at a supracompetitive price. And she asserts that IV exercises monopoly power, despite the fact that no bank (including Capital One) has agreed to purchase a license to the entire portfolio, and IV has yet to prevail in any of its patent suits against banks.

Pure humbug, counters IV, through its equally well-credentialed and impressive economic expert, Professor Richard Gilbert from the University of California, Berkley. He challenges Professor Scott Morton's market definition, arguing that the proper definition is not a "cluster" of financial services patents constituting a single product, but rather a collection of patents that relate to multiple distinct technology markets. Professor Gilbert relies on the Antitrust Guidelines for the Licensing of Intellectual Property issued jointly by the U.S. Department of Justice and the Federal Trade Commission ("Guidelines"). See U.S. Dep't of Justice & Fed. Trade Comm'n, *Antitrust Guidelines for the Licensing of Intellectual Property* (Jan. 12, 2017), available at <https://www.justice.gov/atr/guidelines-and-policy-statements-0/2017-update-antitrust-guidelines-licensing-intellectual-property>. The Guidelines state, relevantly, that "[a]lthough the intellectual property right confers the power to exclude with respect to the specific product, process, or work in question, there will often be sufficient actual or potential close substitutes for such product, process, or work to prevent the exercise of market power." *Id.* § 2.2, at 4. The flaw in Capital One's antitrust analysis, according to Professor Gilbert, is its failure to analyze the distinct technology markets for which IV does have patents to determine whether there are alternative close substitutes that Capital One could turn to in order to avoid having to license from IV.

As Professor Gilbert sees it, IV's patents touch on a large number of distinct technology markets, each of which must be analyzed using SSNIP analysis, which Professor Scott Morton failed to do. Thus, he strongly disagrees that IV's patent portfolio can be analyzed as a cluster market at all. And, even more fundamentally, he challenges Professor Scott Morton's conclusions, arguing that proper market definition and analysis requires looking at actual prices (competitive price, market price and monopoly price). Here, he insists, there are no prices at all

because IV's licensing offer was only an opening bid in a negotiation, not a take-it-or-leave-it supracompetitive monopoly ultimatum. The negotiation did not progress to a point where a final demand was reached because Capital One refused to engage by making a counter-offer. Indeed, at least as of the time that discovery closed in this case, IV had not succeeded in selling a single license to its banking-related patents to Capital One or any other bank.

As IV and Capital One agree, the essential first step in analyzing the antitrust claims in this case is to define the relevant market by product(s) and geography. *See United States v. Marine Bancorporation, Inc.*, 418 U.S. 602, 618 (1974); *Brown Shoe Co. v. United States*, 370 U.S. 294, 324 (1962); *Buccaneer Energy (USA) Inc. v. Gunnison Energy Corp.*, 846 F.3d 1297, 1319–20 (10th Cir. 2017). “[M]arket definition is a deeply fact-intensive inquiry” *E.I. DuPont de Nemours & Co. v. Kolon Indus. Inc.*, 637 F.3d 435, 443 (4th Cir. 2011) (quoting *Todd v. Exxon Corp.*, 275 F.3d 191, 199 (2d Cir. 2001)). In determining the relevant market, the Court must consider “the ‘commercial realities’ faced by consumers.” *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 482 (1992). Where the facts are hotly disputed, as here, defining relevant market is “generally a question for the trier of fact.” ABA Section of Antitrust Law, *Antitrust Law Developments* 627–30 (ABA 8th ed. 2017), Ex. 127, Jt. Rec. 9557; *see also Fineman v. Armstrong World Indus., Inc.*, 980 F.2d 171, 199 (3d Cir. 1992) (“[T]he determination of a relevant product market or submarket . . . is a highly factual one best allocated to the trier of fact.”). The burden of proof lies with the antitrust plaintiff to prove relevant market. *Spectrum Sports, Inc. v. McQuillian* 506 U.S. 447, 455–56 (1993); *Berlyn Inc. v. The Gazette Newspapers, Inc.*, 73 F. App'x 576, 582 (4th Cir. 2003); *Satellite Television & Associated Res., Inc. v. Cont'l Cablevision of Va., Inc.*, 714 F.2d 351, 355 (4th Cir. 1983). When the parties proffer competing economic experts on the proper definition of relevant market,

summary judgment is inappropriate as long as each expert's views could be found by the trier of fact to be reasonable. *Sprint Airlines, Inc. v. Nw. Airlines, Inc.*, 431 F.3d 917, 945 (6th Cir. 2006) (“‘[I]ntellectual disagreement’ among the parties’ experts creates material factual disputes on the relevant market . . . so as to preclude an award of summary judgment.” (quoting record)); *Thompson v. Metro. Multi-List, Inc.*, 934 F.2d 1566, 1573–74 (11th Cir. 1991) (“The parameters of a given market are questions of fact, and therefore summary judgment is inappropriate if there are material differences of fact.” (internal citations omitted)).

IV does not dispute this authority, but contends that it is entitled to summary judgment despite the substantial disagreement between Professor Scott Morton and Professor Gilbert on the definition of relevant market (as well as other antitrust elements) because the methodology used by Professor Scott Morton is so far removed from commonly employed antitrust analysis that it must be rejected as unreasonable as a matter of law. It is true that Professor Gilbert's analysis of relevant market is firmly grounded in commonly used antitrust analysis, as evidenced by its reliance on the Department of Justice and Federal Trade Commission's Antitrust Guidelines for the Licensing of Intellectual Property. But, in support of their alternative analysis, Capital One and Professor Scott Morton have cited authority for the application of cluster market analysis to the definition of a relevant antitrust market. *See United States v. Phila. Nat'l Bank*, 374 U.S. 321, 355–56 (1963) (citing *Brown Shoe*); *United States v. Grinnell Corp.*, 384 U.S. 563, 572–73 (1966) (citing *Brown Shoe*); *Brown Shoe*, 370 U.S. at 324–25; and *Fed. Trade Comm'n v. Staples, Inc.*, 190 F. Supp. 3d 100, 116–17 (D.D.C. 2016) (citing *Brown Shoe*); *see also* Ian Ayres, *Rationalizing Antitrust Cluster Markets*, 95 Yale L. J. 109 (1985). And, Professor Scott Morton has noted that the Department of Justice Horizontal Merger Guidelines that Professor Gilbert referenced do recognize that “[e]vidence of competitive effects can inform

market definition, just as market definition can be informative regarding competitive effects.”

Horizontal Merger Guidelines § 4.

With respect to cluster markets, Professor Ayres, one of the early scholars to study such markets in antitrust law, was critical of the courts’ failure to articulate “a sound justifying theory” of when cluster analysis is appropriate, opting instead for a series of “ad hoc” standards.

He noted:

The lack of a justifying theory apparent in *Philadelphia National Bank and Grinnell* has left lower courts virtually unconstrained to develop additional criteria for cluster definitions. Lower courts have based cluster definitions on the existence of trade associations; census classifications; functional complementarity; common technology, distribution or marketing; a unique product group; and other market characteristics. While courts have a plethora of standards from which to choose, they currently have no basis for distinguishing the good from the bad (and the ugly). In sum, while some cluster markets have been defined correctly, the lack of a sound justifying theory has led courts to adopt conflicting and ad hoc standards. In a world in which antitrust defendants are usually multiproduct firms, the problem of deciding when to cluster a group of products needs to be formally addressed.

Ayres, *supra*, at 112–14. He advocated using a standard he called “transactional complementarity,” meaning:

Goods are transactional complements if buying them from a single firm significantly reduces consumers’ transaction costs. In other words, given equal prices, consumers prefer to buy transactional complements from a single firm. If consumers strongly prefer to purchase a group of goods from a single firm, firms selling only part of this group will not compete effectively with firms supplying the full line.

Id. at 114–15.

Applying Ayres’s standard for using cluster markets to define a relevant antitrust market in this case would be problematic for Capital One, because Professor Scott Morton’s analysis rests on the notion that Capital One (and other banks to which IV has pitched its portfolio) *does not want* the cluster of products that IV offers. In such circumstances, it would be difficult to argue that consumers (banks) “strongly prefer to purchase a group of goods” (IV’s patent

portfolio) from a single firm (IV). Nevertheless, the parties do not cite, nor have I located, any controlling legal authority that Professor Ayres's test for the use of cluster markets must be used instead of any others that courts that have employed cluster market analysis in antitrust cases have used. While factfinders ultimately might reject Scott Morton's reliance on cluster markets to justify her antitrust market analysis, I cannot conclude that as a matter of law it is unreasonable.

But, neither is Professor Gilbert's analysis immune from criticism. His contention that it would be economically feasible for Capital One to discern the particulars of each of IV's thousands of patents to determine whether there are close substitutes to which Capital One could turn in order to avoid IV's portfolio, even if all of the information needed to do so was readily available, stretches plausibility to the near breaking point.⁹ Capital One has produced evidence that IV does conceal a significant amount of information regarding its patent holdings, which has been confirmed by others. *See, e.g.,* Robin Feldman & Tom Ewing, *The Giants Among Us*, 2012 Stan. Tech. L. Rev. 1 (2012). Feldman and Ewing concluded:

Much about Intellectual Ventures is shrouded in secrecy. Intellectual Ventures has acknowledged that it intentionally withholds the true scope and nature of its IP portfolio. Its licensing transactions and interactions are protected by strict nondisclosure agreements, and the structure of its business activities makes it difficult to get a handle on the full extent of its activities. For example, our research has identified more than a thousand shell companies that intellectual

⁹ It is ironic that, to support its argument that it had a good faith basis to bring patent infringement claims against Capital One in this case, IV designated nine Ph.D.s who would support its infringement analysis. *See* ECF Nos. 616 (paperless order acknowledging receipt of expert reports, on file in chambers), 619 (letter order addressing quantity of expert reports), 621 (correspondence from IV explaining purpose of multiple experts). If, *a fortiori*, it takes an assortment of Ph.D.s just to support the bringing of a patent infringement suit with respect to only *four* patents, imagine the scope of the analysis Capital One would have to conduct (and cost it would have to incur) in order to determine whether the technologies it had acquired before IV approached it with its licensing demands infringed the thousands of patents in IV's portfolio (assuming the information needed to do so was fully available to it, and not concealed as Capital One contends).

Ventures has used to conduct its intellectual property acquisitions, and it has taken considerable effort to identify these. The range and scope of its activities are so vast that it is difficult to conceptualize the reach of Intellectual Ventures.

Id. at 3.

The sheer scope of IV's patent holdings calls into question how it would be feasible to perform the analysis of available substitutes that Professor Gilbert calls for to determine whether there are close substitutes to which Capital One could turn to avoid the reach of IV's portfolio. And while the Antitrust Guidelines for the Licensing of Intellectual Property do apply the SSNIP analysis favored by Professor Gilbert, there is nothing in the Guidelines that seems to recognize the near impossibility of doing so with a collection of intellectual property as massive as IV's (despite the fact that it was revised and reissued on January 12, 2017).

After all, the phenomenon of applying antitrust doctrine to intellectual property rights on the scale presented by IV's holdings is a new challenge. As noted by Feldman and Ewing:

The patent world is quietly undergoing a change of seismic proportions. In a few short years, a handful of entities have amassed vast treasuries of patents on an unprecedented scale. To give a sense of the magnitude of this change, our research shows that in little more than five years, the most massive of these has accumulated 30,000-60,000 patents worldwide, which would make it the 5th largest patent portfolio of any domestic US company and the 15th largest of any company in the world. . . .

These entities, which we call mass aggregators, do not engage in the manufacturing of products nor do they conduct much research. Rather, they pursue other goals of interest to their founders and investors. Non-practicing entities have been around the patent world for some time, and in the past they have fallen into two broad categories. The first category includes universities and research laboratories, which tend to have scholars engaged in basic research and license out inventions rather than manufacturing products on their own. The second category includes individuals or small groups who purchase patents to assert them against existing, successful products. Those in the second category have been described colloquially as 'trolls,' which appears to be a reference to the children's tale of the three billy goats who must pay a toll to the troll waiting under the bridge if they wish to pass. Troll activity is generally reviled by operating companies as falling somewhere between extortion and drag on innovation. In particular, many believe that patent trolls often extract a

disproportionate return, far beyond the value that their patented invention adds to the commercial product, if it adds at all.

The new mass aggregator, however, is an entirely different beast. To begin with, funding sources for mass aggregators include some very successful and respectable organizations, including manufacturing companies such as Apple, eBay, Google, Intel, Microsoft, Nokia, and Sony, as well as some academic institutions such as the University of Pennsylvania and Notre Dame

Id. at 1.

And even if cluster market analysis ultimately is not considered the appropriate framework for analyzing the relevant antitrust market in cases such as this one (despite the fact that Capital One has cited abundant facts that a jury reasonably could conclude supports its contention that IV does, in fact, market its patents as a portfolio, rather than a collection of individual patents relating to a number of discrete technology markets), it is hard to deny that there is something concerning from an antitrust perspective about the way in which IV engages in its licensing business. *See, e.g., Michelle Miller & Janusz Ordover, Intellectual Ventures v. Capital One: Can Antitrust Law and Economics Get Us Past the Trolls?*, Competition Policy Int'l: Antitrust Chronicle (Jan. 19, 2015), available at <https://www.competitionpolicyinternational.com/intellectual-ventures-v-capital-one-can-antitrust-law-and-economics-get-us-past-the-trolls> (“[M]any PAEs [Patent Assertion Entities] exploit the lack of transparency in patent ownership to amass huge portfolios of ‘secret’ patents that are then asserted against manufacturers. Manufacturers faced with a royalty demand based on a large number of unidentified patents cannot determine an appropriate royalty, or even whether any royalty is owed at all. That uncertainty may lead to manufactures paying supracompetitive royalties that can depress product innovation.”).

If the only issue raised in IV’s summary judgment motion was whether there are genuine disputes of material fact that would entitle it to judgment as a matter of law on the issues of

possession of monopoly power in a relevant market and the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident, *see Eastman Kodak*, 504 U.S. at 481, I would deny the motion and allow the case to proceed to trial. This is because I have concluded from the record before me that Capital One has identified admissible evidence to establish a genuine dispute as to these issues, precluding summary judgment. But as next will be seen, there are further legal issues which, when resolved, require the granting of IV's motion.

Standard of Review

Summary judgment is proper when the moving party demonstrates, through “particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations . . . , admissions, interrogatory answers, or other materials,” that “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a), (c)(1)(A); *see Baldwin v. City of Greensboro*, 714 F.3d 828, 833 (4th Cir. 2013). If the party seeking summary judgment demonstrates that there is no evidence to support the nonmoving party's case, the burden shifts to the nonmoving party to identify evidence that shows that a genuine dispute exists as to material facts. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 585–87 & n.10 (1986). The existence of only a “scintilla of evidence” is not enough to defeat a motion for summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251–52 (1986). Instead, the evidentiary materials submitted must show facts from which the finder of fact reasonably could find for the party opposing summary judgment. *Id.*

Noerr–Pennington Immunity

Antitrust law proscribes the willful acquisition or maintenance of monopoly power within a market, as well as attempts to monopolize. *See* 15 U.S.C. § 2; *Spectrum Sports, Inc. v. McQuillan*, 506 U.S. 447, 456 (1993); *United States v. Grinnell Corp.*, 384 U.S. 563, 570–571 (1966). In contrast, a patent creates a legal monopoly. *Fed. Trade Comm’n v. Actavis, Inc.*, 133 S. Ct. 2223, 2231 (2013). Additionally, “[t]hose who petition government for redress are generally immune from antitrust liability” under what is known as *Noerr–Pennington* immunity. *Prof’l Real Estate Inv’rs, Inc. v. Columbia Pictures Indus., Inc.* (“PREP”), 508 U.S. 49, 56 (1993) (citing *E. R.R. Presidents Conf. v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961); *United Mine Workers of Am. v. Pennington*, 381 U.S. 657 (1965)). This holds true for parties who file suit in court. *See id.* at 57 (noting that *California Motor Transport Co. v. Trucking Unlimited* (“*California Motor*”), 404 U.S. 508, 510 (1972), “extended *Noerr* to ‘the approach of citizens . . . to courts’”). And, patent holders that believe that their patents have been infringed may seek to enforce their rights under the patent through patent litigation. 35 U.S.C. § 281 (“A patentee shall have remedy by civil action for infringement of his patent.”). Thus, when a party challenges a patent holder’s efforts to enforce its patents through litigation, the court must determine whether the patent holder is exercising “the lawful restraint on trade of the patent monopoly” or “the illegal restraint prohibited broadly by the Sherman Act.” *United States v. Line Material Co.*, 333 U.S. 287, 310 (1948). To do so, courts must “balance the privileges of [a patent holder] under [its] patent grants with the prohibitions of the Sherman Act against combinations and attempts to monopolize.” *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 390–91 (1948).

IV contends that “[u]nder the First Amendment and the *Noerr–Pennington* doctrine, Intellectual Ventures I and Intellectual Ventures II, like other patent owners, . . . are entitled to petition a court for a redress of their grievances,” that is, IV may sue corporations like Capital One for patent infringement without being sued under the antitrust laws for bringing suit. IV Mem. 12. On that basis, it argues that, for Capital One to proceed on its antitrust claims against IV based on IV’s patent litigation activities, Capital One must establish that an exception to *Noerr–Pennington* exists such that IV was not entitled to exercise its right to sue. *Id.* According to IV, Capital One has failed to prove that IV’s claims were “objectively baseless,” as it had to do to prove that IV was not exempt from antitrust liability. *Id.* at 13. IV asserts that Capital One instead tried to prove that IV’s claims were “unsuccessful,” which IV insists is not enough. *Id.*

Applicability of Noerr–Pennington immunity

Capital One counters that *Noerr–Pennington* immunity simply does not apply because the “litigation conduct is part of a broader monopolistic scheme,” and “*Noerr* does not insulate the entire scheme.” Capital One Opp’n 19; *see also id.* at 21 (“IV’s lawsuits against Capital One (and other banks) are part of its overall, multi-step scheme to force a portfolio license at a supracompetitive price.”). Insofar as Capital One argues that “IV’s aggregation of patents to create market power would support substantial Section 2 and Section 7 claims on its own,” and that “the concealment and misdirection at the heart of IV’s extortive licensing strategy would be anticompetitive even if IV had never filed a lawsuit,” *id.*, this contention is contrary to Capital One’s pleadings. Capital One alleges that “IV has eliminated banks’ access to substitutes for IV’s license, both in the form of other patent licenses and banking-product designs, through a carefully orchestrated campaign of patent aggregation, concealment, and sham litigation,” Fourth Am. Countercl. (Redacted) ¶ 157, and that “IV’s use of patent accumulations to cut off banks’

design and license choices, as weapons in negotiation, and to provide fuel for repeated sham litigation, violates Section 2 of the Sherman Act,” *id.* ¶ 125. *See also id.* ¶ 171 (“IV’s actions in secretly aggregating 3,500 financial-services patents through shell companies, subjecting Capital One to sham litigation, demanding nine-figure sums for a limited and temporary patent respite, and refusing to disclose many of the patents that IV demanded Capital One pay more than \$100 million for are all part of a carefully orchestrated plan to achieve monopoly power in the relevant technology-licensing market and wield it against the banking industry.”); *id.* ¶ 177 (“Even though the patents in its portfolio are individually of little or no worth, IV can and does acquire monopoly power by amassing them as a source of serial sham litigation threats.”); Third Party Compl. (Redacted) ¶¶ 17, 49, 63, 69 (same).

And, while patent acquisition and aggregation is the focus of the Clayton Act claim, acquisition is actionable under the Clayton Act only where “the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.” 15 U.S.C. § 18. To establish this effect, Capital One relies on IV’s purported “campaign,” which could not succeed absent the allegedly sham litigation. *See* Third Am. Countercl. (Sealed) ¶ 218 (“IV combines [its patent acquisitions] in a way that ‘gives [IV] market power,’ because, now that IV has eliminated alternative licensing sources by acquiring the patents, banks ‘can not avoid’ paying a hold-up demand (which IV styles as a ‘license’) if they want to avoid repeated meritless litigation and uncertainty.”); *see also* Third Party Compl. (Sealed) ¶ 110 (same). Clearly, the allegation of sham litigation is an integral component of IV’s alleged strategy underlying all of Capital One’s claims. *See* Third Am. Countercl. ¶¶ 125, 157, 171, 177, 218; Third Party Compl. ¶¶ 17, 49, 63, 69, 110.

Moreover, even if the sham litigation allegations could be excised from its pleadings, Capital One does not cite any controlling authority in support of its position that *Noerr–Pennington* immunity does not apply because sham litigation is only one component of a larger scheme, and I am not persuaded by the authority it cites from other circuits. Capital One includes a quote from *California Motor* as indirect support for its argument: “First Amendment rights are not immunized from regulation when they are used as an integral part of conduct which violates a valid statute. . . . If the end result is unlawful, it matters not that the means used in violation may be lawful.” Capital One Opp’n 19 (quoting *California Motor*, 404 U.S. at 514–15). These two sentences that Capital One pairs together (with the effect that it appears, from the quote, that *California Motor* provides that an exception exists to *Noerr–Pennington* immunity when the litigation is part of a broader scheme to violate the law) actually bookend a section of the opinion that has nothing to do with litigation as part of a broader scheme. Rather, on pages 514 and 515 of its *California Motor* opinion, the Supreme Court explained the principles underpinning *Noerr–Pennington* immunity and the sham litigation exception (which I discuss further, below). First, it observed that citizens are not always immune from legal consequences when exercising their First Amendment rights and that the First Amendment does not protect the press from antitrust laws. *California Motor*, 404 U.S. at 514. It then noted that “First Amendment rights may not be used as the means or the pretext for achieving ‘substantial evils’ which the legislature has the power to control.” *Id.* at 515 (internal citation omitted). And it concluded that when businesses combine efforts to “harass and deter their competitors,” even when their actions are in litigation that otherwise would be protected under *Noerr–Pennington*, their actions violate the antitrust laws. *Id.*

Capital One also cites *Fed. Trade Comm’n v. Actavis, Inc.*, 133 S. Ct. 2223 (2013), as stating that “anticompetitive effects [that] fall within the scope of the exclusionary potential of the patent” do not “immunize [conduct] from antitrust attack.” Capital One Opp’n 19 (quoting *Actavis*, 133 S. Ct. at 2230). But, a holding that, when the validity and preclusive scope of a patent are in question, the patent holder can be sued under antitrust laws for activities that may be permissible under the patent (such as charging supra-competitive prices) does not mean that a patent holder can be sued under antitrust laws for *filing suit* to enforce the patent, and Capital One has not identified any binding authority extending the Supreme Court holding in this manner.

Exceptions to Noerr–Pennington immunity

Alternatively, Capital One argues that IV is not immune to suit under *Noerr–Pennington* because a party loses its immunity if it brings a series of “petitions . . . ‘pursuant to a policy of starting legal proceedings without regard to the merits’ and for the purpose of injuring competition,” which is what, in Capital One’s view, IV did when it “brought its ten patent claims against Capital One without regard to the merits and for the purpose of restraining trade.” Capital One Opp’n 22–25 (quoting *USS-POSCO Indus. v. Contra Costa Cty. Bldg. & Constr. Trade Council, AFL-CIO*, 31 F.3d 800, 811 (9th Cir. 1994)).

A patentee who brings an infringement suit may [lose its *Noerr–Pennington* immunity and] be subject to antitrust liability for the anti-competitive effects of that suit if the alleged infringer (the antitrust plaintiff) proves (1) that the asserted patent was obtained through knowing and willful fraud within the meaning of *Walker Process Equipment, Inc. v. Food Machinery & Chemical Corp.*, 382 U.S. 172, 177 (1965), or (2) that the infringement suit was “a mere sham to cover what is actually nothing more than an attempt to interfere directly with the business relationships of a competitor.”

Nobelpharma AB v. Implant Innovations, Inc., 141 F.3d 1059, 1068 (Fed. Cir. 1998) (quoting *Noerr*, 365 U.S. at 144); *see also Actavis*, 133 S. Ct. at 2239 (Roberts, C.J., dissenting) (“If its

actions are within the scope of the patent, they are not subject to antitrust scrutiny, with two exceptions concededly not applicable here: (1) when the parties settle sham litigation, cf. [*PREI*, 508 U.S. at 60–61]; and (2) when the litigation involves a patent obtained through fraud on the Patent and Trademark Office. *Walker Process Equipment, supra*, at 177, 86 S.Ct. 347.”).

1. *Exception for litigation of patents procured by fraud*

Walker Process held narrowly that “the enforcement of a patent procured by fraud on the Patent Office may be violative of § 2 of the Sherman Act provided the other elements necessary to a § 2 case are present.” 382 U.S. at 174. Thus, “‘to strip [a patentee] of its exemption from the antitrust laws’ because of its attempting to enforce its patent monopoly, an antitrust plaintiff is first required to prove that the patentee ‘obtained the patent by knowingly and willfully misrepresenting facts to the [Patent and Trademark Office]’” and that the patent holder seeking to enforce its patent through litigation was “aware of the fraud when bringing suit.” *Nobelpharma*, 141 F.3d at 1068–69 (citing *Walker*, 382 U.S. at 177 & n.6) (footnote omitted). For *Walker Process* purposes, “fraud is a more serious offense than inequitable conduct.” *Id.* at 1070. Where, as here, there is no evidence that the Patent Office was tricked by fraud or that IV (which later acquired the patents) was aware of any such fraud, *Walker Process*’s holding has no application.

2. *Sham litigation exception*

Because *Walker Process* is inapplicable, to determine whether IV is immune from antitrust liability stemming from its patent litigation, I must determine whether the “sham litigation exception to *Noerr–Pennington* immunity” applies. See *Tyco Healthcare Grp. LP v. Mut. Pharm. Co.*, 762 F.3d 1338, 1343 (Fed. Cir. 2014). The Supreme Court first observed that “[t]here may be situations in which a publicity campaign, ostensibly directed toward influencing

governmental action, is a mere sham to cover up what is actually nothing more than an attempt to interfere directly with the business relationships of a competitor and the application of the Sherman Act would be justified” in *Noerr*, 365 U.S. at 144. The sham litigation exception has been extended to patent litigation, in which a patentee’s “conduct in the prosecution of a patent” may be “sufficient to strip [the] patentee of its immunity from the antitrust laws.” *Nobelpharma*, 141 F.3d at 1067. But this exception to *Noerr–Pennington* immunity is narrow, “[g]iven the presumption of patent validity and the burden on the patent challenger to prove invalidity by clear and convincing evidence.” *Tyco Healthcare*, 762 F.3d at 1343. Consequently, rarely will “a patentee’s assertion of its patent in the face of a claim of invalidity . . . be so unreasonable as to support a claim that the patentee has engaged in sham litigation.” *Id.*

As for what qualifies as sham litigation, *PREI*, 508 U.S. 49, and *California Motor*, 404 U.S. 508, provide guidance. In *California Motor*, a group of trucking companies brought antitrust claims against another group of trucking companies, alleging that the defendants “conspired to monopolize trade and commerce in the transportation of goods” through “a concerted action . . . to institute state and federal proceedings [including rehearings, reviews, and appeals from agency and court orders] to resist and defeat applications by [the plaintiffs] to acquire operating rights or to transfer or register those rights.” 404 U.S. at 509. As noted, the *California Motor* Court extended *Noerr–Pennington* immunity, holding that an antitrust claim cannot be based upon “the approach of citizens or groups of them to administrative agencies . . . [or] to courts.” *Id.* at 510. But, the Court concluded that the allegations in the case before it, that the defendants “sought to bar their competitors from meaningful access to adjudicatory tribunals and so to usurp that decisionmaking process” and “instituted the proceedings and actions . . .

with or without probable cause, and regardless of the merits of the cases,” fell “within the ‘sham’ exception in the Noerr case, as adapted to the adjudicatory process.” *Id.* at 512, 516. It reasoned that, when a party’s legal actions reflect “a pattern of baseless, repetitive claims” that “leads the factfinder to conclude that the administrative and judicial processes have been abused,” that party “cannot acquire immunity by seeking refuge under the umbrella of ‘political expression.’” *Id.* at 513.

In *PREI*, the operators of a resort hotel (“PRE”) “sought to develop a market for the sale of videodisc players to other hotels wishing to offer in-room viewing of prerecorded material.” Columbia Picture Industries, Inc. (“Columbia”) “held copyrights to the motion pictures recorded on the videodiscs that PRE purchased” and, like PRE, “licensed the transmission of copyrighted motion pictures to hotel rooms.” 508 U.S. at 51–52. Columbia sued PRE for copyright infringement, and PRE counterclaimed in antitrust, claiming that “Columbia’s copyright action was a mere sham that cloaked underlying acts of monopolization and conspiracy to restrain trade.” *Id.* at 52. Notably, Columbia only initiated one suit against PRE, *id.*, unlike the “pattern of baseless, repetitive claims” that defeated the antitrust defendants’ immunity claim in *California Motor*, 404 U.S. at 513. It is also significant that in *PREI*, the district court case was in the same posture as this case, with a summary judgment motion pending, and the court decided the case on summary judgment. *PREI*, 508 U.S. at 53.

The *PREI* Court held that, to qualify as “sham litigation,” a lawsuit “must be objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits,” and “the litigant’s subjective motivation” must be “to interfere *directly* with the business relationships of a competitor.” *PREI*, 508 U.S. at 60–61; *see Tyco Healthcare*, 762 F.3d at 1343 (noting that a lawsuit qualifies as “sham litigation” under the *PREI* test when it “(1) is

‘objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits’ (the objective element), and (2) is motivated by a desire ‘to interfere *directly* with the business relationships of a competitor’ (the subjective element)” (quoting *PREI*, 508 U.S. at 60–61)). Because “the antitrust defendant admittedly had probable cause to institute [its copyright suit],” the Court concluded that its suit against *PREI* was not objectively baseless and therefore could not qualify as sham litigation to defeat Noerr–Pennington immunity. *PREI*, 508 U.S. at 51. Thus, although both factors must be present to establish that litigation is a sham, a finding of “an objectively reasonable effort to litigate” is sufficient to show that the litigation was not a sham, “regardless of subjective intent.” *Id.* at 51. Simply put, if the court concludes that the antitrust defendant had probable cause to file suit (which it can determine as a matter of law if, as here, “there is no dispute over the predicate facts of the underlying legal proceeding”), it cannot find that the defendant engaged in sham litigation, even if the litigant filed suit without any expectation of success. *See id.* at 62, 63.

The *PREI* Court analogized to the common law tort of wrongful civil proceedings (often erroneously referred to as malicious prosecution, a tort that involves wrongful *criminal* proceedings) to define probable cause for purposes of determining whether litigation is objectively baseless. *Id.* at 62.

The notion of probable cause . . . requires the plaintiff to prove that the defendant lacked probable cause to institute an unsuccessful civil lawsuit and that the defendant pressed the action for an improper, malicious purpose. *Stewart v. Sonneborn*, 98 U.S. 187, 194 . . . (1879); *Wyatt v. Cole*, 504 U.S. 158, 176 . . . (1992) (REHNQUIST, C.J., dissenting); T. Cooley, Law of Torts. *Cf. Wheeler v. Nesbitt*, 24 How. 544, 549–50, 16 L.Ed. 765 (1861)] Probable cause to institute civil proceedings requires no more than a “reasonabl[e] belie[f] that there is a chance that [a] claim may be held valid upon adjudication” (internal quotation marks omitted). *Hubbard v. Beatty & Hyde, Inc.*, 343 Mass. 258, 262, 178 N.E.2d 485, 488 (1961); Restatement (Second) of Torts § 675, Comment *e*, pp. 454–455 (1977). Because the absence of probable cause is an essential element of the tort, the existence of probable cause is an absolute defense. *See Crescent City Live*

Stock Co. v. Butchers' Union Slaughter-House Co., 120 U.S. 141, 149 . . . (1887); *Wheeler, supra*, 24 How. at 551; *Liberty Loan Corp. of Gadsden v. Mizell*, 410 So. 2d 45, 48 (Ala. 1982). . . . When a court has found that an antitrust defendant claiming *Noerr* immunity had probable cause to sue, that finding compels the conclusion that a reasonable litigant in the defendant's position could realistically expect success on the merits of the challenged lawsuit. . . . [T]herefore, a proper probable cause determination irrefutably demonstrates that an antitrust plaintiff has not proved the objective prong of the sham exception and that the defendant is accordingly entitled to *Noerr* immunity.

Id. at 62–63 (some internal citations omitted).

In his concurrence, Justice Stevens “agreed with the Court’s disposition of [*PREI*] and with its holding that ‘an objectively reasonable effort to litigate cannot be sham regardless of subjective intent,’” but he wrote separately because he believed that the majority’s opinion included “unnecessarily broad dicta” that the Court “might regret when confronted with a more complicated case.” *Id.* at 67–68. Justice Stevens distinguished cases like *PREI* in which a single lawsuit is alleged to be a sham, from cases like *California Motor* that involved “repetitive filings.” *Id.* at 67–73. He noted that “[t]here might well be lawsuits” in which “‘reasonable litigant[s] could realistically expect success on the merits,’” but the litigation could “be objectively *unreasonable*” nonetheless, “and thus shams.” *Id.* at 68. Justice Stevens observed that “more complicated cases [previously before the Supreme Court], in which, for example, the alleged competitive injury has involved something more than the threat of an adverse outcome in a single lawsuit, have produced less definite rules.” *Id.* at 72–73. Citing *California Motor*, he stated that “[r]epetitive filings, some of which are successful and some unsuccessful, may support an inference that the process is being misused.” *Id.* at 73. Moreover, he said, “[i]n such a case, a rule that a single meritorious action can never constitute a sham cannot be dispositive,” and “a simple rule may be hard to apply when there is evidence that the judicial process has been used as part of a larger program to control a market and to interfere with a potential competitor’s

financing without any interest in the outcome of the lawsuit itself” *Id.* at 73. But, notably, the majority did not modify its opinion to address the concerns Justice Stevens raised, and his views regarding how *Noerr–Pennington* immunity should apply do not limit the majority opinion.

Similarly, in *Waugh Chapel S., LLC v. United Food & Commercial Workers Union Local 27*, the Fourth Circuit, considering a series of proceedings in the labor context, observed that “[i]t is unclear whether *PREI* [and its two-step standard] distinguished or displaced the sham litigation test first propounded in *California Motor*” for analyzing the proceedings on the record before it. 728 F.3d 354, 363 (4th Cir. 2013). The Fourth Circuit noted that, under the *California Motor* standard, “the focus is not on any single case. Rather a district court should conduct a holistic evaluation of whether ‘the administrative and judicial processes have been abused.’” *Id.* (quoting *Cal. Motor*, 404 U.S. at 513). It is “[t]he pattern of the legal proceedings, not their individual merits,” that the court considers to determine “whether the [antitrust defendant] indiscriminately filed . . . a series of legal proceedings without regard for the merits and for the purpose of violating federal law.” *Id.* As with the *PREI* standard, “the subjective motive of the litigant and the objective merits of the suits are relevant,” but the *California Motor* standard is different because “other signs of bad-faith litigation . . . may also be probative of an abuse of the adjudicatory process.” *Id.*

The Fourth Circuit adopted the Second and Ninth Circuits’ approach¹⁰ in reading *PREI* and *California Motor* “as applying to different situations. *Professional Real Estate Investors*

¹⁰ Other circuits do not take this approach. *E.g.*, *In re Wellbutrin XL Antitrust Litig. Indirect Purchaser Class*, 868 F.3d 132, 148 (3d Cir. 2017) (applying two-part test from *PREI* without considering *California Motor*’s standard), *judgment entered sub nom. In re Wellbutrin XL Antitrust Litig.*, No. 15-2875, 2017 WL 3529114 (3d Cir. Aug. 9, 2017); *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1350 (Fed. Cir. 2014)

provides a strict two-step analysis to assess whether a single action constitutes sham petitioning *California Motor Transport* deals with the case where the defendant is accused of bringing a whole series of legal proceedings.” *Id.* (quoting *USS–POSCO Indus. v. Contra Costa Cty. Bldg. & Const. Trades Council, AFL–CIO* (“*POSCO*”), 31 F.3d 800, 810–11 (9th Cir. 1994); citing *Primetime 24 Joint Vent. v. Nat’l Broad. Co.*, 219 F.3d 92, 101 (2d Cir. 2000)). The Fourth Circuit noted that the *PREI* standard “is ill-fitted to test whether a series of legal proceedings is sham litigation,” especially when “the presiding tribunal [for earlier] cases had no occasion to measure the baselessness of the suit because (1) it had no inkling that the action comprised a possible campaign of sham litigation, and (2) the plaintiffs preempted an assessment of frivolity by prematurely withdrawing some of their suits.” *Id.* at 364. Thus, under Fourth Circuit law, in the labor context, “when purported sham litigation encompasses a series of legal proceedings rather than a singular legal action, . . . the sham litigation standard of *California Motor* should govern.” *Id.*

The parties disagree about which standard I should apply in this case. IV insists that Federal Circuit law governs, and therefore I should apply the *PREI* standard. *See* IV Mem. 13. Indeed, “an antitrust claim premised on stripping a patentee of its immunity from the antitrust laws is typically raised as a counterclaim by a defendant in a patent infringement suit,” and, “[b]ecause most cases involving these issues will therefore be appealed to [the Federal Circuit],” immunity from antitrust laws “should [be] decide[d] . . . as a matter of Federal Circuit law, rather than [by] rely[ing] on various regional precedents.” *Nobelpharma AB v. Implant Innovations, Inc.*, 141 F.3d 1059, 1067–68 (Fed. Cir. 1998). On that basis, the Federal Circuit held that for

(same); *Bryant v. Military Dep’t of Mississippi*, 597 F.3d 678, 690–91 (5th Cir. 2010) (considering *PREI* standard as well as test stated in *Bill Johnson’s Rest. v. NLRB*, 461 U.S. 731, 733–35 (1983), in labor context).

“all antitrust claims premised on the bringing of a patent infringement suit,” the issue of “whether conduct in procuring or enforcing a patent is sufficient to strip a patentee of its immunity from the antitrust laws is to be decided as a question of Federal Circuit law,” although “the law of the appropriate regional circuit [applies] to issues involving other elements of antitrust law such as relevant market, market power, damages, etc.” *Id.* at 1068. This language is unambiguous in its application to instances of patent litigation.

Nonetheless, Capital One argues that Federal Circuit law does not apply in this instance because it is not necessary to resolve any issues under patent law to determine antitrust liability, and this Court should, under Fourth Circuit law, apply the *California Motor* standard instead because the facts of this case involve what Capital One characterizes as a series of legal proceedings. Capital One Opp’n 23 n.7. In its view, “Capital One’s claims are based on IV’s overall scheme, not solely on IV’s ‘conduct in . . . enforcing a patent.’” *Id.* Capital One contends in the alternative that, even under Federal Circuit law, *California Motor*, not *PREI*, “is still the correct standard because the Federal Circuit has not reached the question of whether [*California Motor*] applies to a series of petitions,” as Capital One asserts is present in this case, and “every circuit that has addressed the issue [including the Fourth Circuit] holds that the [*California Motor*] standard, not *PREI*, applies where, as here, more than one lawsuit (or petition) is at issue.” *Id.* at 23.

Federal Circuit law, under which *PREI* provides the standard for deciding whether *Noerr-Pennington* immunity exists or whether the sham-litigation exception is present, clearly applies in this case. Capital One’s antitrust claims are counterclaims brought in the patent litigation that IV initiated. These are the circumstances that *Nobelpharma* describes.

In any event, even if Fourth Circuit law applied or the Federal Circuit applied the *California Motor* standard to cases involving a series of claims, the result would not change: *PREI* still would provide the standard. The facts before me are easily distinguished from the facts of *California Motor*, *Waugh Chapel*, and the cases on which the Fourth Circuit relied, *POSCO*, 31 F.3d 800, and *Primetime 24 Joint Vent.*, 219 F.3d 92. In *California Motor*, 404 U.S. at 509, 513, there was a “pattern of baseless and repetitive claims” made in a number of administrative and court proceedings. In *Primetime 24 Joint Venture*, 219 F.3d at 101, there were “voluminous challenges,” and in *POSCO*, 31 F.3d at 804, there were “numerous grievances, arbitrations and enforcement proceedings.” *Waugh Chapel*, 728 F.3d 354, involved fourteen separate proceedings—a barrage of proceedings that was clearly a series. Here, there have been only two cases that IV has brought against Capital One. While it is true that IV has sued various other entities in other courts, that litigation does not make its two instances of litigation against Capital One a series.¹¹ Further, IV’s suits against other defendants, alleging infringement of various patents based on those other defendants’ independent actions, have no bearing on the merits of the litigation before me or Judge Trenga. *See Waugh Chapel*, 728 F.3d at 366–67 (considering only claims against one development even though two different developments had been subject to suit, one named as a defendant three times and one named fourteen times). Accordingly, I only will consider the two suits against Capital One. Additionally, multiple claims brought in one case do not constitute a series. IV has not identified any controlling case law to the contrary.

Moreover, insofar as the *Waugh Chapel* Court identified *PREI* as the standard when there was only *one* lawsuit that could qualify as sham litigation and *California Motor* as the standard

¹¹ This is not to say that the lawsuits IV has filed against Capital One could not evolve into a series if IV continues to litigate its patents against Capital One.

for when there was a *series* of prior proceedings, it left open the question of the standard to apply when there were *two* lawsuits that could have been sham litigation (a situation closer to the facts in *PREI* than in *California Motor*). After all, the sham litigation cases array along a continuum of instances of only one case filed to instances where many have been filed, and it seems overly rigid to limit the underlying analysis of *PREI* to situations involving only a single suit. Therefore, even if I applied Fourth Circuit law, I would have to consider the underlying rationale of *Waugh Chapel* to determine whether these allegations of two instances of sham litigation are analyzed best under *PREI* or *California Motor*. As the *Waugh Chapel* Court observed, the *PREI* standard is “ill-fitted” when “the presiding tribunal [for earlier] cases had no occasion to measure the baselessness of the suit,” while the *California Motor* standard enables a court to assess potentially sham litigation when it cannot determine whether each legal proceeding was objectively baseless. *Waugh Chapel*, 728 F.3d at 364.

In *Waugh Chapel*, there was no way of knowing what the merits were of the various earlier proceedings. At least two petitions were withdrawn such that the tribunals never had the chance to consider them. Others were dismissed as moot or as conjecture without any decision on the merits with regard to whether the claims were objectively baseless.

Here, in contrast, in the sole earlier proceeding, Judge Trenga clearly had the opportunity to consider the bona fides because, as in this case, Capital One brought its antitrust counterclaims in response to IV’s patent litigation. Indeed, Judge Trenga reached a decision on the merits with regard to four of the five patents IV originally identified. His conclusions are available to me in a published opinion that informed me of the court’s rationale. Further, the issue of sham

litigation arose in the Virginia court, and I have the benefit of Judge Trenga’s cogent analysis.¹² And, the other instance of purportedly sham litigation is the patent litigation that IV brought before me—in which both a Special Master and I considered four claims on summary judgment. Thus, I need not resort to analyzing “[t]he pattern of the legal proceedings” in lieu of “their individual merits” to determine whether IV “indiscriminately filed . . . a series of legal proceedings without regard for the merits.” *Waugh Chapel*, 728 F.3d at 363. Rather, it is quite feasible to apply the *PREI* standard to determine if these two instances of litigation were objectively baseless.

Under *PREI*, what I need to determine is whether a reasonable litigant in IV’s position could realistically expect to succeed on the merits of its claims in this Court because, if it could, the litigation was not objectively baseless and therefore not sham litigation. *PREI*, 508 U.S. at 51, 62. As noted, this is an “absolute defense” that “requires no more than a ‘reasonabl[e] belie[f] that there is a chance that [a] claim may be held valid upon adjudication.’” *Id.* at 62 (emphasis added) (citation omitted).

¹² The Eastern District of Virginia observed that “[c]entral to Capital One’s theory of monopolization [was] that IV ha[d] engaged in or threaten[ed] to engage in ‘sham litigation’ to enforce a patent portfolio whose patents are, in fact, either unenforceable or so weak that, absent IV’s ‘hold-up,’ they have limited commercial value.” *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. 13-740 AJT, 2013 WL 6682981, at *7 (E.D. Va. Dec. 18, 2013). But, it rejected that theory because Capital One failed to “allege any specific litigation history to support that claim or identify any particular patents IV ha[d] attempted or threatened to enforce that have expired, been cancelled or adjudicated to be invalid.” *Id.* The court also found that “IV and Capital One do not compete in any relevant market, so it cannot be said that IV’s object is to use th[at] or any other litigation to interfere with the business relationships of a competitor.” *Id.* Thus, it concluded that “Capital One ha[d] not alleged facts or circumstances that would plausibly place th[at] litigation within any recognized exception to the *Noerr–Pennington* doctrine, which protects private parties from antitrust liability based on even unsuccessful litigation attempts to enforce laws with potential anti-competitive effects.” *Id.*

Fatally, Capital One cannot establish that IV's litigation against it was objectively baseless because there were too many indicia of probable cause. Most significantly, in this case, it is undisputed that the parties selected (ECF No. 134) and the Court appointed (ECF No. 143) an independent Special Master (with significant experience handling patent litigation), who wrote two comprehensive reports and recommendations (ECF Nos. 298, 315) regarding the merits of four of IV's patent claims after the parties submitted cross-motions for summary judgment on patent validity under 35 U.S.C. § 101. Prior to issuing those reports and recommendations, the Special Master resolved multiple discovery disputes (ECF Nos. 170, 199, 203, 209, 223, 286, 290, 294); reviewed the parties' extensive formal briefing (ECF Nos. 147-1, 169-1, 227, 246), as well as supplemental letter briefing that the Special Master requested (ECF Nos. 298-1, 298-2) and twenty-seven exhibits; and heard argument (ECF No. 298-3). Under the Special Master's detailed and insightful analysis, IV did succeed on two of its patent claims: the Special Master recommended a judgment of patent eligibility for the '084 and '002 Patents. ECF No. 298. This fact alone is sufficient to show that a reasonable litigant could realistically expect to succeed on the merits, and it vitiates the notion that the loss before Judge Trenga meant that IV no longer could reasonably believe that it could prevail in this court. And, next to this fact, any other disputes are scintillae.

Moreover, various other undisputed facts also support the finding that IV's litigation in this Court was not objectively baseless. First, there is the presumptive validity of each of the nine patents that were the subjects of IV's claims against Capital One. *See* 35 U.S.C. § 282(a) ("A patent shall be presumed valid."). Second, IV filed both suits before the Supreme Court decided *Alice Corp. Pty. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2351–52 (2014) (holding that claims "disclos[ing] a computer-implemented scheme for mitigating 'settlement risk' . . . by using a

third-party intermediary” were not patent eligible under 35 U.S.C. § 101 but rather were “drawn to the abstract idea of intermediated settlement, and that merely requiring generic computer implementation fails to transform that abstract idea into a patent-eligible invention”). I considered *Alice* and the parameters it set for eligibility in concluding that two of the patents before me were not actually patent-eligible. See *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, 127 F. Supp. 3d 506, 511–31 (D. Md. 2015), *aff’d*, 850 F.3d 1332 (Fed. Cir. 2017).¹³ The Special Master did not consider post-*Alice* cases and found that the same patents *were* patent eligible. See *Intellectual Ventures*, 127 F. Supp. 3d at 509 (“[The Special Master did not] address in any depth the increasing number of cases that have been decided by the Federal Circuit and District Courts around the country that have been decided since the Supreme Court’s recent decisions in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, —U.S. —, 134 S. Ct. 2347 (2014), and *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, — U.S. —, [132 S. Ct. 1289] (2012), that have found patents that are highly analogous to the ’081 and ’002 patents to be invalid for abstractness under 35 U.S.C. § 101.”). This shows that when IV filed suit, before *Alice* was decided, it was realistic to expect success on the merits, at least with regard to these two patents. See also *Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat’l Ass’n*, 776 F.3d 1343, 1350 (Fed. Cir. 2014) (“CET’s infringement suits, though unsuccessful, were not objectively baseless . . . because the state of the law of § 101 was deeply uncertain at the time CET filed its complaints against Wells Fargo and PNC in 2012. Under these circumstances, we cannot conclude that as a matter of law, no reasonable litigant in 2012 could have expected success on at least one of CET’s claims.”).

¹³ Judge Trenga granted summary judgment in Capital One’s favor on April 16, 2014, before the Supreme Court decided *Alice* on June 19, 2014. See *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. 13-CV-740 AJT, 2014 WL 1513273, at *1 (E.D. Va. Apr. 16, 2014), *aff’d sub nom. Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363 (Fed. Cir. 2015).

Third, IV has not filed any additional suits against Capital One post-*Alice*. Fourth, IV withdrew specific claims when it was persuaded that it would not prevail, suggesting that it reasonably believed it could prevail on the others. Fifth, IV appealed my summary judgment rulings, an extra step that one who did not expect to succeed likely would not bother taking. Sixth, while Capital One incurred significant costs defending IV's patent claims, IV also incurred substantial litigation expenses. The litigation before me has involved nineteen attorneys for IV, as well as a Special Master and an economic consultant, the costs of whom the parties have shared. The docket includes almost 700 entries, and the documents in support of the parties' pending summary judgment briefing exceed 13,000 pages. Seventh, IV did not file for these patents with the Patent and Trademark Office; it acquired them and was entitled to rely on their presumptive validity. Eighth, Judge Trenga ruled that IV's patent infringement action was not an "exceptional case" marked by "unreasonable conduct" that would justify an award of attorneys' fees to Capital One pursuant to 35 U.S.C. § 285. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. 13CV0740 (AJT/TCB), 2015 WL 7283108, at *1, *4 (E.D. Va. Nov. 17, 2015). Ninth, IV incurred the significant expense of designating nine experts on objective reasonableness—in comparison to Capital One's failure to designate any—something IV hardly would have done had it thought its underlying patent claims were objectively baseless. Under these circumstances, no reasonable factfinder could conclude that IV lacked probable cause.

Further, if I were to reach the subjective inquiry of whether IV initiated litigation to interfere directly with its *competitor's* business, it is questionable whether Capital One, a bank, could qualify as a competitor of IV, a patent assertion entity. Indeed, Judge Trenga found that Capital One is not IV's competitor. *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No.

13-740 AJT, 2013 WL 6682981, at *7 (E.D. Va. Dec. 18, 2013). Thus, even if this litigation were objectively baseless—which it clearly is not—Capital One cannot establish that IV intended to interfere “with the business relationships of a competitor.” *See PREI*, 508 U.S. at 60–61 (emphasis added).

In sum, not only is Capital One not a competitor of IV, but more significantly, a reasonable litigant in IV’s position realistically could have expected to succeed on the merits of its claims in this Court. Therefore, the litigation was not objectively baseless. Consequently, it was not sham litigation, and IV is entitled to *Noerr–Pennington* immunity, as its patent litigation is integral to Capital One’s antitrust claims. *PREI*, 508 U.S. at 51, 62.

Collateral Estoppel

Collateral estoppel, also known as issue preclusion, “works to ensure that parties get ‘one full and fair opportunity to litigate a particular issue, while preventing needless relitigation of that issue.’” *Barna Conshipping, S.L. v. 2,000 Metric Tons, More or Less, of Abandoned Steel*, 410 F. App’x 716, 720 (4th Cir. 2011) (quoting *In re Cygnus Telecomms. Tech., LLC, Patent Litig.*, 536 F.3d 1343, 1350 (Fed. Cir. 2008)). Collateral estoppel bars relitigation of an issue or fact if

(1) the issue or fact is identical to the one previously litigated; (2) the issue or fact was actually resolved in the prior proceeding; (3) the issue or fact was critical and necessary to the judgment in the prior proceeding; (4) the judgment in the prior proceeding is final and valid; and (5) the party to be foreclosed by the prior resolution of the issue or fact had a full and fair opportunity to litigate the issue or fact in the prior proceeding.

In re Microsoft Corp. Antitrust Litig., 355 F.3d 322, 326 (4th Cir. 2004) (emphasis added).

Collateral estoppel may be offensive or defensive. *Id.* Offensive collateral estoppel is “[w]hen a *plaintiff* [or counter claimant or third party plaintiff] employs the doctrine of collateral

estoppel or issue preclusion ‘to foreclose the defendant [or counter defendant or third party defendant] from litigating an issue the defendant has previously litigated unsuccessfully in an action with another party.’” *Id.* (quoting *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326 n.4 (1979)). Defensive collateral estoppel is “when a *defendant* [or counter defendant or third party defendant] employs the doctrine ‘to prevent a plaintiff [or counter claimant or third party plaintiff] from asserting a claim the plaintiff [or counter claimant or third party plaintiff] has previously litigated and lost against another defendant.’” *Id.* (quoting *Parklane Hosiery*, 439 U.S. at 326 n.4). A defendant (or defending party) also can employ defensive collateral estoppel to bar claims the plaintiff (or claimant) already unsuccessfully made against *it*, rather than another defendant. *See Zeno v. United States*, No. DKC-09-544, 2009 WL 4910050, at *8 (D. Md. Dec. 11, 2009), *aff’d*, 451 F. App’x 268 (4th Cir. 2011). Here, the Intellectual Ventures companies, which are Counter Defendants and Third Party Defendants, invoke the doctrine to prevent the Capital One companies, which are Counter Claimants and Third Party Plaintiffs, from asserting the claims they unsuccessfully alleged against IV in the Virginia litigation. This is an instance of defensive collateral estoppel. *See id.*; *Microsoft*, 355 F.3d at 326.

IV insists that collateral estoppel bars relitigation of whether the market that Capital One identifies is a “relevant market,” because the Eastern District of Virginia already determined that the same market that Capital One describes here was not a relevant market for antitrust purposes, IV Mem. 7–8, and that issue was critical and necessary to Judge Trenga’s judgment, which was a valid, final judgment, *id.* at 9, 12. IV contends that, although Capital One pleaded different facts in this case, the changes were “immaterial,” and “[a]ltering the facts alleged cannot avoid issue preclusion” because “[i]ssue preclusion prevents a second attempt to relitigate with additional pleaded facts, or any other way.” *Id.* at 8–9. Capital One counters that the pleadings define a

different relevant market, Capital One Opp'n 15–17, that the changes are not immaterial, *id.* at 17, and that in any event, the market definition was not critical or necessary to the judgment, *id.* at 17–18, because “the Virginia court’s decision rested on the independent grounds that Capital One’s market definition and monopoly power allegations were both insufficient to state a claim.” *Id.* at 18.

Notably, “relevant market” is a necessary element of all of Capital One’s antitrust claims. *See Berlyn Inc. v. The Gazette Newspapers, Inc.*, 73 F. App’x 576, 582 (4th Cir. 2003) (noting that, “to determine whether any antitrust violation [under the Sherman Act or the Clayton Act] has occurred, ‘[the court] must first define *the relevant market* because the concept of competition has no meaning outside its own arena, however broadly that arena is defined,” and that the party bringing an antitrust claim “bears the burden of proof on the issue of the relevant product and geographic markets” (emphasis added) (citing *Satellite Television & Assoc. Res., Inc., v. Continental Cablevision of Va., Inc.*, 714 F.2d 351, 355 (4th Cir.1983))); *see also Spectrum Sports, Inc. v. McQuillan*, 506 U.S. 447, 456 (1993) (stating that, for an attempted monopolization claim under § 2 of the Sherman Act, “to determine whether there is a dangerous probability of monopolization, courts have found it necessary to consider *the relevant market* and the defendant’s ability to lessen or destroy competition in that market” (emphasis added)); *United States v. Grinnell Corp.*, 384 U.S. 563, 570–71 (1966) (stating that, to prevail on a claim of monopolization under § 2 of the Sherman Act, a plaintiff must prove: “(1) the possession of monopoly power in *the relevant market* and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident” (emphasis added)); *United States v. Phila. Nat’l Bank*, 374 U.S. 321, 363 (1963) (holding that “a merger which produces a firm controlling an undue

percentage share of *the relevant market*, and results in a significant increase in the concentration of firms in that market is so inherently likely to lessen competition substantially that it [is a violation of § 7 of the Clayton Act unless there is] evidence clearly showing that the merger is not likely to have such anticompetitive effects” (emphasis added)); *It’s My Party, Inc. v. Live Nat., Inc.*, 88 F. Supp. 3d 475, 503 (D. Md. 2015) (stating that, to prevail on a claim of attempted monopolization, a plaintiff must prove “(1) a specific intent to monopolize *a relevant market*; (2) predatory or anticompetitive acts; and (3) a dangerous probability of successful monopolization”) (emphasis added) (quoting *Kolon Indus. Inc. v. E.I. DuPont de Nemours & Co.*, 748 F.3d 160, 177 (4th Cir. 2014)), *aff’d sub nom. It’s My Party, Inc. v. Live Nation, Inc.*, 811 F.3d 676 (4th Cir. 2016). Therefore, if the relevant market that Capital One alleges has not changed in any material respect from the relevant market it defined in the Virginia litigation, then Judge Trenga’s conclusion that Capital One’s “relevant market” did not constitute a relevant market for antitrust purposes prevents relitigation of that issue, and IV is entitled to judgment as a matter of law on all counts. *See Berlyn*, 73 F. App’x at 582.

Capital One does not challenge whether it had a full and fair opportunity to litigate the sufficiency of its market definition before the Eastern District of Virginia, whether the sufficiency of the relevant market it alleged was actually resolved in that court, or whether Judge Trenga issued a valid, final judgment. *See Capital One Opp’n* 15–17. Rather, as noted, Capital One challenges the applicability of issue preclusion in two regards: (1) whether the relevant market is materially different in this litigation, and (2) whether Judge Trenga’s conclusion that the proposed relevant market was not a relevant market for antitrust purposes was critical and necessary to the judgment he issued. *See id.* I will consider each challenge in turn.

Is the relevant market materially different in this litigation?

A relevant market is generally viewed as the field of “meaningful competition.” *IGT v. Alliance Gaming Corp.*, 702 F.3d 1338, 1344 (Fed. Cir. 2012). It is determined by “commercial realities” and “consumer choice” and, while it typically includes substitutes for a particular product, it may also consist of a single product or brand where there is no “reasonable interchangeability” with other comparable products, that is, where there are essentially no substitutes for a given product. *Eastman Kodak Co. v. Image Technical Servs., Inc.*, 504 U.S. 451, 481–82 (1992) (quoting *United States v. E.I. du Pont de Nemours & Co.*, 351 U.S. at 404).

Intellectual Ventures I LLC v. Capital One Fin. Corp., No. 13-CV-00740 AJT, 2013 WL 6682981, at *4 (E.D. Va. Dec. 18, 2013).

In the Virginia litigation, Capital One alleged that the relevant market was the “market for technology enabling business processes common throughout the commercial banking industry in the United States.” *Intellectual Ventures*, 2013 WL 6682981, at *5 (quoting pleadings). The Virginia court reworded the relevant market definition as “IV’s ‘portfolio of 3,500 or more patents that [IV] alleges cover widely used financial and retail banking services’ in the United States.” *Intellectual Ventures*, 2013 WL 6682981, at *5. Here, Capital One once again alleges that IV’s 3,500 patents comprise the relevant market. Fourth Am. Countercl. ¶ 158; Third Party Compl. ¶ 50. Notably, the alleged market has not changed because IV has not acquired any new patents in the relevant investment funds since Capital One filed its antitrust counterclaim in the Virginia litigation. Detkin Decl. ¶ 4, Ex. 69, Jt. Rec. 3,415. And, Capital One acknowledges that, previously, I observed that the “[Virginia] court restated the relevant market as the Intellectual Ventures companies’ ‘portfolio of 3,500 or more patents,’ the same market alleged here.” *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. PWG-14-111, 2016 WL 160263, at *3 (D. Md. Jan. 14, 2016) (quoting *Intellectual Ventures*, 2013 WL 6682981, at *5); see Capital One Opp’n 16. Yet, in Capital One’s view, the Virginia court’s

“restatement [of what the relevant market was] was dicta . . . based on comments made by Capital One’s counsel during oral argument on IV’s motion to dismiss,” and the actual alleged market in the Virginia litigation was not the same as it is here. Capital One Opp’n 16. On the contrary, as IV asserts, IV Reply 5, the transcript from oral argument demonstrates that Judge Trenga paraphrased the relevant market to confirm his understanding of what Capital One alleged, and Capital One confirmed that his definition was accurate. Hr’g Tr., Ex. 3, Jt. Rec. 147 (“THE COURT: You’re saying the 3,500 patents that are owned by Intellectual Ventures constitutes 100 percent of the patents involved in the *ex post* market for technology enabling – for patents pertaining to technology enabling business processes. [CAPITAL ONE’S COUNSEL]: And that’s because of the antitrust law. We’re not saying they’re the only patents that relate to commercial banking services. . . . We’re saying they have effectively an inescapable threat [sic], which in antitrust law is what is controlling prices and eliminating competition. . . . The commercial reality faced by Capital One is you can’t get around this market.”). Thus, the alleged relevant market is the same.

But, in this case, Capital One sets forth different facts to support a finding that these patents qualify as a relevant market for antitrust purposes. In the Virginia litigation, Capital One alleged that IV’s patent portfolio qualified because Capital One had a business need to avoid litigation, which it only could do by licensing the patents in the portfolio. Now, instead of relying solely on the need to avoid litigation, which Judge Trenga already found to be insufficient to define a relevant market, Capital One also contends that “continu[ing] to provide the online services they already offer without paying the cost-prohibitive licensing fees to the Intellectual Ventures companies—the only source of such licenses—,” is a business necessity. *See Intellectual Ventures*, 2016 WL 160263, at *3 (quoting *Intellectual Ventures I LLC v.*

Capital One Fin. Corp., 99 F. Supp. 3d 610, 622–23 (D. Md. 2015)). Based on this change in the factual allegations, I denied IV’s motion to dismiss on claim preclusion grounds. *Intellectual Ventures*, 2016 WL 160263, at *3. Thus, pre-discovery, I concluded that Capital One adequately alleged a plausible relevant market that was not identical to the one alleged in Virginia and therefore not barred by collateral estoppel. *Id.*

Capital One relies on this preliminary finding to argue that the relevant markets are not identical. Capital One Opp’n 15, 17. In its view, these changes are material because “the evidence confirms that, to compete, Capital One must provide the core banking services that IV’s infringement claims targeted, including ATMs, payment cards, and online and mobile banking,” and “the business necessity allegations (and evidence) raise different market definition issues than those present in Virginia.” *Id.* at 17.

IV counters that there “is no evidence to support the argument that a license was a ‘business necessity’ for Capital One or any other bank, none of which licensed any patents.” IV Reply 23 n.17. Indeed, discovery has concluded, and to date, IV’s patent litigation has not led to Capital One (or any other company) licensing the portfolio of thousands of financial services patents that IV amassed, as none of IV’s patent claims have resulted in a judgment in IV’s favor. Nor is there any other evidence that Capital One has to license IV’s patent portfolio or has been unable to do business because it has not licensed the patents. Certainly, Capital One may feel compelled to license the patents to avoid litigation, but Judge Trenga already concluded that avoiding litigation is not a sufficient business necessity to define a relevant market. Therefore, despite the new factual allegations before me, the alleged relevant market has not changed in a material way.

Was Judge Trenga's conclusion that the proposed relevant market was not a relevant market for antitrust purposes critical and necessary to the judgment he issued?

The crux of Capital One's argument is that the Fourth Circuit has stated that "when issue preclusion is considered in the context of two separate litigations," as it is here, "if a judgment in the prior case is supported by either of two findings, neither finding can be found essential to the judgment." *In re Microsoft Corp. Antitrust Litig.*, 355 F.3d 322, 328 (4th Cir. 2004). The parties agree that separate findings supported Judge Trenga's judgment, IV Mem. 10; Capital One Opp'n 17–18, but they disagree about the effects of those independent grounds. Capital One relies on the *Microsoft* holding to argue that Judge Trenga's conclusion regarding the relevant market was not critical and necessary to his judgment. Capital One Opp'n 17–18. IV relies on *Ritter v. Mount St. Mary's Coll.*, 814 F.2d 986, 994 (4th Cir. 1987), and insists, to the contrary, that "'alternative determinations' should each be held material, and thus a basis for issue preclusion," IV Mem. 10 (quoting Restatement (First) of Judgments § 68 cmt. n). Notably, in *Ritter*, the Fourth Circuit considered circumstances in which (as here) the defendant had raised collateral estoppel *defensively* to preclude relitigation of issues previously determined by the court, 814 F.2d at 989–90, whereas in *Microsoft*, the Fourth Circuit considered whether *offensive* collateral estoppel should preclude relitigation of certain factual findings, 355 F.3d at 325.

Because, as noted, the motion before me involves defensive collateral estoppel, I look first to *Ritter*. There, the district court had dismissed the plaintiff's legal claims of discrimination against her employer under the Equal Pay Act ("EPA") and Age Discrimination in Employment Act ("ADEA") and held a bench trial on her equitable claims under Title VII. 814 F.2d at 988. At trial, the court found that Ritter "was not qualified for tenure" ("tenure issue") and that the only valid comparator she identified "was clearly more qualified" than she ("comparator issue"). *Id.* at 989–90. Ritter appealed the dismissal and the trial ruling. *Id.* at

989. The Fourth Circuit affirmed the results of trial based on the trial court's finding on the tenure issue, without reaching the comparator issue, but remanded for the trial court to hold a second trial, this time by jury, on the EPA and ADEA claims. *Id.* at 988.

On remand, the employer moved for summary judgment on the EPA and ADEA claims, arguing that, "because the ADEA and EPA claims had common elements with the Title VII claim, the issues determined by the court in the Title VII claim collaterally estopped the relitigation of those issues before a jury," and the district court granted the motion. *Id.* at 988–90. Ritter again appealed, and the Fourth Circuit considered "whether the findings of fact made by the trial judge in the Title VII equitable suit should collaterally estop the relitigation of those facts before the jury on the remanded EPA and ADEA legal actions." *Id.* at 988.¹⁴

The Fourth Circuit decided that, even though "the doctrine of collateral estoppel was designed to bar the relitigation of issues determined in a *prior* suit," it could apply to relitigation within the same suit (as in the case before it), because where the relitigation "involves the same parties, the same issues arising out of the same set of facts, and the same court," the "'sameness' or mutuality of parties in interests which serves as the basis for the development of collateral estoppel doctrines" is present. *Id.* at 991–92. Thus, the case before it was "the classic case in which the court can utilize the doctrine of collateral estoppel without fear of denying a litigant a right to argue his claims to the best of his ability before a competent court." *Id.* at 992.

The court then considered whether collateral estoppel should apply, given that the district court decided both the tenure issue and the comparator issue when resolving Ritter's Title VII

¹⁴ As for the summary judgment ruling precluding trial *by jury*, because the issues had been decided by the judge at a bench trial, the Fourth Circuit observed that "an equitable determination can have collateral-estoppel effect in a subsequent legal action and . . . this estoppel does not violate the Seventh Amendment." *Ritter*, 814 F.2d at 990–91 (quoting *Parklane Hosiery*, 439 U.S. at 335).

claim, and the Fourth Circuit had affirmed based on only the tenure issue. *Id.* at 993. It observed the general rule that, “where the court in the prior suit has determined two issues, either of which could independently support the result, then neither determination is considered essential to the judgment” and collateral estoppel does not bar relitigation of either issue, unless “one of the two determinations is upheld on appeal,” in which case “collateral estoppel [bars relitigation] as to that issue. *Id.* The Fourth Circuit noted:

The rationale underlying this corollary to the collateral estoppel doctrine is that it guards against the use of non-essential dicta and ancillary findings to estop later litigations. . . . Non-essential findings should not serve as the basis for collateral estoppel because the litigants might not have concentrated their energies and resources upon the full development and presentation of these issues. Thus, . . . this requirement ensures the integrity and competence of any particular finding before it is allowed to estop collateral relitigation.

Id. at 993–94.

Despite this rule, the Fourth Circuit concluded that collateral estoppel barred relitigation of both issues in the case before it, reasoning that collateral estoppel is “limited by the overriding principle that the courts should protect a litigant’s right to a full and fair opportunity to litigate his claims” but otherwise “capable of flexible determination to serve the interests of judicial economy by preventing needless relitigation.” *Id.* at 994. It noted that Ritter “had a full and fair opportunity to litigate” the comparator issue as well as the tenure issue, given that she had “conducted extensive discovery” and “presented a vigorous argument to the trial court” on the comparator issue, and both rounds of litigation involved “the same parties, the same issues, the same facts, and even the same court.” *Id.*

Zeno v. United States, No. DKC-09-544, 2009 WL 4910050 (D. Md. Dec. 11, 2009), *aff’d*, 451 F. App’x 268 (4th Cir. 2011), in which this Court considered both *Ritter* and *Microsoft*, also provides guidance. In *Zeno*, the plaintiff, an attorney who had been subject to

disciplinary proceedings in Puerto Rico, Massachusetts, and Texas, filed suit (with his wife) in this Court against several federal judges, the United States Attorney for the District of Puerto Rico, and several Assistant United States Attorneys, a Massachusetts state court judge, two clerks from the Massachusetts state court, and three Massachusetts attorneys. *Id.* at *1. The defendants moved to dismiss, and this Court granted the motion on the bases of lack of personal jurisdiction, improper venue, and, with regard to the defendant judges, prosecutors, and clerks, absolute and qualified immunity. *Id.* The plaintiffs appealed but then voluntarily dismissed their appeal. *Id.*

Thereafter, they filed suit again in this Court, against the same federal defendants as in their earlier lawsuit, as well as the United States. *Id.* at *2. They asserted that the Court had jurisdiction under the Federal Tort Claims Act. *Id.* The defendants moved to dismiss and the Court considered both claim and issue preclusion, concluding that claim preclusion barred the plaintiffs' claims in the second suit. *Id.* at *6. As for issue preclusion, the Court observed:

In *In re Microsoft*, [355 F.3d 322,] the plaintiffs attempted to use *offensive* collateral estoppel to preclude the defendant from relitigating factual findings that were made in a case brought against the defendant by different plaintiffs in a different court. In deciding the meaning of “critical and necessary,” the court expressed the following concern regarding the use of *offensive* collateral estoppel: “If a trial court were to make an unnecessary or collateral finding in a case and the defendant appealed the judgment, the appellate court, in affirming the judgment, would generally not reach the unnecessary findings. Thus, such findings would evade appellate review.” *Id.* at 327.^[15] The court noted that the United States

¹⁵ The *Microsoft* Court stated that, if the judgment went up on appeal, the court in which issue preclusion is raised “must take care to limit its application to facts that were necessary to the judgment actually affirmed by the [appellate court].” *Microsoft*, 355 F.3d at 328. Here, Capital One appealed the dismissal of its claims in the Virginia litigation but then abandoned the appeal. See IV Mem. 1; Mot. to Dismiss Cross-Appeal, Ex. 11, Jt. Rec. 349–55 (stating that the question it posed for the Federal Circuit, “whether Capital One’s antitrust counterclaims, as pleaded before discovery, alleged enough facts about the relevant market and Intellectual Venture’s [sic] . . . conduct to state a claim,” was “effectively irrelevant because the District of Maryland . . . allowed Capital One to file new antitrust counterclaims against IV based on a more developed pleading,” and if the Federal Circuit ruled in Capital One’s favor, it “would move to transfer and

Supreme Court granted courts “broad discretion to determine when [offensive collateral estoppel] should be applied” because of a “greater possibility of unfairness from the use of offensive collateral estoppel.” *Id.* at 326. The court decided that parties would have a greater opportunity for full litigation of issues if the “critical and necessary” requirement were interpreted strictly to mean that the issue or fact must be “essential to,” instead of merely “supportive of” the judgment in the prior proceeding in order to be barred by collateral estoppel in a future proceeding. In other words, in the Fourth Circuit, issues are generally not barred by collateral estoppel when more than one issue could independently support the result of the prior judgment.

Zeno, 2009 WL 4910050, at *7 (emphasis added; original emphasis removed). Indeed, the Fourth Circuit noted that, in *Ritter*, it “essentially appl[ied] a law-of-the-case principle” while “call[ing] it collateral estoppel and appl[ying] it in the exceptional circumstances of that case, where the parties were the same, the issues were the same, the facts were the same, and even the court was the same.” 355 F.3d at 328. In *Microsoft*, the Fourth Circuit held, *in the context of offensive collateral estoppel*, that “when issue preclusion is considered in the context of two separate litigations, the restrictive principle recognized in *Ritter* remains viable—that if a judgment in the prior case is supported by either of two findings, neither finding can be found essential to the judgment.” *Id.*

But, significantly, in *Zeno*, this Court then noted that, “[d]espite the Fourth Circuit’s general rule regarding alternative rulings and collateral estoppel, the Fourth Circuit [in *Ritter*] applied *defensive* collateral estoppel to bar issues in a case where two issues were previously decided and where both of the issues could have independently supported the result.” *Zeno*, 2009 WL 4910050, at *8 (citing *Ritter*, 814 F.2d 986). This Court concluded in *Zeno* that “defensive collateral estoppel . . . bar[red] the court’s consideration of issues that involve[d] ‘the same parties, the same issues, the same facts, and even the same court.’” *Id.* It reasoned:

consolidate these claims with the ongoing litigation in Maryland, and that consolidation would not meaningfully expand the relief that Capital One seeks in that litigation”).

Though this case has been assigned to a different judge, Plaintiffs' allegations regarding the individual Defendants are exactly the same as in Plaintiffs' complaint in the prior case. Because the complaints are nearly identical, this case presents the same issues of personal jurisdiction, venue, and immunity as to the individual Defendants that were resolved by the court's judgment in the prior proceeding. Furthermore, Plaintiffs had a full and fair opportunity to litigate those issues in the prior proceeding. Plaintiffs filed a notice of appeal in the Fourth Circuit after their case was dismissed, and then asked the Fourth Circuit to dismiss their appeal, citing a change in their own legal strategy. In doing so, Plaintiffs conceded the issues of personal jurisdiction, venue, and immunity as to the individual Defendants. The court's prior decision became final when Plaintiffs' appeal was dismissed by the Fourth Circuit. Finally, despite the fact that the court's previous decision rested on three alternative grounds for dismissal—personal jurisdiction, venue, and immunity—all of the grounds apply in this case.

Id.

As noted, what IV seeks to invoke is defensive collateral estoppel. Thus, the “greater possibility of unfairness from the use of offensive collateral estoppel” is not present. *See Microsoft*, 355 F.3d at 326. And, the prior litigation in the Eastern District of Virginia involved “the same parties, the same issues, [and] the same facts.” *Ritter*, 814 F.2d at 994. Although the prior litigation was not in this Court, Judge Trenga's reasoning and analysis in his comprehensive written opinions in the Virginia case is available to me. *See Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. 13CV0740 (AJT/TCB), 2015 WL 7283108, at *1, *4 (E.D. Va. Nov. 17, 2015); *Intellectual Ventures I LLC v. Capital One Fin. Corp.*, No. 13-CV-740 AJT, 2013 WL 6682981 (E.D. Va. Dec. 18, 2013). Certainly, the conclusion that Capital One's alleged relevant market was “not a ‘relevant market’ under any recognized antitrust jurisprudence,” *Intellectual Ventures*, 2013 WL 6682981, at *5, which provided a basis for dismissal of the monopolization and attempted monopolization claims, *see id.* at *5, *8, was only one of two alternative grounds for dismissal of these claims. *See id.* at *6–7 (concluding that capital One failed to alleged unlawful monopoly power sufficiently); *see also id.* at *8 (“Capital

**U.S. District Court
District of Maryland (Greenbelt)
CIVIL DOCKET FOR CASE #: 8:14-cv-00111-PWG**

Intellectual Ventures I LLC et al v. Capital One Financial
Corporation et al
Assigned to: Judge Paul W. Grimm
Case in other court: USCA FOR THE FEDERAL CIRCUIT,
16-01077
USCA FOR THE FEDERAL CIRCUIT,
18-01367

Date Filed: 01/15/2014
Date Terminated: 12/01/2017
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Cause: 35:145 Civil Action to Obtain Patent

Special Master

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Nickolas Bohl
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ATTORNEY TO BE NOTICED

Patricia Ann Dyck
(See above for address)
TERMINATED: 06/25/2015
ATTORNEY TO BE NOTICED

Rachel B Kinney
(See above for address)
ATTORNEY TO BE NOTICED

Robert E Freitas
(See above for address)
ATTORNEY TO BE NOTICED

Sal Lim
(See above for address)
ATTORNEY TO BE NOTICED

Vinay Malik
(See above for address)
ATTORNEY TO BE NOTICED

Yakov Zolotorev
(See above for address)
TERMINATED: 02/15/2018
ATTORNEY TO BE NOTICED

Counter Defendant

Intellectual Ventures II LLC

represented by **Michael Edward McCabe , Jr**
(See above for address)
TERMINATED: 04/04/2017
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bryan D Bolton
(See above for address)
ATTORNEY TO BE NOTICED

Clayton Walter Thompson , II
(See above for address)
TERMINATED: 02/15/2018
ATTORNEY TO BE NOTICED

Daniel J Weinberg
(See above for address)
ATTORNEY TO BE NOTICED

David L Alberti
(See above for address)
ATTORNEY TO BE NOTICED

David Taylor Rudolph
(See above for address)
TERMINATED: 10/05/2017
ATTORNEY TO BE NOTICED

Eric B Fastiff
(See above for address)
TERMINATED: 10/05/2017
ATTORNEY TO BE NOTICED

Ian Neville Feinberg
(See above for address)
ATTORNEY TO BE NOTICED

Jeremiah Armstrong
(See above for address)
ATTORNEY TO BE NOTICED

Jessica N Leal
(See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Marc Belloli
(See above for address)
ATTORNEY TO BE NOTICED

Margaret Elizabeth Day
(See above for address)
ATTORNEY TO BE NOTICED

Nickolas Bohl
(See above for address)
ATTORNEY TO BE NOTICED

Patricia Ann Dyck
(See above for address)
TERMINATED: 06/25/2015
ATTORNEY TO BE NOTICED

Rachel B Kinney
(See above for address)
ATTORNEY TO BE NOTICED

Robert E Freitas
(See above for address)
ATTORNEY TO BE NOTICED

Sal Lim
(See above for address)
ATTORNEY TO BE NOTICED

Vinay Malik
(See above for address)
ATTORNEY TO BE NOTICED

Yakov Zolotorev
(See above for address)
TERMINATED: 02/15/2018
ATTORNEY TO BE NOTICED

Counter Defendant

**Intellectual Ventures Management,
LLC**

represented by **Daniel J Weinberg**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jessica N Leal
(See above for address)

PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael Edward McCabe , Jr
 (See above for address)
TERMINATED: 04/04/2017
ATTORNEY TO BE NOTICED

Counter Defendant

Invention Investment Fund I, L.P.

represented by **Jessica N Leal**
 (See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael Edward McCabe , Jr
 (See above for address)
TERMINATED: 04/04/2017
ATTORNEY TO BE NOTICED

Counter Defendant

Invention Investment Fund II, LLC

represented by **Daniel J Weinberg**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jessica N Leal
 (See above for address)
PRO HAC VICE
ATTORNEY TO BE NOTICED

Michael Edward McCabe , Jr
 (See above for address)
TERMINATED: 04/04/2017
ATTORNEY TO BE NOTICED

Robert E Freitas
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/15/2014	<u>1</u>	COMPLAINT against Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Filing fee \$ 400 receipt number 84637022472.), filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Summons, # <u>8</u> Summons, # <u>2</u> Summons)(am2s, Deputy Clerk) (Entered: 01/16/2014)
01/15/2014	<u>2</u>	Local Rule 103.3 Disclosure Statement by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (am2s, Deputy Clerk) (Entered: 01/16/2014)
01/15/2014	<u>3</u>	Report on Filing Patent/Trademark. (c/m 1/16/14 am2s, Deputy Clerk) (Entered: 01/16/2014)
01/16/2014	<u>4</u>	Summons Issued 21 days as to Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (am2s, Deputy Clerk) (Entered: 01/16/2014)
01/17/2014	<u>5</u>	(FILED IN ERROR) AFFIDAVIT of Service for Summons, Civil Cover Sheet, Complaint (w/exhibits), Corporate Disclosure Statement, Report on Filing Patent/Trademark served on Capital One Bank (USA), N.A. on 1/16/14, filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (McCabe, Michael) Modified on 1/30/2014 (am2s, Deputy Clerk). (Entered: 01/17/2014)

01/17/2014	<u>6</u>	(FILED IN ERROR) AFFIDAVIT of Service for Summons, Civil Cover Sheet, Complaint (w/exhibits), Corporate Disclosure Statement, Report on Filing Patent/Trademark served on Capital One Financial Corporation on 1/16/14, filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (McCabe, Michael) Modified on 1/30/2014 (am2s, Deputy Clerk). (Entered: 01/17/2014)
01/17/2014	<u>7</u>	(FILED IN ERROR) AFFIDAVIT of Service for Summons, Civil Cover Sheet, Complaint (w/exhibits), Corporate Disclosure Statement, Report on Filing Patent/Trademark served on Capital One, N.A on 1/16/14, filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (McCabe, Michael) Modified on 1/30/2014 (am2s, Deputy Clerk). (Entered: 01/17/2014)
01/17/2014	<u>21</u>	SUMMONS Returned Executed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Capital One Bank (USA), National Association served on 1/16/2014, answer due 2/6/2014. (am2s, Deputy Clerk) (Entered: 01/30/2014)
01/17/2014	<u>22</u>	SUMMONS Returned Executed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Capital One Financial Corporation served on 1/16/2014, answer due 2/6/2014. (am2s, Deputy Clerk) (Entered: 01/30/2014)
01/17/2014	<u>23</u>	SUMMONS Returned Executed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Capital One, National Association served on 1/16/2014, answer due 2/6/2014. (am2s, Deputy Clerk) (Entered: 01/30/2014)
01/27/2014	<u>8</u>	MOTION to Appear Pro Hac Vice for David L. Alberti (Filing fee \$ 50, receipt number 0416-4548038.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>9</u>	MOTION to Appear Pro Hac Vice for Marc Belloli (Filing fee \$ 50, receipt number 0416-4548565.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>10</u>	MOTION to Appear Pro Hac Vice for Margaret E. Day (Filing fee \$ 50, receipt number 0416-4548574.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>11</u>	MOTION to Appear Pro Hac Vice for Ian N. Feinberg (Filing fee \$ 50, receipt number 0416-4548580.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>12</u>	MOTION to Appear Pro Hac Vice for Sal Lim (Filing fee \$ 50, receipt number 0416-4548587.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>13</u>	MOTION to Appear Pro Hac Vice for Yakov Zolotorev (Filing fee \$ 50, receipt number 0416-4548633.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>14</u>	CERTIFICATE OF SERVICE by Intellectual Ventures I LLC, Intellectual Ventures II LLC re <u>12</u> MOTION to Appear Pro Hac Vice for Sal Lim (Filing fee \$ 50, receipt number 0416-4548587.), <u>13</u> MOTION to Appear Pro Hac Vice for Yakov Zolotorev (Filing fee \$ 50, receipt number 0416-4548633.), <u>9</u> MOTION to Appear Pro Hac Vice for Marc Belloli (Filing fee \$ 50, receipt number 0416-4548565.), <u>10</u> MOTION to Appear Pro Hac Vice for Margaret E. Day (Filing fee \$ 50, receipt number 0416-4548574.), <u>8</u> MOTION to Appear Pro Hac Vice for David L. Alberti (Filing fee \$ 50, receipt number 0416-4548038.), <u>11</u> MOTION to Appear Pro Hac Vice for Ian N. Feinberg (Filing fee \$ 50, receipt number 0416-4548580.) (McCabe, Michael) (Entered: 01/27/2014)
01/27/2014	<u>15</u>	PAPERLESS ORDER granting <u>8</u> Motion to Appear Pro Hac Vice on behalf of David L Alberti for Intellectual Ventures I LLC,David L Alberti for Intellectual Ventures II LLC. Directing attorney David L Alberti to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 01/27/2014. (rfg, Deputy Clerk) (Entered: 01/27/2014)
01/27/2014	<u>16</u>	PAPERLESS ORDER granting <u>9</u> Motion to Appear Pro Hac Vice on behalf of Marc Belloli for Intellectual Ventures I LLC,Marc Belloli for Intellectual Ventures II LLC. Directing attorney Marc Belloli to register online for CM/ECF at

		https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 01/27/2014. (rfg, Deputy Clerk) (Entered: 01/27/2014)
01/27/2014	<u>17</u>	PAPERLESS ORDER granting <u>10</u> Motion to Appear Pro Hac Vice on behalf of Margaret E Day for Intellectual Ventures I LLC, Margaret E Day for Intellectual Ventures II LLC. Directing attorney Margaret E Day to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 01/27/2014. (rfg, Deputy Clerk) (Entered: 01/27/2014)
01/27/2014	<u>18</u>	PAPERLESS ORDER granting <u>11</u> Motion to Appear Pro Hac Vice on behalf of Ian Neville Feinberg for Intellectual Ventures I LLC, Ian Neville Feinberg for Intellectual Ventures II LLC. Attorney Ian Neville Feinberg will receive a separate email with the previously issued CM/ECF login and password.. Signed by Clerk on 01/27/2014. (rfg, Deputy Clerk) (Entered: 01/27/2014)
01/27/2014	<u>19</u>	PAPERLESS ORDER granting <u>12</u> Motion to Appear Pro Hac Vice on behalf of Sal Lim for Intellectual Ventures I LLC, Sal Lim for Intellectual Ventures II LLC. Directing attorney Sal Lim to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 01/27/2014. (rfg, Deputy Clerk) (Entered: 01/27/2014)
01/27/2014	<u>20</u>	PAPERLESS ORDER granting <u>13</u> Motion to Appear Pro Hac Vice on behalf of Yakov Zolotorev for Intellectual Ventures I LLC, Yakov Zolotorev for Intellectual Ventures II LLC. Directing attorney Yakov Zolotorev to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 01/27/2014. (rfg, Deputy Clerk) (Entered: 01/27/2014)
02/06/2014	<u>24</u>	MOTION to Transfer Case <i>to the Eastern District of Virginia</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 2/24/2014 (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 02/06/2014)
02/06/2014	<u>25</u>	Local Rule 103.3 Disclosure Statement by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 02/06/2014)
02/06/2014	<u>26</u>	Local Rule 103.3 Disclosure Statement by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 02/06/2014)
02/06/2014	<u>27</u>	Local Rule 103.3 Disclosure Statement by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 02/06/2014)
02/06/2014	<u>28</u>	ANSWER to <u>1</u> Complaint, , COUNTERCLAIM against Intellectual Ventures I LLC, Intellectual Ventures II LLC by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation.(Zinsner, Mary) (Entered: 02/06/2014)
02/12/2014	<u>29</u>	PAPERLESS ORDER that Plaintiffs' Opposition to Defendants' Motion to Transfer Venue to the Eastern District of Virginia, ECF No. <u>24</u> , is due February 24, 2014, and no extensions will be granted, and Defendants' Reply is due within five (5) business days of the date that Plaintiffs file their Opposition. Signed by Judge Paul W. Grimm on 02/12/2014. (Grimm, Paul) (lyb) (Entered: 02/12/2014)
02/23/2014	<u>30</u>	RESPONSE in Opposition re <u>24</u> MOTION to Transfer Case <i>to the Eastern District of Virginia</i> filed by Intellectual Ventures I LLC. Replies due by 3/13/2014. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Text of Proposed Order)(McCabe, Michael) (Entered: 02/23/2014)
02/27/2014	<u>31</u>	Joint Correspondence re: Request for Telephone Conference with the Court under Local Rule 802 (McCabe, Michael) (Entered: 02/27/2014)
02/28/2014	<u>32</u>	REPLY to Response to Motion re <u>24</u> MOTION to Transfer Case <i>to the Eastern District of Virginia</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary)

		(Entered: 02/28/2014)
03/03/2014	<u>33</u>	MOTION to Dismiss for Failure to State a Claim <i>Counterclaim Counts Two, Four, Six, Eight and Ten and Strike Third and Twelfth Affirmative Defenses</i> by Intellectual Ventures I LLC Responses due by 3/20/2014 (Attachments: # <u>1</u> Memorandum of Law in Support of Motion to Dismiss Counterclaim Counts Two, Four, Six, Eight and Ten and Strike Third and Twelfth Affirmative Defenses, # <u>2</u> Text of Proposed Order)(McCabe, Michael) (Entered: 03/03/2014)
03/03/2014	<u>34</u>	<i>Intellectual Ventures I LLC and Intellectual Ventures II LLC's ANSWER to 28 Answer to Complaint, Counterclaim,, Capital One Counterclaims</i> by Intellectual Ventures I LLC.(McCabe, Michael) (Entered: 03/03/2014)
03/07/2014	<u>35</u>	NOTICE of Appearance by Bryan D Bolton on behalf of Intellectual Ventures I LLC, Intellectual Ventures II LLC (Bolton, Bryan) (Entered: 03/07/2014)
03/10/2014	<u>36</u>	MOTION to Appear Pro Hac Vice for Clayton Thompson (Filing fee \$ 50, receipt number 0416-4624051.) by Intellectual Ventures I LLC (McCabe, Michael) (Entered: 03/10/2014)
03/11/2014	37	PAPERLESS ORDER granting <u>36</u> Motion to Appear Pro Hac Vice on behalf of Clayton Walter Thompson, II. Attorney Clayton Walter Thompson, II will receive a separate email with the previously issued CM/ECF login and password. Signed by Clerk on 3/11/2014. (jbps, Deputy Clerk) (Entered: 03/11/2014)
03/12/2014	<u>38</u>	MEMORANDUM OPINION. Signed by Judge Paul W. Grimm on 3/12/14. (am2s, Deputy Clerk) (Entered: 03/12/2014)
03/12/2014	<u>39</u>	ORDER denying <u>24</u> Motion to Transfer Case to the Eastern District of Virginia. Signed by Judge Paul W. Grimm on 3/12/14. (am2s, Deputy Clerk) (Entered: 03/12/2014)
03/13/2014	40	PAPERLESS ORDER SCHEDULING a scheduling conference call for Thursday, March 20, 2014, at 3:00 p.m. Plaintiff's counsel please will initiate the call. Signed by Judge Paul W. Grimm on 03/13/2014. (Grimm, Paul) (lyb) (Entered: 03/13/2014)
03/14/2014	41	PAPERLESS ORDER NOTIFYING the parties that the Scheduling Conference on Thursday, March 20, 2014 at 3:00 p.m. will be held in person, in Courtroom 4B, rather than by telephone. Signed by Judge Paul W. Grimm on 03/14/2014. (Grimm, Paul) (lyb) (Entered: 03/14/2014)
03/18/2014	<u>42</u>	Joint MOTION for Extension of Time to File Response/Reply as to <u>33</u> MOTION to Dismiss for Failure to State a Claim <i>Counterclaim Counts Two, Four, Six, Eight and Ten and Strike Third and Twelfth Affirmative Defenses</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 4/4/2014 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 03/18/2014)
03/18/2014	<u>43</u>	Memorandum re <u>42</u> Joint MOTION for Extension of Time to File Response/Reply as to <u>33</u> MOTION to Dismiss for Failure to State a Claim <i>Counterclaim Counts Two, Four, Six, Eight and Ten and Strike Third and Twelfth Affirmative Defenses</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 03/18/2014)
03/19/2014	<u>44</u>	NOTICE of Appearance by James P Ulwick on behalf of Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 03/19/2014)
03/19/2014	<u>45</u>	MOTION to Appear Pro Hac Vice <i>Brent P. Ray</i> (Filing fee \$ 50, receipt number 0416-4640352.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 03/19/2014)
03/19/2014	<u>46</u>	MOTION to Appear Pro Hac Vice <i>David W. Higer</i> (Filing fee \$ 50, receipt number 0416-4640373.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 03/19/2014)

03/19/2014	<u>47</u>	MOTION to Appear Pro Hac Vice <i>Kenneth R. Adamo</i> (Filing fee \$ 50, receipt number 0416-4640401.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 03/19/2014)
03/19/2014	<u>48</u>	MOTION to Appear Pro Hac Vice for Dabney J. Carr, IV (Filing fee \$ 50, receipt number 0416-4640527.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/19/2014)
03/19/2014	<u>49</u>	MOTION to Appear Pro Hac Vice for Robert A. Angle (Filing fee \$ 50, receipt number 0416-4640597.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/19/2014)
03/19/2014	<u>50</u>	MOTION to Appear Pro Hac Vice for Matthew J. Moore (Filing fee \$ 50, receipt number 0416-4641197.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/19/2014)
03/19/2014	<u>51</u>	MOTION to Appear Pro Hac Vice for Jeffrey G. Homrig (Filing fee \$ 50, receipt number 0416-4641204.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/19/2014)
03/19/2014	<u>52</u>	MOTION to Appear Pro Hac Vice for Adam M. Greenfield (Filing fee \$ 50, receipt number 0416-4641205.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/19/2014)
03/20/2014	<u>53</u>	PAPERLESS ORDER granting <u>42</u> Motion for Extension of Time to File Response/Reply re <u>33</u> MOTION to Dismiss for Failure to State a Claim <i>Counterclaim Counts Two, Four, Six, Eight and Ten and Strike Third and Twelfth Affirmative Defenses</i> Responses due by 4/3/2014. Signed by Judge Paul W. Grimm on 03/20/2014. (Grimm, Paul) (lyb) (Entered: 03/20/2014)
03/20/2014	<u>54</u>	MOTION to Appear Pro Hac Vice for Paul E. McGowan (Filing fee \$ 50, receipt number 0416-4642143.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/20/2014)
03/20/2014	<u>55</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/20/2014)
03/20/2014	<u>56</u>	NOTICE of Appearance by Lesley Whitcomb Fierst on behalf of Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Fierst, Lesley) (Entered: 03/20/2014)
03/20/2014	<u>57</u>	PAPERLESS ORDER granting <u>45</u> Motion to Appear Pro Hac Vice on behalf of Brent P Ray. Directing attorney Brent P Ray to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	<u>58</u>	PAPERLESS ORDER granting <u>46</u> Motion to Appear Pro Hac Vice on behalf of David W Higer. Directing attorney David W Higer to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	<u>59</u>	PAPERLESS ORDER granting <u>47</u> Motion to Appear Pro Hac Vice on behalf of Kenneth R Adamo. Directing attorney Kenneth R Adamo to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	<u>60</u>	PAPERLESS ORDER granting <u>48</u> Motion to Appear Pro Hac Vice on behalf of Dabney J Carr, IV. Directing attorney Dabney J Carr, IV to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)

03/20/2014	61	PAPERLESS ORDER granting <u>49</u> Motion to Appear Pro Hac Vice on behalf of Robert A Angle. Directing attorney Robert A Angle to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	62	PAPERLESS ORDER granting <u>50</u> Motion to Appear Pro Hac Vice on behalf of Matthew J Moore. Directing attorney Matthew J Moore to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	63	PAPERLESS ORDER granting <u>51</u> Motion to Appear Pro Hac Vice on behalf of Jeffrey G Homrig. Directing attorney Jeffrey G Homrig to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	64	PAPERLESS ORDER granting <u>52</u> Motion to Appear Pro Hac Vice on behalf of Adam M Greenfield. Directing attorney Adam M Greenfield to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014	65	PAPERLESS ORDER granting <u>54</u> Motion to Appear Pro Hac Vice on behalf of Paul E McGowan. Directing attorney Paul E McGowan to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/20/2014. (kps, Deputy Clerk) (Entered: 03/20/2014)
03/20/2014		Scheduling Conference held on 3/20/2014 before Judge Paul W. Grimm. (td, Deputy Clerk) (Entered: 03/20/2014)
03/24/2014	<u>66</u>	MOTION to Appear Pro Hac Vice for Peter O. Schmidt (Filing fee \$ 50, receipt number 0416-4648427.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/24/2014)
03/24/2014	<u>67</u>	MOTION to Appear Pro Hac Vice for Kristopher Davis (Filing fee \$ 50, receipt number 0416-4648444.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/24/2014)
03/24/2014	<u>68</u>	MOTION to Appear Pro Hac Vice for Ethan Y. Park (Filing fee \$ 50, receipt number 0416-4648453.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/24/2014)
03/24/2014	<u>69</u>	MOTION to Appear Pro Hac Vice for Katherine M. Schon (Filing fee \$ 50, receipt number 0416-4648457.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/24/2014)
03/24/2014	<u>70</u>	MOTION to Appear Pro Hac Vice for Clement Naples (Filing fee \$ 50, receipt number 0416-4648462.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/24/2014)
03/24/2014	71	PAPERLESS ORDER granting <u>66</u> Motion to Appear Pro Hac Vice on behalf of Peter O Schmidt. Directing attorney Peter O Schmidt to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/24/2014. (jbps, Deputy Clerk) (Entered: 03/24/2014)
03/24/2014	<u>72</u>	<i>First Amended</i> ANSWER to <u>1</u> Complaint, , COUNTERCLAIM against Intellectual Ventures I LLC, Intellectual Ventures II LLC by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation.(Zinsner, Mary) (Entered: 03/24/2014)
03/24/2014	73	PAPERLESS ORDER granting <u>67</u> Motion to Appear Pro Hac Vice on behalf of Kristopher Davis. Directing attorney Kristopher Davis to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/24/2014. (jbps, Deputy Clerk) (Entered: 03/24/2014)

03/24/2014	<u>74</u>	PAPERLESS ORDER granting <u>68</u> Motion to Appear Pro Hac Vice on behalf of Ethan Y Park. Directing attorney Ethan Y Park to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/24/2014. (jbps, Deputy Clerk) (Entered: 03/24/2014)
03/24/2014	<u>75</u>	PAPERLESS ORDER granting <u>69</u> Motion to Appear Pro Hac Vice on behalf of Katherine M Schon. Directing attorney Katherine M Schon to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/24/2014. (jbps, Deputy Clerk) (Entered: 03/24/2014)
03/24/2014	<u>76</u>	PAPERLESS ORDER granting <u>70</u> Motion to Appear Pro Hac Vice on behalf of Clement Naples. Directing attorney Clement Naples to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/24/2014. (jbps, Deputy Clerk) (Entered: 03/24/2014)
03/26/2014	<u>77</u>	PAPERLESS ORDER denying <u>33</u> Motion to Dismiss Counterclaim for Failure to State a Claim as moot in light of <u>72</u> , First Amended ANSWER to Complaint and COUNTERCLAIM. Signed by Judge Paul W. Grimm on 03/26/2014. (Grimm, Paul) (lyb) (Entered: 03/26/2014)
03/27/2014	<u>78</u>	MOTION for Other Relief (<i>For Entry of Proposed Scheduling Order</i>) by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 4/14/2014 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(McCabe, Michael) (Entered: 03/27/2014)
03/28/2014	<u>79</u>	Correspondence re: Capital One's Proposed Scheduling Order (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Zinsner, Mary) (Entered: 03/28/2014)
03/31/2014	<u>80</u>	STIPULATION of Dismissal <i>Joint Stipulation to Dismiss, Without Prejudice, Claim One for Infringement, and Amended Counterclaim Counts One and Two for Non-Infringement and Invalidity, Regarding U.S. Patent No. 6,819,271</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (McCabe, Michael) (Entered: 03/31/2014)
04/02/2014	<u>81</u>	Marginal ORDER granting <u>80</u> Joint Stipulation to Dismiss, Without Prejudice, Claim One for Infringement, and Amended Counterclaim Counts One and Two for Non-Infringement and Invalidity, Regarding U.S. Patent No. 6,819,271 filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC. Signed by Judge Paul W. Grimm on 4/1/2014. (am2s, Deputy Clerk) (Entered: 04/02/2014)
04/03/2014	<u>82</u>	ORDER setting deadline for counsel to submit revised scheduling order. Signed by Judge Paul W. Grimm on 4/3/14. (am2s, Deputy Clerk) (Entered: 04/03/2014)
04/04/2014	<u>83</u>	Correspondence re: Modification of One Date in Scheduling Order (Bolton, Bryan) (Entered: 04/04/2014)
04/04/2014	<u>84</u>	Correspondence re: Letter filed by Intellectual Ventures [ECF 83] (Zinsner, Mary) (Entered: 04/04/2014)
04/07/2014	<u>85</u>	Correspondence re: two-week extension (Bolton, Bryan) (Entered: 04/07/2014)
04/07/2014	<u>86</u>	PAPERLESS ORDER GRANTING the extension requested in Plaintiffs Intellectual Ventures' April 4, 2014 correspondence, ECF No. <u>83</u> , and DIRECTING Defendants Capital One to change the May 5, 2014 deadline to May 22, 2014, and to change all subsequent deadlines accordingly in the proposed Scheduling Order that they will be submitting. The parties' recent correspondence, ECF Nos. <u>83</u> , <u>84</u> , and <u>85</u> , makes clear that counsel are not fully complying in good faith with their duty to communicate amongst themselves prior to seeking a resolution by the Court. It appears that Plaintiffs submitted their April 4, 2014 letter before actually discussing the issue with Defense counsel. Similarly, Defendants represented that Intellectual Ventures filed their original proposed schedule before the parties met and conferred as the Court had directed. This Paperless Order reiterates that before ANY MATTER is brought before me for resolution, it is my expectation that the parties will speak person to person (rather than through email exchanges) and make a good faith effort to reach an agreement. While I have no objection to their doing so by phone, if the failure to communicate prior to filings motions with the Court continues, I will order that they meet and confer in person and, if appropriate, allocate the costs associated with doing so to any party that I determine failed to act appropriately. Signed by Judge Paul W. Grimm on 04/07/2014. (Grimm, Paul) (lyb) (Entered: 04/07/2014)

04/07/2014	<u>87</u>	MOTION to Appear Pro Hac Vice for Motion for Admission Pro Hac Vice for Vishesh Narayen (Filing fee \$ 50, receipt number 0416-4674276.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 04/07/2014)
04/07/2014	<u>88</u>	MOTION to Appear Pro Hac Vice for <i>Kristina Hendricks</i> (Filing fee \$ 50, receipt number 0416-4674331.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 04/07/2014)
04/08/2014	<u>89</u>	PAPERLESS ORDER granting <u>87</u> Motion to Appear Pro Hac Vice on behalf of Vishesh Narayen. Directing attorney Vishesh Narayen to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 4/8/2014. (kps, Deputy Clerk) (Entered: 04/08/2014)
04/08/2014	<u>90</u>	PAPERLESS ORDER granting <u>88</u> Motion to Appear Pro Hac Vice on behalf of Kristina Hendricks. Directing attorney Kristina Hendricks to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 4/8/2014. (kps, Deputy Clerk) (Entered: 04/08/2014)
04/10/2014	<u>91</u>	Correspondence re: [Proposed] Scheduling Order (regarding Docket No. 82) (Attachments: # <u>1</u> Exhibit A)(Zinsner, Mary) (Entered: 04/10/2014)
04/10/2014	<u>92</u>	<i>Plaintiffs Intellectual Ventures I LLC and Intellectual Ventures II LLC's</i> ANSWER to <u>72</u> Answer to Complaint, Counterclaim,, by Intellectual Ventures I LLC, Intellectual Ventures II LLC.(McCabe, Michael) (Entered: 04/10/2014)
04/15/2014	<u>93</u>	SCHEDULING ORDER. Signed by Judge Paul W. Grimm on 4/15/14. (am2s, Deputy Clerk) (Entered: 04/15/2014)
04/22/2014	<u>94</u>	Joint MOTION for Protective Order <i>Entry of Agreed Protective Order</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 5/9/2014 (Attachments: # <u>1</u> Agreed Protective Order)(McCabe, Michael) (Entered: 04/22/2014)
04/22/2014	<u>95</u>	STIPULATION <i>Regarding Format of Certain Document Productions</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (McCabe, Michael) (Entered: 04/22/2014)
04/28/2014	<u>96</u>	Agreed Protective Order. Signed by Judge Paul W. Grimm on 4/25/14. (am2s, Deputy Clerk) (Entered: 04/28/2014)
07/02/2014	<u>97</u>	STIPULATION <i>Joint Stipulation Regarding Discovery Limitations</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 07/02/2014)
07/03/2014	<u>98</u>	ORDER re <u>97</u> STIPULATION Joint Stipulation Regarding Discovery Limitations filed by Capital One, National Association, Capital One Bank (USA), National Association, Capital One Financial Corporation. Signed by Judge Paul W. Grimm on 7/2/2014. (rss, Deputy Clerk) (Entered: 07/03/2014)
07/21/2014	<u>99</u>	STIPULATION <i>REGARDING SERVING DISCOVERY VIA EMAIL AND EMAIL SERVICE OF REDACTED OR SEALED DOCUMENTS</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Bolton, Bryan) (Entered: 07/21/2014)
07/21/2014	<u>100</u>	ORDER re <u>99</u> STIPULATION REGARDING SERVING DISCOVERY VIA EMAIL AND EMAIL SERVICE OF REDACTED OR SEALED DOCUMENTS filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC. Signed by Judge Paul W. Grimm on 7/21/2014. (rss, Deputy Clerk) (Entered: 07/21/2014)
08/26/2014	<u>101</u>	MOTION to Amend/Correct <i>Answer, Defenses, and Counterclaims (Unopposed)</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/12/2014 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/26/2014)
09/02/2014	<u>102</u>	ORDER GRANTING <u>101</u> MOTION to Amend/Correct Answer, Defenses, and Counterclaims (Unopposed). Signed by Judge Paul W. Grimm on 8/29/2014. (rss, Deputy Clerk) (Entered: 09/02/2014)

09/02/2014	<u>103</u>	SECOND AMENDED ANSWER to <u>1</u> Complaint, and COUNTERCLAIM against Intellectual Ventures I LLC, Intellectual Ventures II LLC by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation.(rss, Deputy Clerk) (Entered: 09/02/2014)
09/17/2014	<u>104</u>	<i>Plaintiffs Intellectual Ventures I LLC and Intellectual Ventures II LLC's</i> ANSWER to <u>103</u> Answer to Complaint, Counterclaim,, <i>Second Amended</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC.(McCabe, Michael) (Entered: 09/17/2014)
09/18/2014	<u>105</u>	MOTION to Appear Pro Hac Vice for Megan M. New (Filing fee \$ 50, receipt number 0416-4971525.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 09/18/2014)
09/18/2014	<u>106</u>	MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 10/6/2014 (Attachments: # <u>1</u> Exhibit A – Third Amended Answer, Defenses, and Counterclaims (Public Redacted Version), # <u>2</u> Exhibit B – Notice of Filing Document Under Seal, # <u>3</u> Memorandum in Support (Public Redacted Version), # <u>4</u> Exhibit 1, # <u>5</u> Exhibit 2, # <u>6</u> Exhibit 3, # <u>7</u> Exhibit 4, # <u>8</u> Exhibit 5, # <u>9</u> Exhibit 6, # <u>10</u> Exhibit 7, # <u>11</u> Exhibit 8, # <u>12</u> Exhibit 9, # <u>13</u> Exhibit 10, # <u>14</u> Exhibit 11, # <u>15</u> Exhibit 12, # <u>16</u> Exhibit 13 – Notice of Filing Document Under Seal, # <u>17</u> Exhibit 14 – Notice of Filing Document Under Seal, # <u>18</u> Exhibit 15 – Notice of Filing Document Under Seal, # <u>19</u> Exhibit 16 – Notice of Filing Document Under Seal, # <u>20</u> Exhibit 17 – Notice of Filing Document Under Seal, # <u>21</u> Exhibit 18 – Notice of Filing Document Under Seal, # <u>22</u> Exhibit 19 – Notice of Filing Document Under Seal, # <u>23</u> Exhibit 20 – Notice of Filing Document Under Seal, # <u>24</u> Exhibit 21 – Notice of Filing Document Under Seal, # <u>25</u> Exhibit 22 – Notice of Filing Document Under Seal, # <u>26</u> Exhibit 23 – Notice of Filing Document Under Seal, # <u>27</u> Exhibit 24 – Notice of Filing Document Under Seal, # <u>28</u> Exhibit 25 – Notice of Filing Document Under Seal, # <u>29</u> Exhibit 26 – Notice of Filing Document Under Seal, # <u>30</u> Exhibit 27 – Notice of Filing Document Under Seal, # <u>31</u> Exhibit 28 – Notice of Filing Document Under Seal, # <u>32</u> Exhibit 29 – Notice of Filing Document Under Seal, # <u>33</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/18/2014)
09/18/2014	<u>107</u>	–SEALED – NOTICE of Filing Under Seal Exhibit A (Proposed Third Amended Answer, Defenses, and Counterclaims) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> (Zinsner, Mary) (Entered: 09/18/2014)
09/18/2014	<u>108</u>	–SEALED – NOTICE of Filing Under Seal Exhibit B (Redline) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> (Zinsner, Mary) (Entered: 09/18/2014)
09/18/2014	<u>109</u>	–SEALED – NOTICE of Filing Under Seal Memorandum in Support and Under Seal Exhibits by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> (Attachments: # <u>1</u> Exhibit 13, # <u>2</u> Exhibit 14, # <u>3</u> Exhibit 15, # <u>4</u> Exhibit 16, # <u>5</u> Exhibit 17, # <u>6</u> Exhibit 18, # <u>7</u> Exhibit 19, # <u>8</u> Exhibit 20, # <u>9</u> Exhibit 21, # <u>10</u> Exhibit 22, # <u>11</u> Exhibit 23, # <u>12</u> Exhibit 24, # <u>13</u> Exhibit 25, # <u>14</u> Exhibit 26, # <u>15</u> Exhibit 27, # <u>16</u> Exhibit 28)(Zinsner, Mary) (Entered: 09/18/2014)
09/18/2014	<u>110</u>	MOTION to Seal <i>Capital One's Memorandum in Support of Motion for Leave to File Third Amended Answer, Defenses, and Counterclaims and Certain Exhibits Thereto</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 10/6/2014 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/18/2014)
09/18/2014	<u>111</u>	Request for Hearing re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> . (Zinsner, Mary) (Entered: 09/18/2014)
09/23/2014	112	PAPERLESS ORDER granting <u>105</u> Motion to Appear Pro Hac Vice on behalf of Megan M New. Directing attorney Megan M New to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on

		9/23/2014. (mrs, Deputy Clerk) (Entered: 09/23/2014)
09/24/2014	<u>113</u>	NOTICE to Substitute Attorney (Reza, Syed) (Entered: 09/24/2014)
09/25/2014	<u>114</u>	MOTION to Appear Pro Hac Vice for Alan J. Devlin (Filing fee \$ 50, receipt number 0416-4984842.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 09/25/2014)
09/25/2014	<u>115</u>	MOTION to Appear Pro Hac Vice for Marguerite M. Sullivan (Filing fee \$ 50, receipt number 0416-4984871.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 09/25/2014)
09/26/2014	116	PAPERLESS ORDER granting <u>114</u> Motion to Appear Pro Hac Vice on behalf of Alan J Devlin. Directing attorney Alan J Devlin to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 9/26/2014. (mrs, Deputy Clerk) (Entered: 09/26/2014)
09/26/2014	117	PAPERLESS ORDER granting <u>115</u> Motion to Appear Pro Hac Vice on behalf of Marguerite M Sullivan. Directing attorney Marguerite M Sullivan to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 9/26/2014. (mrs, Deputy Clerk) (Entered: 09/26/2014)
10/06/2014	<u>118</u>	RESPONSE in Opposition re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Replies due by 10/23/2014. (Attachments: # <u>1</u> Exhibit A – Memo Opinion Mot to Strike Granted, # <u>2</u> Exhibit B – C1 FAC, # <u>3</u> Exhibit C – Order Denying MTA Judgment, # <u>4</u> Exhibit D – Judgment for Defendants, # <u>5</u> Exhibit Order Granting MTD Cntr 11, 12 13 & 8th Defense)(McCabe, Michael) (Entered: 10/06/2014)
10/09/2014	<u>119</u>	MOTION to Appear Pro Hac Vice for Elizabeth V. Johnson (Filing fee \$ 50, receipt number 0416-5006492.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 10/09/2014)
10/09/2014	120	PAPERLESS ORDER granting <u>119</u> Motion to Appear Pro Hac Vice on behalf of Elizabeth V Johnson. Directing attorney Elizabeth V Johnson to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 10/9/2014. (mrs, Deputy Clerk) (Entered: 10/09/2014)
10/16/2014	<u>121</u>	REDACTED DOCUMENT <i>Letter to Court</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G)(Zinsner, Mary) (Entered: 10/16/2014)
10/17/2014	<u>122</u>	Correspondence from Intellectual Ventures I LLC, Intellectual Ventures II LLC, re: Letter to Court (McCabe, Michael) Modified on 10/17/2014 to add filers (rss, Deputy Clerk). (Entered: 10/17/2014)
10/20/2014	123	PAPERLESS ORDER SCHEDULING conference call on November 4, 2014 at 5:30p.m. AND DIRECTING Defense Counsel to initiate the call to chambers. Plaintiff's Counsel is directed to file a response, 3 pages or less, to ECF. No. 121 on or before October 28, 2014. Signed by Judge Paul W. Grimm on October 20, 2014. (at, Chambers) (Entered: 10/20/2014)
10/23/2014	<u>124</u>	REPLY to Response to Motion re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims (Public Version)</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Zinsner, Mary) (Entered: 10/23/2014)
10/23/2014	<u>125</u>	-SEALED-REPLY to Response to Motion re <u>106</u> MOTION for Leave to File <i>Third Amended Answer, Defenses, and Counterclaims</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 10/23/2014)

10/23/2014	<u>126</u>	MOTION to Seal <i>Capital One's Reply in Support of Motion for Leave to File Third Amended Answer, Defenses, and Counterclaims</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 11/10/2014 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 10/23/2014)
10/24/2014	<u>127</u>	MOTION for Extension of Time (<i>Unopposed</i>) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 11/10/2014 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 10/24/2014)
10/28/2014	<u>128</u>	ORDER GRANTING <u>127</u> Capital One's motion for a brief extension of time; deadline by which Capital One must serve its Invalidity Claim Chart and Responsive Claim Construction Statement shall be November 6, 2014; parties' Joint Claim Construction Statement shall be filed on November 18, 2014; parties' Opening Claim Construction Briefs shall be filed on November 25, 2014; parties' Responsive Claim Construction Briefs shall be filed by December 16, 2014; all other deadlines in the Scheduling Order shall remain unchanged absent further Court order. Signed by Judge Paul W. Grimm on 10/28/2014. (jf2s, Deputy Clerk) (Entered: 10/28/2014)
10/28/2014	<u>129</u>	RESPONSE re <u>121</u> Redacted Document, <i>Letter Response to Docket No. 121</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Day, Margaret) (Entered: 10/28/2014)
11/05/2014	<u>130</u>	ORDER memorializing the conference call held yesterday regarding the discovery dispute outlined in Capital One's letter to the Court, ECF No. 121. Signed by Judge Paul W. Grimm on 11/5/2014. (Attachments: # <u>1</u> Discovery Order)(ca2s, Deputy Clerk) (Entered: 11/05/2014)
11/07/2014	131	PAPERLESS ORDER SCHEDULING conference call for Monday, November 17, 2014 at 5:30 p.m. and DIRECTING Defense Counsel to initiate the call to chambers or to circulate a dial-in number. Signed by Judge Paul W. Grimm on 11/7/2014. (Grimm, Paul) (lyb) (Entered: 11/07/2014)
11/10/2014	<u>132</u>	MOTION to Appear Pro Hac Vice for Jeremiah A. Armstrong (Filing fee \$ 50, receipt number 0416-5061420.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 11/10/2014)
11/12/2014	133	PAPERLESS ORDER granting <u>132</u> Motion to Appear Pro Hac Vice on behalf of Jeremiah A Armstrong. Directing attorney Jeremiah A Armstrong to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 11/12/2014. (decs, Deputy Clerk) (Entered: 11/12/2014)
11/17/2014		Telephone Conference held on 11/17/2014 before Judge Paul W. Grimm. (Court Reporter: N/A) (esp, Deputy Clerk) (Entered: 12/02/2014)
11/21/2014	<u>134</u>	Correspondence re: Special Patent Master (Bolton, Bryan) (Entered: 11/21/2014)
11/25/2014	135	PAPERLESS ORDER CANCELLING conference call scheduled for November 25, 2014 at 5:15pm. Signed by Judge Paul W. Grimm on 11/25/2014. (at, Chambers) (Entered: 11/25/2014)
12/01/2014	<u>136</u>	PAPERLESS ORDER THANKING Counsel for their joint letter indicating that they have agreed on Raphael V. Lupo, Esquire, as the Special Patent Master for this case. I am extremely pleased that you have come to an agreement. I would like to have a telephone conference call to dismiss the parameters of Mr. Lupo's role as a Special Patent Master, including the issues identified in the attached document. Pursuant to Rule 53(a)(2), Mr. Lupo will need to resolve any conflicts he has before he is appointed. Please confirm by Friday, December 5, 2014, that Mr. Lupo has resolved any conflicts and can participate in a conference call on Thursday, December 11, at 1:00 p.m. Defense counsel please will circulate the call-in number. Signed by Judge Paul W. Grimm on 12/1/2014. (Grimm, Paul) (lyb) (Entered: 12/01/2014)
12/03/2014	<u>137</u>	Correspondence re: Technical Meet and Confer (Zinsner, Mary) (Entered: 12/03/2014)
12/04/2014	138	PAPERLESS ORDER GRANTING the parties' joint request to defer the technical meet and confer until a date after the December 11, 2014 telephone conference. Signed by Judge Paul W. Grimm on 12/4/2014. (Grimm, Paul) (lyb) (Entered: 12/04/2014)

12/05/2014	<u>139</u>	Correspondence re: December 1, 2014, Order (no. 136) (Bolton, Bryan) (Entered: 12/05/2014)
12/10/2014	140	PAPERLESS ORDER THANKING Counsel for their December 9, 2014 emails to my law clerk with regard to Mr. Lupo's participation in the December 11, 2014 telephone conference. Mr. Lupo will not participate in the beginning of the conference call, during which we will discuss the parameters of his role as Special Patent Master. Please ask him to be available to be conferenced in for the second part of the call, and please provide my Chambers with Mr. Lupo's telephone number so that we can conference him in at the appropriate time. Signed by Judge Paul W. Grimm on 12/10/2014. (Grimm, Paul) (lyb) (Entered: 12/10/2014)
12/11/2014		Telephone Conference held on 12/11/2014 before Judge Paul W. Grimm. (Court Reporter: N/A) (esp, Deputy Clerk) (Entered: 01/12/2015)
12/23/2014	<u>141</u>	Correspondence re: Appointment of Special Master (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 12/23/2014)
01/05/2015	142	PAPERLESS ORDER thanking counsel for submitting the joint proposed appointment order, which has been signed and will be filed; thanking counsel for notifying the Court that the special master, Mr. Lupo, has no conflicts; and requesting that Mr. Lupo file the affidavit required by Rule 53(b)(3)(A) by January 26, 2015. Signed by Judge Paul W. Grimm on 1/5/2015. (Grimm, Paul) (lyb) (Entered: 01/05/2015)
01/05/2015	<u>143</u>	ORDER Appointing Special Master. Signed by Judge Paul W. Grimm on 1/5/2015. (jf2s, Deputy Clerk) (Entered: 01/05/2015)
01/13/2015	<u>144</u>	MOTION to Appear Pro Hac Vice for Patricia Young (Filing fee \$ 50, receipt number 0416-5164506.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 01/13/2015)
01/13/2015	145	PAPERLESS ORDER granting <u>144</u> Motion to Appear Pro Hac Vice on behalf of Patricia Young. Directing attorney Patricia Young to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 1/13/2015. (bu, Deputy Clerk) (Entered: 01/13/2015)
01/19/2015	<u>146</u>	STATUS REPORT <i>and Recommended Supplemental Scheduling Order of Special Master</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Zinsner, Mary) (Entered: 01/19/2015)
01/20/2015	<u>147</u>	MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 2/6/2015 (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of Adam M. Greenfield, # <u>3</u> Exhibits 1-8 to the Declaration of Adam M. Greenfield, # <u>4</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 01/20/2015)
01/20/2015	<u>148</u>	Request for Hearing re <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101</i> . (Zinsner, Mary) (Entered: 01/20/2015)
01/20/2015	<u>150</u>	SUPPLEMENTAL SCHEDULING ORDER. Signed by Judge Paul W. Grimm on 1/20/2015. (jf2s, Deputy Clerk) (Entered: 01/21/2015)
01/21/2015	<u>149</u>	CASE MANAGEMENT ORDER. Signed by Judge Paul W. Grimm on 1/21/2015. (at, Chambers) (Entered: 01/21/2015)
01/21/2015	151	PAPERLESS ORDER TO COUNSEL re <u>149</u> Case Management Order. Dear Counsel: Capital One filed its motion to dismiss before entry of the Case Management Order ("CMO") which I issued on January 21, 2015. The CMO will control all further briefing in this case, including Intellectual Venture's opposition memorandum, and Capital One's reply. In order to comply with the CMO Capital One will need to (1) submit within 14 days the executive summary of their memorandum in support of the motion to dismiss (as explained in the CMO) and (2) resubmit to Intellectual Ventures the exhibits to the motion so that the pages are consecutively numbered as described by the CMO. This also should be done within 14 days. If Intellectual Ventures needs additional time to respond to the motion given this paperless order, counsel should

		confer and agree on a reasonable extension. The opposition and reply memoranda, and supporting exhibits will be submitted in accordance with the CMO. Signed by Judge Paul W. Grimm on 1/21/2015. (at, Chambers) (Entered: 01/21/2015)
01/21/2015	<u>152</u>	Correspondence re: Executive Summary and exhibits (Attachments: # <u>1</u> Exhibit)(Zinsner, Mary) (Entered: 01/21/2015)
01/26/2015	<u>153</u>	AFFIDAVIT of <i>Special Patent Master Raphael Lupo</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 01/26/2015)
01/28/2015	154	PAPERLESS ORDER that the summary judgment briefing on invalidity under 35 U.S.C. § 101 shall be governed by this Court's Local Rules and that the Special Patent Master shall file a Report and Recommendation on the motion for summary judgment by April 30, 2015; any objections to the Report and Recommendation shall be filed simultaneously by May 14, 2015. Signed by Judge Paul W. Grimm on 1/28/2015. (Grimm, Paul) (lyb) (Entered: 01/28/2015)
01/30/2015	<u>155</u>	Emergency MOTION TO MODIFY PAPERLESS ORDER by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 2/17/2015 (Attachments: # <u>1</u> Memorandum in Support of Emergency Motion to Modify Paperless Order, # <u>2</u> Exhibit A, # <u>3</u> Text of Proposed Order)(Bolton, Bryan) (Entered: 01/30/2015)
02/01/2015	<u>156</u>	STATUS REPORT. (rvl, Special Master) Modified on 2/20/2015 (Entered: 02/01/2015)
02/02/2015	157	PAPERLESS ORDER revising the January 28, 2015 Paperless Order 154 as follows: The summary judgment briefing on invalidity under 35 U.S.C. § 101 shall be governed by the Scheduling Order <u>93</u> in this case, and the Special Patent Master shall file a Report and Recommendation on the motion for summary judgment by May 12, 2015; any objections to the Report and Recommendation shall be filed simultaneously by May 26, 2015. Signed by Judge Paul W. Grimm on 2/2/2015. (Grimm, Paul) (lyb) (Entered: 02/02/2015)
02/02/2015	<u>158</u>	RESPONSE in Opposition re <u>155</u> Emergency MOTION TO MODIFY PAPERLESS ORDER filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Replies due by 2/20/2015. (Attachments: # <u>1</u> Exhibit A)(Zinsner, Mary) (Entered: 02/02/2015)
02/04/2015	<u>159</u>	MOTION to Appear Pro Hac Vice for David Taylor Rudolph (Filing fee \$ 50, receipt number 0416-5206775.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 02/04/2015)
02/04/2015	<u>160</u>	MOTION to Appear Pro Hac Vice for Patricia Ann Dyck (Filing fee \$ 50, receipt number 0416-5206817.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 02/04/2015)
02/04/2015	<u>161</u>	MOTION to Appear Pro Hac Vice for Eric B. Fastiff (Filing fee \$ 50, receipt number 0416-5206826.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 02/04/2015)
02/04/2015	162	PAPERLESS ORDER granting <u>159</u> Motion to Appear Pro Hac Vice on behalf of David Taylor Rudolph. Directing attorney David Taylor Rudolph to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 2/4/2015. (bu, Deputy Clerk) (Entered: 02/04/2015)
02/04/2015	163	PAPERLESS ORDER granting <u>160</u> Motion to Appear Pro Hac Vice on behalf of Patricia Ann Dyck. Directing attorney Patricia Ann Dyck to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 2/4/2015. (bu, Deputy Clerk) (Entered: 02/04/2015)
02/04/2015	164	PAPERLESS ORDER granting <u>161</u> Motion to Appear Pro Hac Vice on behalf of Eric B Fastiff. Attorney Eric B Fastiff will receive a separate email with the previously issued CM/ECF login and password. Signed by Clerk on 2/4/2015. (bu, Deputy Clerk) (Entered: 02/04/2015)
02/06/2015	165	PAPERLESS ORDER granting in part and denying in part <u>155</u> Motion modification of paperless order 154. As previously ordered, Paperless Order 154 is modified as

		follows: The summary judgment briefing on invalidity under 35 U.S.C. § 101 shall be governed by the Scheduling Order <u>93</u> in this case, and the Special Patent Master shall file a Report and Recommendation on the motion for summary judgment by May 12, 2015; any objections to the Report and Recommendation shall be filed simultaneously by May 26, 2015. To clarify, I have granted permission only for Defendants to file a summary judgment motion and for Plaintiffs' Opposition and Defendants' Reply to be filed in accordance with the Scheduling Order <u>93</u> . Plaintiffs must seek prior approval before filing a cross-motion for summary judgment. Signed by Judge Paul W. Grimm on 02/06/2015. (Grimm, Paul) (lyb) (Entered: 02/06/2015)
02/09/2015	<u>166</u>	Request for Conference (Bolton, Bryan) (Entered: 02/09/2015)
02/10/2015	<u>167</u>	PAPERLESS ORDER APPROVING <u>166</u> Request for Conference filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC. Plaintiff's request to file a cross motion for Summary Judgment is APPROVED without need for a telephone conference provided the scope is limited to the subject matter stated in ECF No. 166. Signed by Judge Paul W. Grimm on 2/10/2015. (at, Chambers) (Entered: 02/10/2015)
02/13/2015	<u>168</u>	STATUS REPORT <i>on behalf of Special Master Lupu</i> by Capital One Bank (USA), National Association. (Attachments: # <u>1</u> Exhibit 2/11/15 Transcript (redacted) Telephonic Hearing with Special Master)(Zinsner, Mary) (Entered: 02/13/2015)
02/19/2015	<u>169</u>	Cross MOTION for Summary Judgment <i>and Opposition to Defendants Motion for Summary Judgment</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Responses due by 3/9/2015 (Attachments: # <u>1</u> Memorandum in Support of Plaintiffs Cross-motion for Partial Summary Judgment and in Opposition to Defendants Motion for Summary Judgment, # <u>2</u> Exhibits 9-22, # <u>3</u> Text of Proposed Order)(Day, Margaret) (Entered: 02/19/2015)
02/20/2015	<u>170</u>	Decision of Special Master. (rvl, Special Master) Modified on 3/11/2015 (jf2s, Deputy Clerk). (Entered: 02/20/2015)
02/20/2015	<u>171</u>	MOTION to Compel <i>Supplemental Interrogatory Responses</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 3/9/2015 (Attachments: # <u>1</u> Memorandum in Support of Motion to Compel, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17, # <u>19</u> Exhibit 18, # <u>20</u> Exhibit 19, # <u>21</u> Exhibit 20, # <u>22</u> Exhibit 21, # <u>23</u> Exhibit 22, # <u>24</u> Exhibit 23, # <u>25</u> Exhibit 24, # <u>26</u> Exhibit 25, # <u>27</u> Exhibit 26, # <u>28</u> Exhibit 27, # <u>29</u> Exhibit 28, # <u>30</u> Exhibit 29, # <u>31</u> Exhibit 30, # <u>32</u> Affidavit Jeremiah Armstrong, # <u>33</u> Certificate of Service)(Armstrong, Jeremiah) (Entered: 02/20/2015)
02/20/2015	<u>172</u>	-SEALED - NOTICE of Filing Under Seal Memorandum in Support of Motion to Compel, Declaration of Armstrong, and Exhibits 1-30 by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Attachments: # <u>1</u> Affidavit Armstrong in Support of Motion to Compel, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17, # <u>19</u> Exhibit 18, # <u>20</u> Exhibit 19, # <u>21</u> Exhibit 20, # <u>22</u> Exhibit 21, # <u>23</u> Exhibit 22, # <u>24</u> Exhibit 23, # <u>25</u> Exhibit 24, # <u>26</u> Exhibit 25, # <u>27</u> Exhibit 26, # <u>28</u> Exhibit 27, # <u>29</u> Exhibit 28, # <u>30</u> Exhibit 29, # <u>31</u> Exhibit 30)(Armstrong, Jeremiah) (Entered: 02/20/2015)
02/20/2015	<u>173</u>	MOTION to Seal <i>Memorandum in Support of Motion to Compel, Declaration in Support, and Exhibits 1-30</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 3/9/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Armstrong, Jeremiah) (Entered: 02/20/2015)
02/20/2015	<u>174</u>	MOTION to Strike <i>Untimely Accused Instrumentalities and Infringement Contentions</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 3/9/2015 (Attachments: # <u>1</u> Memorandum in Support - Notice of Filing Document Under Seal, # <u>2</u> Declaration of Adam M. Greenfield, # <u>3</u> Greenfield Decl. Ex. 1 - Notice of Filing Document Under Seal, # <u>4</u> Greenfield Decl. Ex. 2 - Notice of Filing Document Under Seal, # <u>5</u> Greenfield Decl. Ex. 3 - Notice of Filing Document Under Seal, # <u>6</u> Greenfield Decl. Ex. 4 - Notice of Filing Document Under Seal, # <u>7</u> Greenfield Decl. Ex. 5 - Notice of

		Filing Document Under Seal, # <u>8</u> Greenfield Decl. Ex. 6 – Notice of Filing Document Under Seal, # <u>9</u> Greenfield Decl. Ex. 7 – Notice of Filing Document Under Seal, # <u>10</u> Greenfield Decl. Ex. 8– Notice of Filing Document Under Seal, # <u>11</u> Greenfield Decl. Ex. 9 – Notice of Filing Document Under Seal, # <u>12</u> Proposed Order – Notice of Filing Document Under Seal)(Zinsner, Mary) (Entered: 02/20/2015)
02/20/2015	<u>175</u>	–SEALED – NOTICE of Filing Under Seal Capital One Defendants' Memorandum in Support of Their Strike Untimely Accused Instrumentalities and Infringement Contentions and Exhibits to the Declaration of Adam M. Greenfield by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>174</u> MOTION to Strike <i>Untimely Accused Instrumentalities and Infringement Contentions</i> (Attachments: # <u>1</u> Greenfield Decl. Ex. 1, # <u>2</u> Greenfield Decl. Ex. 2, # <u>3</u> Greenfield Decl. Ex. 3, # <u>4</u> Greenfield Decl. Ex. 4, # <u>5</u> Greenfield Decl. Ex. 5, # <u>6</u> Greenfield Decl. Ex. 6, # <u>7</u> Greenfield Decl. Ex. 7, # <u>8</u> Greenfield Decl. Ex. 8, # <u>9</u> Greenfield Decl. Ex. 9, # <u>10</u> Proposed Order)(Zinsner, Mary) (Entered: 02/20/2015)
02/20/2015	<u>176</u>	MOTION to Compel <i>Sufficient Infringement Contentions for All Asserted Patents</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 3/9/2015 (Attachments: # <u>1</u> Memorandum in Support – Notice of Filing Document Under Seal, # <u>2</u> Declaration of Adam M. Greenfield, # <u>3</u> Greenfield Decl. Ex. A – Notice of Filing Document Under Seal, # <u>4</u> Greenfield Decl. Ex. B – Notice of Filing Document Under Seal, # <u>5</u> Greenfield Decl. Ex. C – Notice of Filing Document Under Seal, # <u>6</u> Greenfield Decl. Ex. D – Notice of Filing Document Under Seal, # <u>7</u> Greenfield Decl. Ex. E – Notice of Filing Document Under Seal, # <u>8</u> Proposed Order)(Zinsner, Mary) (Entered: 02/20/2015)
02/20/2015	<u>177</u>	–SEALED – NOTICE of Filing Under Seal Memorandum in Support of Motion to Compel and Exhibits to Greenfield Declaration by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>176</u> MOTION to Compel <i>Sufficient Infringement Contentions for All Asserted Patents</i> (Attachments: # <u>1</u> Greenfield Decl. – Ex. A, # <u>2</u> Greenfield Decl. – Ex. B, # <u>3</u> Greenfield Decl. – Ex. C, # <u>4</u> Greenfield Decl. – Ex. D, # <u>5</u> Greenfield Decl. – Ex. E)(Zinsner, Mary) (Entered: 02/21/2015)
02/21/2015	<u>178</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 3/12/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 02/21/2015)
02/23/2015	179	PAPERLESS ORDER that the April 16, 2015 tutorials and hearing will be held in my Courtroom, 4B. The parties may arrange to have a court reporter present. Signed by Judge Paul W. Grimm on 2/23/2015. (Grimm, Paul) (lyb) (Entered: 02/23/2015)
02/25/2015	<u>180</u>	RESPONSE in Opposition re <u>171</u> MOTION to Compel <i>Supplemental Interrogatory Responses (Notice of Filing Document Under Seal)</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Replies due by 3/16/2015. (Attachments: # <u>1</u> Declaration of Adam M. Greenfield, # <u>2</u> Greenfield Decl. Ex. 1, # <u>3</u> Greenfield Decl. Ex. 2, # <u>4</u> Greenfield Decl. Ex. 3 – Notice of Filing Document Under Seal, # <u>5</u> Greenfield Decl. Ex. 4 – Notice of Filing Document Under Seal, # <u>6</u> Greenfield Decl. Ex. 5 – Notice of Filing Document Under Seal, # <u>7</u> Greenfield Decl. Ex. 6 – Notice of Filing Document Under Seal, # <u>8</u> Greenfield Decl. Ex. 7, # <u>9</u> Greenfield Decl. Ex. 8, # <u>10</u> Greenfield Decl. Ex. 9 – Notice of Filing Document Under Seal, # <u>11</u> Greenfield Decl. Ex. 10, # <u>12</u> Greenfield Decl. Ex. 11, # <u>13</u> Greenfield Decl. Ex. 12 – Notice of Filing Document Under Seal, # <u>14</u> Greenfield Decl. Ex. 13)(Zinsner, Mary) (Entered: 02/25/2015)
02/25/2015	<u>181</u>	–SEALED – NOTICE of Filing Under Seal Opposition to Plaintiffs' Motion to Compel Supplemental Interrogatory Responses from Capital One and Exhibits 3, 4, 5, 6, 9, and 12 to the Declaration of Adam M. Greenfield by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>180</u> Response in Opposition to Motion,,,,, (Attachments: # <u>1</u> Greenfield Decl. – Ex. 3, # <u>2</u> Greenfield Decl. – Ex. 4, # <u>3</u> Greenfield Decl. – Ex. 5, # <u>4</u> Greenfield Decl. – Ex. 6, # <u>5</u> Greenfield Decl. – Ex. 9, # <u>6</u> Greenfield Decl. – Ex. 12)(Zinsner, Mary) (Entered: 02/25/2015)

02/25/2015	<u>182</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 3/16/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 02/25/2015)
02/25/2015	<u>183</u>	–SEALED–RESPONSE in Opposition re <u>176</u> MOTION to Compel <i>Sufficient Infringement Contentions for All Asserted Patents</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Replies due by 3/16/2015. (Armstrong, Jeremiah) (Entered: 02/25/2015)
02/25/2015	<u>184</u>	MOTION to Seal <i>Opposition to Defendants' Motion to Compel Sufficient Infringement Contentions</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 3/16/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Armstrong, Jeremiah) (Entered: 02/25/2015)
02/25/2015	<u>185</u>	–SEALED–RESPONSE in Opposition re <u>174</u> MOTION to Strike <i>Untimely Accused Instrumentalities and Infringement Contentions</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Replies due by 3/16/2015. (Attachments: # <u>1</u> Affidavit J. Armstrong, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17, # <u>19</u> Exhibit 18, # <u>20</u> Exhibit 19, # <u>21</u> Exhibit 20, # <u>22</u> Exhibit 21, # <u>23</u> Exhibit 22, # <u>24</u> Exhibit 23, # <u>25</u> Exhibit 24, # <u>26</u> Exhibit 25, # <u>27</u> Exhibit 26, # <u>28</u> Exhibit 27, # <u>29</u> Exhibit 28, # <u>30</u> Exhibit 29)(Armstrong, Jeremiah) (Entered: 02/25/2015)
02/25/2015	<u>186</u>	MOTION to Seal <i>Opposition to Defendants Motion to Strike Untimely Accused Instrumentalities and Infringement Contentions</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 3/16/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Armstrong, Jeremiah) (Entered: 02/25/2015)
02/27/2015	<u>187</u>	MOTION to Appear Pro Hac Vice for Michelle P. Woodhouse (Filing fee \$ 50, receipt number 0416–5244139.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 02/27/2015)
02/27/2015	188	PAPERLESS ORDER granting <u>187</u> Motion to Appear Pro Hac Vice on behalf of Michelle P Woodhouse. Directing attorney Michelle P Woodhouse to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 2/27/2015. (bu, Deputy Clerk) (Entered: 02/27/2015)
02/27/2015	<u>189</u>	–SEALED–REPLY to Response to Motion re <u>171</u> MOTION to Compel <i>Supplemental Interrogatory Responses</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Armstrong, Jeremiah) (Entered: 02/27/2015)
02/27/2015	<u>190</u>	MOTION to Seal <i>Plaintiffs Reply in Support of Its Motion to Compel Supplemental Interrogatories</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 3/16/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Armstrong, Jeremiah) (Entered: 02/27/2015)
02/27/2015	<u>191</u>	–SEALED–REPLY to Response to Motion re <u>176</u> MOTION to Compel <i>Sufficient Infringement Contentions for All Asserted Patents</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 02/27/2015)
02/27/2015	<u>192</u>	–SEALED–REPLY to Response to Motion re <u>174</u> MOTION to Strike <i>Untimely Accused Instrumentalities and Infringement Contentions</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 02/27/2015)
02/27/2015	<u>193</u>	MOTION to Seal <i>Reply in Support of Their Motion to Strike Untimely Accused Instrumentalities and Infringement Contentions and Reply in Support of Their Motion to Compel Sufficient Infringement Contentions for All Asserted Patents</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 3/16/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 02/27/2015)
03/02/2015	<u>194</u>	MEMORANDUM OPINION. Signed by Judge Paul W. Grimm on 3/2/2015. (jf2s, Deputy Clerk) (Entered: 03/02/2015)

03/02/2015	<u>195</u>	ORDER granting <u>106</u> Defendants/Counterclaimants Motion for Leave to File Third Amended Answer, Defenses, and Counterclaims; granting <u>110</u> Defendants/Counterclaimants Motion to Seal Capital One's Memorandum in Support of Motion for Leave to File Third Amended Answer, Defenses, and Counterclaims and Certain Exhibits Thereto; granting <u>126</u> Defendants/Counterclaimants Motion to Seal Capital One's Reply in Support of Motion for Leave to File Third Amended Answer, Defenses, and Counterclaims; directing parties to contact Chambers to schedule a conference call with the parties, the Special Master, and the Court. Signed by Judge Paul W. Grimm on 3/2/2015. (jf2s, Deputy Clerk) (Entered: 03/02/2015)
03/02/2015	<u>196</u>	THIRD AMENDED ANSWER by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, N.A. (Attachments: # <u>1</u> Exhibit B – Notice of Filing Document Under Seal, # <u>2</u> Capital One's Memorandum in Support (Public Redacted Version), # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9, # <u>12</u> Exhibit 10, # <u>13</u> Exhibit 11, # <u>14</u> Exhibit 12, # <u>15</u> Exhibit 13, # <u>16</u> Exhibit 14 – Notice of Filing Document Under Seal, # <u>17</u> Exhibit 15 – Notice of Filing Document Under Seal, # <u>18</u> Exhibit 16 – Notice of Filing Document Under Seal, # <u>19</u> Exhibit 17 – Notice of Filing Document Under Seal, # <u>20</u> Exhibit 18 – Notice of Filing Document Under Seal, # <u>21</u> Exhibit 19 – Notice of Filing Document Under Seal, # <u>22</u> Exhibit 20 – Notice of Filing Document Under Seal, # <u>23</u> Exhibit 21 – Notice of Filing Document Under Seal, # <u>24</u> Exhibit 22 – Notice of Filing Document Under Seal, # <u>25</u> Exhibit 23 – Notice of Filing Document Under Seal, # <u>26</u> Exhibit 24 – Notice of Filing Document Under Seal, # <u>27</u> Exhibit 25 – Notice of Filing Document Under Seal, # <u>28</u> Exhibit 26 – Notice of Filing Document Under Seal, # <u>29</u> Exhibit 27 – Notice of Filing Document Under Seal, # <u>30</u> Exhibit 28 – Notice of Filing Document Under Seal, # <u>31</u> Exhibit 29 – Notice of Filing Document Under Seal, # <u>32</u> Text of Proposed Order)(jf2s, Deputy Clerk) (Entered: 03/04/2015)
03/06/2015	<u>197</u>	MOTION to Appear Pro Hac Vice for Ryan M. Hubbard (Filing fee \$ 50, receipt number 0416–5255951.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 03/06/2015)
03/06/2015	<u>198</u>	PAPERLESS ORDER granting <u>197</u> Motion to Appear Pro Hac Vice on behalf of Ryan M Hubbard. Directing attorney Ryan M Hubbard to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/6/2015. (bu, Deputy Clerk) (Entered: 03/06/2015)
03/09/2015	<u>199</u>	Special Master Status Report. (rvl, Special Master) Modified on 3/11/2015 (jf2s, Deputy Clerk). (Entered: 03/09/2015)
03/10/2015	<u>200</u>	MOTION to Appear Pro Hac Vice for Christopher S. Yates (Filing fee \$ 50, receipt number 0416–5262526.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 03/10/2015)
03/10/2015	<u>201</u>	PAPERLESS ORDER granting <u>200</u> Motion to Appear Pro Hac Vice on behalf of Christopher S Yates. Directing attorney Christopher S Yates to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/10/2015. (bu, Deputy Clerk) (Entered: 03/10/2015)
03/10/2015	<u>202</u>	JOINT CLAIM CONSTRUCTION STATEMENT by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Armstrong, Jeremiah) (Entered: 03/10/2015)
03/11/2015	<u>203</u>	Discovery Order of Special Master. (rvl, Special Master). Modified on 3/12/2015 (jf2s, Deputy Clerk). (Entered: 03/11/2015)
03/12/2015	<u>204</u>	[FILED IN ERROR] NOTICE by Capital One Financial Corporation – <i>Summons (Intellectual Ventures Management)</i> (Zinsner, Mary) Modified on 3/30/2015 (jf2s, Deputy Clerk). (Entered: 03/12/2015)
03/12/2015	<u>205</u>	[FILED IN ERROR] NOTICE by Capital One Financial Corporation <i>Summons (Invention Investment Fund I)</i> (Zinsner, Mary) Modified on 3/30/2015 (jf2s, Deputy Clerk). (Entered: 03/12/2015)

03/12/2015	<u>206</u>	[FILED IN ERROR] NOTICE by Capital One Financial Corporation <i>Summons (Invention Investment Fund II)</i> (Zinsner, Mary) Modified on 3/30/2015 (jf2s, Deputy Clerk). (Entered: 03/12/2015)
03/12/2015	<u>207</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association of <i>Filing of Special Master's Recommended Supplemental Scheduling Order</i> (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 03/12/2015)
03/13/2015	208	PAPERLESS ORDER NOTIFYING Counsel and Mr. Lupo that Monday's conference call is rescheduled for Tuesday, March 17, 2015 at 3:00 p.m. Signed by Judge Paul W. Grimm on 3/13/2015. (Grimm, Paul) (lyb) (Entered: 03/13/2015)
03/16/2015	<u>209</u>	Discovery Order of Special Master. (rvl, Special Master) Modified on 3/23/2015 (jf2s, Deputy Clerk). (Entered: 03/16/2015)
03/16/2015	<u>210</u>	Correspondence re: conference call on Tuesday, March 17, 2015 (Bolton, Bryan) (Entered: 03/16/2015)
03/17/2015	<u>211</u>	SUPPLEMENTAL SCHEDULING ORDER. Signed by Judge Paul W. Grimm on 3/17/2015. (jf2s, Deputy Clerk) (Entered: 03/17/2015)
03/17/2015	<u>212</u>	OPENING BRIEF <i>Regarding Claim Construction</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Responses due by 4/20/2015 (Attachments: # <u>1</u> Declaration of Adam M. Greenfield, # <u>2</u> Greenfield Decl. – Ex. A, # <u>3</u> Greenfield Decl. – Ex. B, # <u>4</u> Greenfield Decl. – Ex. C, # <u>5</u> Greenfield Decl. – Ex. D, # <u>6</u> Greenfield Decl. – Ex. E, # <u>7</u> Greenfield Decl. – Ex. F, # <u>8</u> Greenfield Decl. – Ex. G, # <u>9</u> Greenfield Decl. – Ex. H, # <u>10</u> Greenfield Decl. – Ex. I, # <u>11</u> Greenfield Decl. – Ex. J, # <u>12</u> Greenfield Decl. – Ex. K, # <u>13</u> Greenfield Decl. – Ex. L)(Reza, Syed) (Entered: 03/17/2015)
03/17/2015	<u>213</u>	OPENING BRIEF <i>On Claim Construction</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Responses due by 4/20/2015 (Attachments: # <u>1</u> Affidavit Jeremiah Armstrong, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17)(Armstrong, Jeremiah) (Entered: 03/17/2015)
03/18/2015	<u>214</u>	MOTION to Appear Pro Hac Vice for Christopher J. Forstner (Filing fee \$ 50, receipt number 0416-5277184.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Reza, Syed) (Entered: 03/18/2015)
03/18/2015	215	PAPERLESS ORDER granting <u>214</u> Motion to Appear Pro Hac Vice on behalf of Christopher J Forstner. Directing attorney Christopher J Forstner to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/18/2015. (bu, Deputy Clerk) (Entered: 03/18/2015)
03/19/2015	216	PAPERLESS ORDER granting <u>173</u> Motion to Seal. Plaintiff shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	217	PAPERLESS ORDER granting <u>178</u> Motion to Seal. Defendant shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 03/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	218	PAPERLESS ORDER granting <u>182</u> Motion to Seal. Defendant shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	219	PAPERLESS ORDER granting <u>193</u> Motion to Seal. Defendant shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)

03/19/2015	220	PAPERLESS ORDER granting <u>184</u> Motion to Seal. Plaintiff shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	221	PAPERLESS ORDER granting <u>186</u> Motion to Seal. Plaintiff shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	222	PAPERLESS ORDER granting <u>190</u> Motion to Seal. Plaintiff shall file a redacted copy of the sealed document within twenty-one days, if one has not been filed already. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	<u>223</u>	Supplemental Discovery Order (rvl, Special Master) (Entered: 03/19/2015)
03/19/2015	224	PAPERLESS ORDER: I have been notified by the Clerk's Office that it cannot issue summons for a counterclaim that adds new parties that previously were not part of the case. Accordingly, I am clarifying <u>195</u> , ORDER granting <u>106</u> Defendants/Counterclaimants Motion for Leave to File Third Amended Answer, Defenses, and Counterclaims as follows: Defendants may assert their counterclaims in an amended answer and counterclaims, but they must file a new third-party complaint against any entities not currently parties to the litigation, asserting the antitrust claims discussed in <u>194</u> and <u>195</u> . The Clerk's Office has advised that once the third-party complaint is filed, it will issue summons accordingly. Signed by Judge Paul W. Grimm on 3/19/2015. (Grimm, Paul) (lyb) (Entered: 03/19/2015)
03/19/2015	<u>225</u>	MOTION to Dismiss for Failure to State a Claim by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 4/6/2015 (Attachments: # <u>1</u> Memorandum in Support of Plaintiffs' Motion to Dismiss Amended Antitrust Counterclaims 12, 13 and 14, # <u>2</u> Text of Proposed Order)(Bolton, Bryan) (Entered: 03/19/2015)
03/25/2015	<u>226</u>	March 25, 2015 Status Report of Special Master (rvl, Special Master) (Entered: 03/25/2015)
03/26/2015	<u>227</u>	REPLY to Response to Motion re <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Adam M. Greenfield, # <u>2</u> Exhibits 23-26)(Zinsner, Mary) (Entered: 03/26/2015)
03/27/2015	<u>228</u>	-SEALED- THIRD PARTY COMPLAINT against Invention Investment Fund II, LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., filed by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation, Invention Investment Fund II, LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P..(Zinsner, Mary) (Entered: 03/27/2015)
03/27/2015	<u>229</u>	MOTION to Seal <i>Third-Party Complaint</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 4/13/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 03/27/2015)
03/27/2015	<u>230</u>	REDACTED DOCUMENT to <u>228</u> Third Party Complaint, by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 03/27/2015)
03/30/2015	<u>231</u>	MOTION to Appear Pro Hac Vice for Joel Merkin (Filing fee \$ 50, receipt number 0416-5298503.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Ulwick, James) (Entered: 03/30/2015)
03/30/2015	232	PAPERLESS ORDER granting <u>231</u> Motion to Appear Pro Hac Vice on behalf of Joel Merkin. Directing attorney Joel Merkin to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/30/2015. (bu, Deputy Clerk) (Entered: 03/30/2015)

03/30/2015	<u>233</u>	[FILED IN ERROR] NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>228</u> Third Party Complaint, <u>230</u> Redacted Document <i>Summons to Invention Investment Fund I, L.P., Additional Counterclaim Third-Party Defendant</i> (Zinsner, Mary) Modified on 4/1/2015 (jf2s, Deputy Clerk). (Entered: 03/30/2015)
03/30/2015	<u>234</u>	[FILED IN ERROR] NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>228</u> Third Party Complaint, <u>230</u> Redacted Document <i>Summons to Invention Investment Fund II, LLC, Additional Counterclaim Third-Party Defendant</i> (Zinsner, Mary) Modified on 4/1/2015 (jf2s, Deputy Clerk). (Entered: 03/30/2015)
03/30/2015	<u>235</u>	[FILED IN ERROR] NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>228</u> Third Party Complaint, <u>230</u> Redacted Document <i>Summons to Intellectual Ventures Management, LLC, Additional Counterclaim Third-Party Defendant</i> (Zinsner, Mary) Modified on 4/1/2015 (jf2s, Deputy Clerk). (Entered: 03/30/2015)
04/01/2015	236	QC NOTICE: <u>234</u> , <u>235</u> , <u>233</u> Notice (Other), filed by Capital One, National Association, Capital One Bank (USA), National Association, Capital One Financial Corporation was filed incorrectly. **Please refile using the 'Summons on a Third Party Complaint' document. It has been noted as FILED IN ERROR, and the document link has been disabled. (jf2s, Deputy Clerk) (Entered: 04/01/2015)
04/01/2015	<u>237</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>228</u> Third Party Complaint, <u>230</u> Redacted Document <i>Summons on a Third-Party Complaint – Invention Investment Fund I, L.P.</i> (Zinsner, Mary) (Entered: 04/01/2015)
04/01/2015	<u>238</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>228</u> Third Party Complaint, <u>230</u> Redacted Document <i>Summons on a Third-Party Complaint – Invention Investment Fund II, L.P.</i> (Zinsner, Mary) (Entered: 04/01/2015)
04/01/2015	<u>239</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>228</u> Third Party Complaint, <u>230</u> Redacted Document <i>Summons on a Third-Party Complaint – Intellectual Ventures Management, LLC</i> (Zinsner, Mary) (Entered: 04/01/2015)
04/02/2015	<u>240</u>	MOTION to Appear Pro Hac Vice for Gabriel K. Bell (Filing fee \$ 50, receipt number 0416-5308867.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 04/02/2015)
04/02/2015	241	PAPERLESS ORDER granting <u>240</u> Motion to Appear Pro Hac Vice on behalf of Gabriel K Bell. Directing attorney Gabriel K Bell to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 4/2/2015. (bu, Deputy Clerk) (Entered: 04/02/2015)
04/03/2015	<u>242</u>	–SEALED–RESPONSE in Opposition re <u>225</u> MOTION to Dismiss for Failure to State a Claim filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Replies due by 4/20/2015. (Zinsner, Mary) (Entered: 04/03/2015)
04/03/2015	<u>243</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 4/20/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 04/03/2015)
04/03/2015	<u>244</u>	REDACTED DOCUMENT to <u>242</u> Response in Opposition to Motion, by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 04/03/2015)
04/03/2015	<u>245</u>	Summons Issued 21 days as to Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. (jf2s, Deputy Clerk) (Entered: 04/03/2015)

04/06/2015	<u>246</u>	REPLY to Response to Motion re <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101</i> , <u>169</u> Cross MOTION for Summary Judgment and <i>Opposition to Defendants Motion for Summary Judgment</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Exhibit 27)(Belloli, Marc) (Entered: 04/06/2015)
04/07/2015	<u>247</u>	Correspondence Correcting Earlier Submission: <u>238</u> Notice (Other), (Attachments: # <u>1</u> Exhibit A)(Zinsner, Mary) (Entered: 04/07/2015)
04/07/2015	<u>248</u>	RESPONSIVE BRIEF <i>Regarding Claim Construction</i> by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation re <u>213</u> Opening Brief., <i>Regarding Claim Construction</i> filed by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation. (Attachments: # <u>1</u> Declaration of Adam M. Greenfield, # <u>2</u> Greenfield Decl. Ex. M, # <u>3</u> Greenfield Decl. Ex. N, # <u>4</u> Greenfield Decl. Ex. O, # <u>5</u> Greenfield Decl. Ex. P)(Zinsner, Mary) (Entered: 04/07/2015)
04/07/2015	<u>249</u>	RESPONSIVE BRIEF <i>On Claim Construction</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC re <u>212</u> Opening Brief., <i>On Claim Construction</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Affidavit J. Armstrong, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E)(Armstrong, Jeremiah) (Entered: 04/07/2015)
04/09/2015	<u>254</u>	REDACTED DOCUMENT to 222 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>255</u>	REDACTED DOCUMENT to 219 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>256</u>	REDACTED DOCUMENT to 220 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>257</u>	REDACTED DOCUMENT to 219 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>258</u>	REDACTED DOCUMENT to 217 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Adam Greenfield Declaration, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Proposed Order re Motion to Strike)(Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>259</u>	REDACTED DOCUMENT to 218 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit 3, # <u>2</u> Exhibit 4, # <u>3</u> Exhibit 5, # <u>4</u> Exhibit 6, # <u>5</u> Exhibit 9, # <u>6</u> Exhibit 12)(Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>260</u>	REDACTED DOCUMENT to 217 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Adam Greenfield, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E)(Zinsner, Mary) (Entered: 04/09/2015)
04/09/2015	<u>261</u>	REDACTED DOCUMENT to 221 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Jeremiah Armstrong, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17, # <u>19</u> Exhibit 18, # <u>20</u> Exhibit 19, # <u>21</u> Exhibit 20, # <u>22</u> Exhibit 21, # <u>23</u> Exhibit 22, # <u>24</u> Exhibit 23, # <u>25</u> Exhibit 24, # <u>26</u> Exhibit 25, # <u>27</u> Exhibit 26, # <u>28</u> Exhibit 27, # <u>29</u> Exhibit 28, # <u>30</u> Exhibit 29)(Zinsner, Mary) (Entered: 04/09/2015)

04/09/2015	<u>262</u>	REDACTED DOCUMENT to 216 Order on Motion to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Jeremiah Armstrong, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Exhibit 11, # <u>13</u> Exhibit 12, # <u>14</u> Exhibit 13, # <u>15</u> Exhibit 14, # <u>16</u> Exhibit 15, # <u>17</u> Exhibit 16, # <u>18</u> Exhibit 17, # <u>19</u> Exhibit 18, # <u>20</u> Exhibit 19, # <u>21</u> Exhibit 20, # <u>22</u> Exhibit 21, # <u>23</u> Exhibit 22, # <u>24</u> Exhibit 23, # <u>25</u> Exhibit 24, # <u>26</u> Exhibit 25, # <u>27</u> Exhibit 26, # <u>28</u> Exhibit 27, # <u>29</u> Exhibit 28, # <u>30</u> Exhibit 29, # <u>31</u> Exhibit 30)(Zinsner, Mary) (Entered: 04/09/2015)
04/13/2015	<u>263</u>	Summons Reissued as to Invention Investment Fund II, LLC. (jf2s, Deputy Clerk) (Entered: 04/13/2015)
04/13/2015	<u>264</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association of <i>Joint Appendix to Capital One's Motion for Summary Judgment of Invalidity Under 35 U.S.C. § 101 and IV's Cross-Motion for Partial Summary Judgment of Patent Eligibility Under 25 U.S.C. § 101</i> (Zinsner, Mary) (Entered: 04/13/2015)
04/13/2015	<u>265</u>	SPECIAL MASTER STATUS REPORT AND RECOMMENDED SCHEDULING ORDER. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit)(rv1, Special Master) Modified on 4/14/2015 (jf2s, Deputy Clerk). (Entered: 04/13/2015)
04/15/2015	<u>266</u>	MOTION to Appear Pro Hac Vice for Megan C. Rahman (Filing fee \$ 50, receipt number 0416-5330499.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Reza, Syed) (Entered: 04/15/2015)
04/15/2015	<u>267</u>	MOTION to Appear Pro Hac Vice for Robert E. Freitas (Filing fee \$ 50, receipt number 0416-5330507.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Bolton, Bryan) (Entered: 04/15/2015)
04/15/2015	<u>268</u>	MOTION to Appear Pro Hac Vice for Daniel J. Weinberg (Filing fee \$ 50, receipt number 0416-5330540.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Bolton, Bryan) (Entered: 04/15/2015)
04/15/2015	269	PAPERLESS ORDER granting <u>266</u> Motion to Appear Pro Hac Vice on behalf of Megan C Rahman. Directing attorney Megan C Rahman to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 4/15/2015. (bu, Deputy Clerk) (Entered: 04/15/2015)
04/15/2015	<u>270</u>	MOTION to Appear Pro Hac Vice for Rachel B. Kinney (Filing fee \$ 50, receipt number 0416-5330558.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Bolton, Bryan) (Entered: 04/15/2015)
04/15/2015	<u>271</u>	QC NOTICE: <u>267</u> Motion to Appear Pro Hac Vice filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC needs to be modified. See attachment for details and corrective actions needed regarding the signature(s) on the motion. (bu, Deputy Clerk) (Entered: 04/15/2015)
04/15/2015	<u>272</u>	QC NOTICE: <u>268</u> Motion to Appear Pro Hac Vice filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC needs to be modified. See attachment for details and corrective actions needed regarding the signature(s) on the motion. (bu, Deputy Clerk) (Entered: 04/15/2015)
04/15/2015	<u>273</u>	QC NOTICE: <u>270</u> Motion to Appear Pro Hac Vice filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC needs to be modified. See attachment for details and corrective actions needed regarding the signature(s) on the motion. (bu, Deputy Clerk) (Entered: 04/15/2015)
04/17/2015	<u>274</u>	RECOMMENDED SCHEDULING ORDER for Antitrust Portion of Case. Signed by Judge Paul W. Grimm on 4/16/2015. (jf2s, Deputy Clerk) (Entered: 04/17/2015)
04/20/2015	<u>275</u>	CORRECTED MOTION to Appear Pro Hac Vice for Robert E. Freitas by Intellectual Ventures I LLC, Intellectual Ventures II LLC. The fee has already been paid.(Bolton, Bryan) (Entered: 04/20/2015)

04/20/2015	<u>276</u>	CORRECTED MOTION to Appear Pro Hac Vice for Daniel J. Weinberg by Intellectual Ventures I LLC, Intellectual Ventures II LLC. The fee has already been paid.(Bolton, Bryan) (Entered: 04/20/2015)
04/20/2015	<u>277</u>	CORRECTED MOTION to Appear Pro Hac Vice for Rachel B. Kinney by Intellectual Ventures I LLC, Intellectual Ventures II LLC. The fee has already been paid.(Bolton, Bryan) (Entered: 04/20/2015)
04/20/2015	278	PAPERLESS ORDER granting <u>276</u> Corrected Motion to Appear Pro Hac Vice on behalf of Daniel J Weinberg. Directing attorney Daniel J Weinberg to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 4/20/2015. (bu, Deputy Clerk) (Entered: 04/20/2015)
04/20/2015	279	PAPERLESS ORDER granting <u>277</u> Corrected Motion to Appear Pro Hac Vice on behalf of Rachel B Kinney. Directing attorney Rachel B Kinney to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 4/20/2015. (bu, Deputy Clerk) (Entered: 04/20/2015)
04/20/2015	280	PAPERLESS ORDER granting <u>275</u> Corrected Motion to Appear Pro Hac Vice on behalf of Robert E Freitas. Attorney Robert E Freitas will receive a separate email with the previously issued CM/ECF login and password. Signed by Clerk on 4/20/2015. (bu, Deputy Clerk) (Entered: 04/20/2015)
04/20/2015	<u>281</u>	REPLY to Response to Motion re <u>225</u> MOTION to Dismiss for Failure to State a Claim filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Exhibit 1)(McCabe, Michael) (Entered: 04/20/2015)
04/21/2015	<u>282</u>	REPLY to Response to Motion re <u>225</u> MOTION to Dismiss for Failure to State a Claim (<i>CORRECTED</i>) filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Exhibit 1)(Bolton, Bryan) (Entered: 04/21/2015)
04/21/2015	<u>283</u>	SUMMONS Returned Executed by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation. Invention Investment Fund I, L.P. served on 4/7/2015, answer due 4/28/2015. (Zinsner, Mary) Modified on 4/22/2015 (jf2s, Deputy Clerk). (Entered: 04/21/2015)
04/21/2015	<u>284</u>	SUMMONS Returned Executed by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation. Intellectual Ventures Management, LLC served on 4/7/2015, answer due 4/28/2015. (Zinsner, Mary) Modified on 4/22/2015 (jf2s, Deputy Clerk). (Entered: 04/21/2015)
04/21/2015	<u>285</u>	SUMMONS Returned Executed by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation. Invention Investment Fund II, LLC served on 4/13/2015, answer due 5/4/2015. (Zinsner, Mary) (Entered: 04/21/2015)
04/22/2015		Set/Reset Deadlines: Invention Investment Fund I, L.P. answer due 4/28/2015; Intellectual Ventures Management, LLC answer due 4/28/2015. (jf2s, Deputy Clerk) (Entered: 04/22/2015)
04/22/2015		Set/Reset Deadlines: Invention Investment Fund II, LLC answer due 5/4/2015. (jf2s, Deputy Clerk) (Entered: 04/22/2015)
04/23/2015	<u>286</u>	-SEALED- ORDER of Special Master Resolving Discovery Motions. Signed by Special Master Raphael V. Lupo on 4/23/2015. (c/s 4/29/15 jf2s, Deputy Clerk) Modified on 4/29/2015 (jf2s, Deputy Clerk). (Entered: 04/23/2015)
04/23/2015	<u>287</u>	Consent MOTION for Coordinated Response Date by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC Responses due by 5/11/2015 (Attachments: # <u>1</u> Text of Proposed Order)(McCabe, Michael) (Entered: 04/23/2015)
04/23/2015	<u>288</u>	Sealed Supplemental – Exhibits to <u>286</u> Sealed Order. (Attachments: # <u>1</u> Exhibit B, # <u>2</u> Exhibit C, # <u>3</u> Exhibit D)(jf2s, Deputy Clerk) (Entered: 04/24/2015)
04/24/2015	<u>289</u>	ORDER granting <u>287</u> the Consent Motion for Coordinated Response; directing the Newly Joined Counter-Defendants to answer, plead, or otherwise respond to the Third-Party Complaint on or before May 8, 2015. Signed by Judge Paul W. Grimm on

		4/24/2015. (jf2s, Deputy Clerk) (Entered: 04/24/2015)
04/29/2015	<u>290</u>	–SEALED–DECISION AND ORDER OF SPECIAL MASTER Regarding Plaintiffs' Request for Special Master to Intervene and Compel Third Party IBM to Promptly Produce Relevant Documents. Signed by Raphael V. Lupo, Special Master on 4/29/2015. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(c/s on 4/29/15 jf2s, Deputy Clerk) (Entered: 04/29/2015)
04/29/2015	<u>291</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association of <i>Supplemental Authority in Support of Their Motion for Summary Judgment of Invalidity Under 35 U.S.C. 101, Notice of Request for Consent Judgment Based on Issue Preclusion, and Request for Stay Regarding the '409 and '084 Patents</i> (Attachments: # <u>1</u> Exhibit A)(Zinsner, Mary) (Entered: 04/29/2015)
05/01/2015	<u>292</u>	PAPERLESS ORDER GRANTING Special Master Lupo's request for a thirty–day extension of the deadline for filing his Report and Recommendation on the cross–motions for summary judgment with respect to the '409 and '084 patents, to give the parties an opportunity to address the impact of the recent SDNY decision, and particularly Capital One's assertion in this case that issue preclusion requires judgment in its favor with respect to these two patents. Discovery also is stayed for thirty days with regard to the '409 and '084 patents. Signed by Judge Paul W. Grimm on 5/1/2015. (lyb)(Grimm, Paul) (Entered: 05/01/2015)
05/05/2015	<u>293</u>	PUBLIC VERSION OF 4/23/15 DISCOVERY ORDER OF SPECIAL MASTER. (Attachments: # <u>1</u> Public Version Exh. A, # <u>2</u> Public Version Exh. B, # <u>3</u> Public Version Exh. C, # <u>4</u> Public Version Exh. D)(rvl, Special Master) (Entered: 05/05/2015)
05/05/2015	<u>294</u>	Supplemental Discovery Order (rvl, Special Master) (Entered: 05/05/2015)
05/05/2015	<u>295</u>	SPECIAL MASTER'S ORDER REGARDING BRIEFING ON ISSUE PRECLUSION (rvl, Special Master) (Entered: 05/05/2015)
05/08/2015	<u>296</u>	MOTION to Dismiss for Failure to State a Claim by Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC Responses due by 5/26/2015 (Attachments: # <u>1</u> Memorandum in Support of Motion to Dismiss Capital One's Third Party Complaint, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Text of Proposed Order)(Freitas, Robert) (Entered: 05/08/2015)
05/11/2015	<u>297</u>	Memorandum re <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101 with Respect to the '409 and '084 Patents Based on Issue Preclusion</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit A)(Zinsner, Mary) (Entered: 05/11/2015)
05/12/2015	<u>298</u>	REPORT AND RECOMMENDATION OF SPECIAL MASTER (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(rvl, Special Master) (Entered: 05/12/2015)
05/14/2015	<u>299</u>	PUBLIC VERSION OF 4/29/2015 ORDER OF SPECIAL MASTER (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(rvl, Special Master) (Entered: 05/14/2015)
05/18/2015	<u>300</u>	RESPONSE in Opposition re <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101 With Respect to the '409 and '084 Patents Based on Issue Preclusion</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Replies due by 6/4/2015. (Armstrong, Jeremiah) (Entered: 05/18/2015)
05/19/2015	<u>301</u>	THE SPECIAL MASTER'S ORDER REGARDING CAPITAL ONE'S MOTION FOR RECONSIDERATION OF THE SPECIAL MASTER'S DISCOVERY ORDER DATED APRIL 23, 2015 (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(rvl, Special Master) (Entered: 05/19/2015)
05/20/2015	<u>302</u>	SPECIAL MASTER'S MAY 20, 2015 STATUS REPORT (rvl, Special Master) (Entered: 05/20/2015)
05/22/2015	<u>303</u>	REPLY to Response to Motion re <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101 With Respect to the '409 and '084 Patents Based on Issue</i>

		<i>Preclusion</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 05/22/2015)
05/26/2015	<u>304</u>	RESPONSE in Opposition re <u>296</u> MOTION to Dismiss for Failure to State a Claim (<i>Public Version</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Replies due by 6/12/2015. (Attachments: # <u>1</u> Declaration of Alan J. Devlin, # <u>2</u> Devlin Decl. – Ex. A, # <u>3</u> Devlin Decl. – Ex. B)(Zinsner, Mary) (Entered: 05/26/2015)
05/26/2015	<u>305</u>	–SEALED–RESPONSE in Opposition re <u>296</u> MOTION to Dismiss for Failure to State a Claim filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Replies due by 6/12/2015. (Zinsner, Mary) (Entered: 05/26/2015)
05/26/2015	<u>306</u>	MOTION to Seal <i>Capital One's Opposition to Third–Party Defendants' Motion to Dismiss Capital One's Third–Party Complaint</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 6/12/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 05/26/2015)
05/26/2015	<u>307</u>	RESPONSE re <u>298</u> REPORT AND RECOMMENDATION OF SPECIAL MASTER (<i>Capital One Defendants' Objections to the Report and Recommendation of the Special Master</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) Modified on 5/27/2015 (jf2s, Deputy Clerk). (Entered: 05/26/2015)
05/29/2015	<u>308</u>	Joint MOTION for Protective Order <i>Addendum</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 6/15/2015 (Attachments: # <u>1</u> Exhibit A)(Armstrong, Jeremiah) (Entered: 05/29/2015)
06/03/2015	<u>309</u>	PROTECTIVE ORDER ADDENDUM. Signed by Judge Paul W. Grimm on 6/3/2015. (Attachments: # <u>1</u> Attachment 1) (jf2s, Deputy Clerk) (Entered: 06/03/2015)
06/08/2015	<u>310</u>	RESPONSE re <u>286</u> Order on Motion to Compel, Order on Motion to Strike, <u>301</u> Docket Annotation (<i>Capital One Defendants' Objection to Special Master's Decision Regarding Limitations on Prior Art</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Michelle P. Woodhouse, # <u>2</u> Woodhouse Decl. – Ex. A, # <u>3</u> Woodhouse Decl. – Ex. B, # <u>4</u> Woodhouse Decl. – Ex. C, # <u>5</u> Woodhouse Decl. – Ex. D, # <u>6</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 06/08/2015)
06/09/2015	<u>311</u>	Correspondence re: Request for Partial Stay of Special Master's Report & Recommendation Due June 11, 2015 (Reza, Syed) (Entered: 06/09/2015)
06/09/2015	<u>312</u>	Correspondence re: Intellectual Ventures' Opposition to Capital One's Request for Partial Stay of Special Master's Report & Recommendation Due June 11, 2015 (Armstrong, Jeremiah) (Entered: 06/09/2015)
06/09/2015	<u>313</u>	RESPONSE re <u>307</u> Response, <i>Intellectual Ventures' Response to Defendants' Objections to the Report and Recommendation of the Special Master</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Belloli, Marc) (Entered: 06/09/2015)
06/09/2015	314	PAPERLESS ORDER DENYING Defendants' request to stay the Special Master's Report and Recommendation as to the last two patents. I have reviewed the parties' filings, <u>311</u> and <u>312</u> , and a conference call is not necessary. Signed by Judge Paul W. Grimm on 6/9/2015. (Grimm, Paul) (lyb) (Entered: 06/09/2015)
06/11/2015	<u>315</u>	June 11, 2015 Report and Recommendation of Special Master (rv1, Special Master) (Entered: 06/11/2015)
06/12/2015	<u>316</u>	REPLY to Response to Motion re <u>296</u> MOTION to Dismiss for Failure to State a Claim filed by Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. (Freitas, Robert) (Entered: 06/12/2015)
06/16/2015	<u>317</u>	MOTION to Withdraw of <i>Patricia Ann Dyck as Pro Hac Vice Counsel for Plaintiffs</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures

		Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC Responses due by 7/6/2015 (Attachments: # <u>1</u> Text of Proposed Order)(McCabe, Michael) (Entered: 06/16/2015)
06/19/2015	<u>318</u>	Correspondence re: Request for Stay of Discovery Regarding the '409 and '084 Patents (Zinsner, Mary) (Entered: 06/19/2015)
06/19/2015	<u>319</u>	RESPONSE re <u>307</u> Response, <u>313</u> Response, (<i>Capital One Defendants' Reply in Support of Their Objections to the Report and Recommendation of the Special Master</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 06/19/2015)
06/22/2015	<u>320</u>	Correspondence re: Intellectual Ventures' Response to Capital One's Request for Stay of Discovery Regarding the '409 and '084 Patents (Belloli, Marc) (Entered: 06/22/2015)
06/22/2015	<u>321</u>	JUNE 22, 2015 SUPPLEMENTAL DISCOVERY ORDER OF SPECIAL MASTER REGARDING THE '409 and '084 PATENTS. (Attachments: # <u>1</u> Exhibit)(rvl, Special Master) (Entered: 06/22/2015)
06/22/2015	<u>322</u>	RESPONSE re <u>310</u> Response., <i>Intellectual Ventures' Response to Capital One's Objection to Special Master's Decision Regarding Limitations on Prior Art</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Affidavit J. Armstrong, # <u>2</u> Exhibit 1)(Armstrong, Jeremiah) (Entered: 06/22/2015)
06/25/2015	<u>323</u>	PAPERLESS ORDER GRANTING <u>317</u> Motion to Withdraw of Patricia Ann Dyck as Pro Hac Vice Counsel for Plaintiffs. Signed by Judge Paul W. Grimm on 6/25/2015. (at, Chambers) (Entered: 06/25/2015)
06/25/2015	<u>324</u>	RESPONSE re <u>315</u> Docket Annotation <i>Capital One Defendants' Objections to the Report and Recommendation of the Special Master Regarding Invalidity of the '409 and '084 Patents Under 35 U.S.C. § 101</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 06/25/2015)
06/25/2015	<u>325</u>	RESPONSE re <u>315</u> Docket Annotation <i>Intellectual Ventures Objections to the Report and Recommendation of the Special Master Concerning the '409 and '084 Patents</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Belloli, Marc) (Entered: 06/25/2015)
06/26/2015	<u>326</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>307</u> Response, <u>147</u> MOTION for Summary Judgment of <i>Invalidity Under 35 U.S.C. § 101 of Supplemental Authority</i> (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 06/26/2015)
06/29/2015	<u>327</u>	.June 29, 2015 Supplemental Order of Special Master Extending Contentions Deadlines Pursuant to Parties' Joint Request (rvl, Special Master) (Entered: 06/29/2015)
07/01/2015	<u>328</u>	MEMORANDUM OPINION AND ORDER denying <u>225</u> Motion to Dismiss; granting <u>243</u> Motion to Seal; setting briefing schedule; The Motion to Strike (ECF No. 225) remains pending. Signed by Judge Paul W. Grimm on 7/1/2015. (ca2s, Deputy Clerk) (Entered: 07/01/2015)
07/02/2015	<u>329</u>	RESPONSE re <u>310</u> Response., <u>322</u> Response, (<i>Capital One Defendants' Reply in Support of its Objection to Special Master's Decision Regarding Limitations on Prior Art</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 07/02/2015)
07/02/2015	<u>330</u>	RESPONSE re <u>324</u> Response, <i>Intellectual Ventures' Response to Capital One Defendants' Objections to the Report and Recommendation of the Special Master Regarding Invalidity of the '409 and '084 Patents Under 35 U.S.C. § 101</i> filed by Intellectual Ventures I LLC. (Armstrong, Jeremiah) (Entered: 07/02/2015)
07/08/2015	<u>331</u>	Request for Hearing re <u>324</u> Response, <u>307</u> Response, – <i>Capital One Defendants' Request for Hearing on their Objections to the Special Master's Report and</i>

		<i>Recommendations Regarding Invalidity Under 35 U.S.C. § 101.</i> (Zinsner, Mary) (Entered: 07/08/2015)
07/09/2015	<u>332</u>	July 9, 2015 Special Master's Status Report (rvl, Special Master) (Entered: 07/09/2015)
07/09/2015	<u>333</u>	PAPERLESS ORDER SCHEDULING re <u>331</u> Request for Hearing on August 27, 2015 at 1:00pm. Each party will have forty-five(45) minutes to present their argument and fifteen(15) minutes each for rebuttal. Signed by Judge Paul W. Grimm on 7/9/2015. (at, Chambers) (Entered: 07/09/2015)
07/13/2015	<u>334</u>	ORDER SETTING CLAIM CONSTRUCTION HEARING (rvl, Special Master) (Entered: 07/13/2015)
07/13/2015	<u>335</u>	Reply re <u>324</u> Response, (<i>Capital One Defendants' Reply in Support of Their Objections to the Report and Recommendation of the Special Master Regarding Invalidity of the '409 and '084 Patents Under 35 U.S.C. § 101</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) Modified on 7/14/2015 (bu, Deputy Clerk). (Entered: 07/13/2015)
07/13/2015	<u>336</u>	RESPONSE re <u>325</u> Response, (<i>Capital One Defendants' Response to Intellectual Venture's Objections to the Report and Recommendation of the Special Master Regarding Invalidity of the '409 and '084 Patents Under 35 U.S.C. § 101</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 07/13/2015)
07/13/2015	<u>337</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>307</u> Response, (<i>Notice of Supplemental Authority in Support of Their Motion for Summary Judgment of Invalidity Under 35 U.S.C. § 101 and Their Objections to the Special Master's R&R</i>) (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 07/13/2015)
07/16/2015	<u>338</u>	–SEALED–ORDER. Signed by Raphael V. Lupo, Special Master on 7/15/2015. (Attachments: # <u>1</u> Attachment A, # <u>2</u> Attachment B, # <u>3</u> Attachment C)(c/s 7/16/2015 SM/aos, Deputy Clerk) Modified on 7/16/2015 (aos, Deputy Clerk). (Entered: 07/16/2015)
07/22/2015	<u>339</u>	RESPONSE re <u>328</u> Memorandum and Order, Order on Motion to Seal (<i>Public Redacted Version</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Alan J. Devlin, # <u>2</u> Devlin Decl. Ex. A, # <u>3</u> Devlin Decl. Ex. B – Notice of Filing Document Under Seal, # <u>4</u> Devlin Decl. Ex. C – Notice of Filing Document Under Seal, # <u>5</u> Devlin Decl. Ex. D – Notice of Filing Document Under Seal)(Zinsner, Mary) (Entered: 07/22/2015)
07/22/2015	<u>340</u>	–SEALED – NOTICE of Filing Under Seal Capital One Counterclaimants' Brief in Response to the Court's July 1, 2015 Order and Exhibits B, C, and D to the Declaration of Alan J. Devlin by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>339</u> Response,, (Attachments: # <u>1</u> Devlin Decl. Ex. B, # <u>2</u> Devlin Decl. Ex. C, # <u>3</u> Devlin Decl. Ex. D)(Zinsner, Mary) (Entered: 07/22/2015)
07/22/2015	<u>341</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 8/10/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 07/22/2015)
07/23/2015	<u>342</u>	PAPERLESS ORDER RESCHEDULING Hearing to August 20, 2015 at 1:00pm. Each party will have forty-five(45) minutes to present their argument and fifteen(15) minutes each for rebuttal. Signed by Judge Paul W. Grimm on 7/23/2015. (at, Chambers) (Entered: 07/23/2015)
07/23/2015	<u>343</u>	–SEALED–ORDER. Signed by Raphael V. Lupo, Special Master on 7/22/2015. (Attachments: # <u>1</u> Attachment A, # <u>2</u> Attachment B, # <u>3</u> Attachment C)(c/s 7/22/2015 SM/aos, Deputy Clerk) (Entered: 07/23/2015)
07/23/2015	<u>344</u>	RESPONSE re <u>325</u> Response, <u>315</u> Docket Annotation <i>Intellectual Ventures Reply in Support of It's Objections to the Report and Recommendation of the Special Master</i>

		<i>Concerning the 409 and 084 Patents</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Belloli, Marc) (Entered: 07/23/2015)
07/27/2015	<u>345</u>	–SEALED–ORDER. Signed by Signed by Raphael V. Lupo, Special Master on 7/27/2015. (Attachments: # <u>1</u> Attachment A, # <u>2</u> Attachment B)(aos, Deputy Clerk) (Entered: 07/27/2015)
07/28/2015	<u>346</u>	MOTION to Appear Pro Hac Vice for Vinay Malik (Filing fee \$ 50, receipt number 0416–5518069.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 07/28/2015)
07/28/2015	<u>347</u>	MOTION to Appear Pro Hac Vice for Nickolas Bohl (Filing fee \$ 50, receipt number 0416–5518096.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC (McCabe, Michael) (Entered: 07/28/2015)
07/29/2015	<u>348</u>	PUBLIC VERSION OF JULY 22, 2015 ORDER OF SPECIAL MASTER. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(rvl, Special Master) (Entered: 07/29/2015)
07/29/2015	349	PAPERLESS ORDER granting <u>346</u> Motion to Appear Pro Hac Vice on behalf of Vinay Malik. Directing attorney Vinay Malik to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 7/29/2015. (bu, Deputy Clerk) (Entered: 07/29/2015)
07/29/2015	350	PAPERLESS ORDER granting <u>347</u> Motion to Appear Pro Hac Vice on behalf of Nickolas Bohl. Directing attorney Nickolas Bohl to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 7/29/2015. (bu, Deputy Clerk) (Entered: 07/29/2015)
07/30/2015	<u>351</u>	PUBLIC VERSION OF JULY 15 ORDER OF SPECIAL MASTER. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(rvl, Special Master) (Entered: 07/30/2015)
07/30/2015	<u>352</u>	MOTION to Withdraw of <i>Ethan Y. Park as Pro Hac Vice Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 8/17/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 07/30/2015)
07/30/2015	<u>353</u>	SUPPLEMENTAL ORDER OF SPECIAL MASTER EXTENDING DEADLINES (rvl, Special Master) (Entered: 07/30/2015)
08/03/2015	354	PAPERLESS ORDER GRANTING <u>352</u> Motion to Withdraw Ethan Y. Park as Pro Hac Vice Counsel for Defendants by Capital One Bank. Signed by Judge Paul W. Grimm on 8/3/2015. (at, Chambers) (Entered: 08/03/2015)
08/06/2015	<u>355</u>	MOTION to Seal <i>Exhibits C–F to the Declaration of Daniel J. Weinberg In Support of Counter–Defendants' Objection the Order of Special Master Compelling Response to Counterclaimants' Antitrust Interrogatory 2</i> by Intellectual Ventures I LLC Responses due by 8/24/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Freitas, Robert) (Entered: 08/06/2015)
08/06/2015	<u>356</u>	RESPONSE re <u>351</u> Docket Annotation <i>Counter–Defendants Objection To The Order Of Special Master Compelling Response To Counterclaimants Antitrust Interrogatory 2</i> filed by Intellectual Ventures I LLC. (Attachments: # <u>1</u> Affidavit Declaration of Daniel J. Weinberg, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Errata C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F)(Freitas, Robert) (Entered: 08/06/2015)
08/06/2015	<u>357</u>	–SEALED – NOTICE of Filing Under Seal Exhibits C–F to the Declaration of Daniel J. Weinberg in Support of Counter–Defendants' objection to the Order of Special Master Compelling Response to Counterclaimants' Antitrust Interrogatory 2 by Intellectual Ventures I LLC re <u>356</u> Response, (Attachments: # <u>1</u> Exhibit C, # <u>2</u> Exhibit D, # <u>3</u> Exhibit E, # <u>4</u> Exhibit F, # <u>5</u> Certificate of Service)(Freitas, Robert) (Entered: 08/06/2015)
08/10/2015	<u>358</u>	Joint MOTION to Amend/Correct <u>96</u> Protective/Confidentiality Order <i>Joint Motion to Modify Protective Order</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 8/27/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Reza, Syed) (Entered: 08/10/2015)

08/11/2015	<u>359</u>	PUBLIC VERSION OF SPECIAL MASTER'S JULY 27, 2015 ORDER. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(rvl, Special Master) (Entered: 08/11/2015)
08/11/2015	<u>360</u>	ORDER to counsel. Signed by Judge Paul W. Grimm on 8/11/2015. (bu, Deputy Clerk) (Entered: 08/11/2015)
08/12/2015	<u>361</u>	MARGINAL ORDER granting <u>358</u> Joint Motion to Modify Protective Order. Signed by Judge Paul W. Grimm on 8/12/2015. (aos, Deputy Clerk) (Entered: 08/12/2015)
08/12/2015	<u>362</u>	RESPONSE re <u>339</u> Response,, <i>Reply to Capital One's Brief in Response to The Court's July 1, 2015 Order</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Freitas, Robert) (Entered: 08/12/2015)
08/13/2015	<u>363</u>	August 13, 2015 Special Master's Status Report. (rvl, Special Master) (Entered: 08/13/2015)
08/13/2015	<u>364</u>	NOTICE of Appearance by Andrew Jay Graham on behalf of Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Graham, Andrew) (Entered: 08/13/2015)
08/17/2015	<u>365</u>	Correspondence re: Court's August 11 Letter Order (Zinsner, Mary) (Entered: 08/17/2015)
08/18/2015	<u>366</u>	RESPONSE re <u>360</u> Order <i>Intellectual Ventures' Supplemental Brief Regarding The Eligibility Of The '002 And '081 Patents</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Belloli, Marc) (Entered: 08/18/2015)
08/18/2015	<u>367</u>	RESPONSE re <u>360</u> Order <i>dated August 11, 2015</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 08/18/2015)
08/20/2015	<u>368</u>	Oral Argument held on 8/20/2015 before Judge Paul W. Grimm. (Court Reporter: Cindy Davis (4B) (chs, Deputy Clerk) (Entered: 08/20/2015)
08/24/2015	<u>369</u>	RESPONSE re <u>356</u> Response, (<i>Public Redacted Version</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Christopher S. Yates, # <u>2</u> Yates Decl. Ex. 1, # <u>3</u> Yates Decl. Ex. 2, # <u>4</u> Yates Decl. Ex. 3 – Notice of Filing Document Under Seal, # <u>5</u> Yates Decl. Ex. 4 – Notice of Filing Document Under Seal, # <u>6</u> Yates Decl. Ex. 5 – Notice of Filing Document Under Seal, # <u>7</u> Yates Decl. Ex. 6 – Notice of Filing Document Under Seal, # <u>8</u> Yates Decl. Ex. 7 – Notice of Filing Document Under Seal)(Zinsner, Mary) (Entered: 08/24/2015)
08/24/2015	<u>370</u>	–SEALED – NOTICE of Filing Under Seal Capital One Counterclaimants' Response to Counter–Defendants' Objection to the Order of Special Master Lupo Compelling Response to Counterclaimants' Antitrust Interrogatory 2 & Exhibits 3–7 by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>369</u> Response,, (Attachments: # <u>1</u> Yates Decl. Ex. 3, # <u>2</u> Yates Decl. Ex. 4, # <u>3</u> Yates Decl. Ex. 5, # <u>4</u> Yates Decl. Ex. 6, # <u>5</u> Yates Decl. Ex. 7)(Zinsner, Mary) (Entered: 08/24/2015)
08/24/2015	<u>371</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/11/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/24/2015)
08/25/2015	<u>372</u>	MOTION to Withdraw as Attorney <i>Motion of Alan J. Devlin for Leave to Withdraw as Pro Hac Vice Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/11/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/25/2015)
08/25/2015	<u>373</u>	MOTION to Withdraw as Attorney <i>Motion of Marguerite M. Sullivan for Leave to Withdraw as Pro Hac Vice Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/11/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/25/2015)
08/27/2015	<u>374</u>	ORDER granting <u>372</u> Motion to Withdraw as Attorney. Attorney Alan J Devlin terminated. Signed by Judge Paul W. Grimm on 8/27/2015 (cags, Deputy Clerk)

		(Entered: 08/27/2015)
08/27/2015	<u>375</u>	ORDER GRANTING <u>373</u> Motion to Withdraw as Attorney. Attorney Marguerite M Sullivan terminated. Signed by Judge Paul W. Grimm on 8/27/2015. (hmls, Deputy Clerk) (Entered: 08/27/2015)
09/02/2015	<u>376</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on August 20, 2015, before Judge Grimm. Court Reporter/Transcriber Cindy Davis, Telephone number 301-344-3228. Total number of pages filed: 128. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 9/23/2015. Redacted Transcript Deadline set for 10/5/2015. Release of Transcript Restriction set for 12/1/2015. (cd, Court Reporter) (Entered: 09/02/2015)
09/02/2015	<u>377</u>	MEMORANDUM OPINION Signed by Judge Paul W. Grimm on 9/2/2015. (cags, Deputy Clerk) (Entered: 09/02/2015)
09/02/2015	<u>378</u>	ORDER The Special Masters Report and Recommendation as to the validity of United States Patent Nos. 7,984,081 (the 081 Patent) and 6,546,002 (the 002 Patent), ECF No. 298, IS ADOPTED with regard to its factual findings and IS REJECTED with regard to its conclusions of law'; The Motion for Summary Judgment of Invalidity under 35 U.S.C. § 101 that Defendants/Counterclaimants Capital One Financial Corp., Capital One Bank (USA), N.A., and Capital One, N.A. filed, ECF No. 147, IS GRANTED as to the 081 and 002 Patents only; The Cross-Motion for Partial Summary Judgment that Plaintiffs/Counter-Defendants Intellectual Ventures I LLC and Intellectual Ventures II LLC filed, ECF No. 169, IS DENIED as to the 081 and 002 Patents only. Signed by Judge Paul W. Grimm on 9/2/2015. (cags, Deputy Clerk) (Entered: 09/02/2015)
09/02/2015	<u>379</u>	PAPERLESS ORDER NOTIFYING the parties that, having reviewed the extensive briefing with regard to the '084 and '409 Patents and issue preclusion, see ECF Nos. 147, 169, 227, 246, 297, 298-1, 298-2, 300, 303, 324, 325, 330, 335, 336, and 344, as well as the Special Master's Report and Recommendation on the '084 and '409 Patents and issue preclusion, ECF No. 315, I find that no additional argument is necessary. See Loc. R. 105.6 ("Unless otherwise ordered by the Court,... all motions shall be decided on the memoranda without a hearing."). Signed by Judge Paul W. Grimm on 9/2/2015. (Grimm, Paul) (lyb) (Entered: 09/02/2015)
09/04/2015	<u>380</u>	ORDER OF SPECIAL MASTER VACATING DISCOVERY AND CONTENTION DEADLINES WITH RESPECT TO THE '081 AND '002 PATENTS AND VACATING CLAIM CONSTRUCTION HEARING DATE (rv1, Special Master) (Entered: 09/04/2015)
09/04/2015	<u>381</u>	MOTION to Withdraw as Attorney <i>Motion of Peter O. Schmidt for Leave to Withdraw as Pro Hac Vice Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/21/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/04/2015)
09/04/2015	<u>382</u>	MEMORANDUM OPINION and ORDER. Signed by Judge Paul W. Grimm on 9/4/2015. (aos, Deputy Clerk) (Entered: 09/04/2015)
09/04/2015	<u>383</u>	MOTION for Extension of Time <i>Unopposed Motion For One Day Extension Of Time To Reply To Capital One Counterclaimants Response (ECF No. 369)</i> by Intellectual Ventures I LLC Responses due by 9/21/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Freitas, Robert) (Entered: 09/04/2015)
09/04/2015	<u>384</u>	RESPONSE re <u>369</u> Response,, <i>Counter-Defendants Reply Brief In Support Of Their Objection To The Order Of Special Master Lupo Compelling Response To Counterclaimants Antitrust Interrogatory 2</i> filed by Intellectual Ventures I LLC. (Freitas, Robert) (Entered: 09/04/2015)
09/08/2015	<u>385</u>	ORDER granting <u>381</u> Motion to Withdraw as Attorney. Attorney Peter O Schmidt terminated. Signed by Judge Paul W. Grimm on 9/8/2015 (cags, Deputy Clerk) (Entered: 09/08/2015)
09/08/2015	<u>386</u>	ORDER granting <u>383</u> Motion for One Day Extension Of Time. Signed by Judge Paul W. Grimm on 9/8/2015 (cags, Deputy Clerk) (Entered: 09/08/2015)

09/08/2015	<u>387</u>	JUDGMENT is entered in favor of Defendants/Counterclaimants Capital One Financial Corp., Capital One Bank (USA), N.A., and Capital One, N.A. (collectively, "Capital One companies") and against Plaintiffs/Counter-Defendants Intellectual Ventures I LLC and Intellectual Ventures II LLC with respect to the Patent Claims only; The Capital One companies' Objection, ECF No. 310, to the Special Master's Decision Regarding Limitations On Prior Art, ECF No. 286, IS OVERRULED AS MOOT; Granting Motions to Seal ECF Nos. 229, 306, 341, 355, and 371. Signed by Judge Paul W. Grimm on 9/8/2015. (cags, Deputy Clerk) (Entered: 09/08/2015)
09/15/2015	<u>388</u>	Joint MOTION to Stay <i>Time for Filing of Bill of Costs and Motion for Attorneys' Fees</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 10/2/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/15/2015)
09/16/2015	<u>389</u>	ORDER granting <u>388</u> Joint MOTION to Stay Time for Filing of Bill of Costs and Motion for Attorneys' Fees. Signed by Judge Paul W. Grimm on 9/16/2015. (aos, Deputy Clerk) (Entered: 09/17/2015)
09/25/2015	<u>390</u>	-SEALED-ORDER of Special Master (Attachments: # <u>1</u> Sealed Attachment A, # <u>2</u> Sealed Attachment B, # <u>3</u> Sealed Attachment C, # <u>4</u> Sealed Attachment D, # <u>5</u> Sealed Attachment E, # <u>6</u> Sealed Attachment F)(c/m by chambers) (cags, Deputy Clerk) (Entered: 09/25/2015)
09/30/2015	<u>391</u>	PAPERLESS ORDER SCHEDULING TELEPHONE CONFERENCE on October 9,2015 at 3:00pm AND DIRECTING Plaintiff's counsel to initiate the call to chambers or establish a conference call number for the parties. Signed by Judge Paul W. Grimm on 9/30/2015. (at, Chambers) (Entered: 09/30/2015)
09/30/2015	<u>392</u>	LETTER ORDER. Signed by Judge Paul W. Grimm on 9/28/2015. (aos, Deputy Clerk) (Entered: 09/30/2015)
09/30/2015	<u>393</u>	September 30, 2015 Special Master's Status Report (rvl, Special Master) (Entered: 09/30/2015)
10/06/2015	<u>394</u>	NOTICE by Intellectual Ventures I LLC re <u>225</u> MOTION to Dismiss for Failure to State a Claim <i>Notice of Supplemental Authority in Support of Motion to Dismiss and/or Strike Antitrust Counterclaims</i> (Attachments: # <u>1</u> Exhibit A)(Weinberg, Daniel) (Entered: 10/06/2015)
10/08/2015	<u>395</u>	NOTICE OF APPEAL to the USCA for the Federal Circuit by Intellectual Ventures I LLC, Intellectual Ventures II LLC. Filing fee \$ 505, receipt number 0416-5642760. Appeal Record due by 11/12/2015. (Belloli, Marc) Modified on 10/13/2015 (krc, Deputy Clerk). (Entered: 10/08/2015)
10/08/2015	<u>396</u>	REDACTED DOCUMENT to <u>394</u> Notice (Other), by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 10/08/2015)
10/08/2015	<u>397</u>	-SEALED-RESPONSE re <u>394</u> Notice (Other), filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 10/08/2015)
10/08/2015	<u>398</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 10/26/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 10/08/2015)
10/09/2015	<u>399</u>	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals for the Federal Circuit re <u>395</u> Notice of Appeal. # <u>1</u> Transmittal Sheet to the USCA for the Federal Circuit) (krc, Deputy Clerk). Modified on 10/13/2015 (krc, Deputy Clerk). (Entered: 10/09/2015)
10/09/2015	<u>400</u>	PUBLIC VERSION OF 9/24/15 Order and Attachments. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit)(rvl, Special Master) (Entered: 10/09/2015)
10/09/2015		Telephone Conference held on 10/9/2015 before Judge Paul W. Grimm. (Court Reporter: N/A) (esp, Deputy Clerk) (Entered: 10/13/2015)

10/15/2015	<u>401</u>	NOTICE of Docketing Appeal from USCA FOR THE FEDERAL CIRCUIT re <u>395</u> Notice of Appeal, filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC. USCA Case Number 16-1077 (Attachment: # <u>1</u> Notice of Appeal)(krc, Deputy Clerk) (Entered: 10/16/2015)
10/16/2015	<u>402</u>	RESPONSE re <u>390</u> Order to the SM ESI Discovery Order filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. (Weinberg, Daniel) (Entered: 10/16/2015)
10/16/2015	<u>403</u>	RESPONSE re <u>402</u> Response, Exhibits to Declaration to Daniel J. Weinberg filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J)(Weinberg, Daniel) (Entered: 10/16/2015)
10/16/2015	<u>404</u>	RESPONSE re <u>403</u> Response, Proposed Order to Obj to SM Order of Set 24 filed by Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. (Weinberg, Daniel) (Entered: 10/16/2015)
10/16/2015	<u>405</u>	MOTION to Seal Exhibits B, C, D, E, F, G, H, I, and J by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC Responses due by 11/2/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 10/16/2015)
10/16/2015	<u>406</u>	-SEALED-RESPONSE in Opposition re <u>405</u> MOTION to Seal Exhibits B, C, D, E, F, G, H, I, and J filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. Replies due by 11/2/2015. (Attachments: # <u>1</u> Exhibit B, # <u>2</u> Exhibit C, # <u>3</u> Exhibit D, # <u>4</u> Exhibit E, # <u>5</u> Exhibit F, # <u>6</u> Exhibit G, # <u>7</u> Exhibit H, # <u>8</u> Exhibit I, # <u>9</u> Exhibit J)(Weinberg, Daniel) (Entered: 10/16/2015)
10/27/2015	<u>407</u>	October 27, 2015 Special Master's Status Report (rvl, Special Master) (Entered: 10/27/2015)
11/02/2015	<u>408</u>	RESPONSE re <u>402</u> Response, <u>390</u> Order (Public Version) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Declaration of Graham B. Rollins)(Zinsner, Mary) (Entered: 11/02/2015)
11/02/2015	<u>409</u>	-SEALED-RESPONSE re <u>402</u> Response, <u>390</u> Order filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Zinsner, Mary) (Entered: 11/02/2015)
11/02/2015	<u>410</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 11/19/2015 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 11/02/2015)
11/10/2015	<u>411</u>	MOTION to Vacate <u>387</u> Judgment,, on U.S. Patent Nos. 6,715,084 and 6,314,409 Pursuant to Federal Rule of Civil Procedure 60(b)(6) by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 11/27/2015 (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Armstrong, Jeremiah) (Entered: 11/10/2015)
11/12/2015	<u>412</u>	RESPONSE re <u>402</u> Response, Counter-Defendants' Reply Brief in Support of Their Objection to the Special Master's ESI Discovery Order filed by Intellectual Ventures I LLC. (Attachments: # <u>1</u> Affidavit Declaration of Daniel J. Weinberg, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C)(Freitas, Robert) (Entered: 11/12/2015)
11/17/2015	413	PAPERLESS ORDER NOTING that Plaintiffs' Motion to Vacate <u>411</u> was filed in violation of the Case Management Order <u>149</u> . Future filings that do not comply with the Case Management Order will be stricken. Defendants may respond to Plaintiffs' filing in fifteen pages or less, and Plaintiffs may file a reply, of five pages or less. The response and reply shall be filed in the times allowed by this Court's Local Rules. Signed by Judge Paul W. Grimm on 11/17/2015. (Grimm, Paul) (lyb) (Entered: 11/17/2015)

11/20/2015	<u>414</u>	STIPULATION <i>and Proposed Order Terminating the Appointment of Special Master</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC. (Attachments: # <u>1</u> Attachment A)(McCabe, Michael) (Entered: 11/20/2015)
11/24/2015	<u>415</u>	ORDER Terminating the Appointment of Special Master. Signed by Judge Paul W. Grimm on 11/23/2015. (bus, Deputy Clerk) (Entered: 11/24/2015)
11/25/2015	<u>416</u>	Agreed Proposed Modification to the Protective Order and Proposed Order Regarding Same (Attachments: # <u>1</u> Exhibit)(rvl, Special Master) (Entered: 11/25/2015)
11/30/2015	<u>417</u>	RESPONSE in Opposition re <u>411</u> MOTION to Vacate <u>387</u> Judgment,, <i>on U.S. Patent Nos. 6,715,084 and 6,314,409 Pursuant to Federal Rule of Civil Procedure 60(b)(6)</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Replies due by 12/17/2015. (Attachments: # <u>1</u> Declaration of Adam M. Greenfield, # <u>2</u> Greenfield Decl., Ex. 1, # <u>3</u> Greenfield Decl., Ex. 2, # <u>4</u> Greenfield Decl., Ex. 3)(Zinsner, Mary) (Entered: 11/30/2015)
12/09/2015	<u>418</u>	REPLY to Response to Motion re <u>411</u> MOTION to Vacate <u>387</u> Judgment,, <i>on U.S. Patent Nos. 6,715,084 and 6,314,409 Pursuant to Federal Rule of Civil Procedure 60(b)(6)</i> filed by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Attachments: # <u>1</u> Affidavit Jeremiah A. Armstrong, # <u>2</u> Exhibit A)(Armstrong, Jeremiah) (Entered: 12/09/2015)
12/17/2015	<u>419</u>	Request for Conference (Weinberg, Daniel) (Entered: 12/17/2015)
12/21/2015	<u>420</u>	Correspondence re: Response to IV's Request for Pre-Motion Conference Regarding Stay Pending Decision on Objection [ECF No. 419] (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Zinsner, Mary) (Entered: 12/21/2015)
12/22/2015	421	PAPERLESS ORDER SCHEDULING PRE MOTION / STATUS CONFERENCE on January 8, 2016 at 3:00pm AND DIRECTING Plaintiff's counsel to initiate the call to chambers or circulate a conference call number. Signed by Judge Paul W. Grimm on 12/22/2015. (ats, Chambers) (Entered: 12/22/2015)
12/23/2015	422	PAPERLESS ORDER: I have reviewed the Intellectual Ventures companies' request for conference <u>419</u> and the Capital One companies' response <u>420</u> . In order to expedite resolution of the issues, the parties will submit summaries of the essential elements of their positions regarding Special Master Lupo's September 25, 2015 ESI discovery order <u>390</u> in fifteen (15) pages or less, on or before January 5, 2016, and I will hold an in-court hearing after I have reviewed them. Until I have ruled on the Intellectual Ventures companies' objections, the January 5, 2016 production date that Mr. Lupo ordered is suspended. Each party will bring its in-house technical support staff or ESI consultant to the hearing. Signed by Judge Paul W. Grimm on 12/23/2015. (Grimm, Paul) (lyb) (Entered: 12/23/2015)
12/23/2015	423	PAPERLESS ORDER CANCELLING PRE MOTION / STATUS CONFERENCE on January 8, 2016 at 3:00pm. Signed by Judge Paul W. Grimm on 12/23/2015. (ats, Chambers) (Entered: 12/23/2015)
12/23/2015	<u>424</u>	LETTER ORDER denying <u>411</u> Motion to Vacate Final Judgment. Signed by Judge Paul W. Grimm on 12/23/2015. (bus, Deputy Clerk) (Entered: 12/23/2015)
12/23/2015	<u>425</u>	Agreed Modification to the Protective Order. Signed by Judge Paul W. Grimm on 12/23/2015. (bus, Deputy Clerk) (Entered: 12/23/2015)
01/05/2016	<u>426</u>	Supplemental to 422 Order,,, filed by Intellectual Ventures I LLC <i>Counter-Defendants' Summary of Essential Elements of Their Objection to The Special Master's ESI Discovery Order</i> . (Weinberg, Daniel) (Entered: 01/05/2016)
01/05/2016	<u>427</u>	RESPONSE re 422 Order,,, (<i>Public Redacted Version</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C – Notice of Filing Document Under Seal)(Zinsner, Mary) (Entered: 01/05/2016)
01/05/2016	<u>428</u>	–SEALED – NOTICE of Filing Under Seal Capital One Counterclaimants' Summary of Their Position Regarding Special Master Lupo's September 24, 2015 ESI Discovery Order and Exhibit C by Capital One Bank (USA), National Association, Capital One

		Financial Corporation, Capital One, National Association re <u>427</u> Response, (Attachments: # <u>1</u> Exhibit C)(Zinsner, Mary) (Entered: 01/05/2016)
01/05/2016	<u>429</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 1/22/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 01/05/2016)
01/07/2016	<u>430</u>	Letter Order Overruling <u>402</u> Objections to the Special Masters 09/24/2015 Order; granting <u>405</u> Motion to seal; granting <u>410</u> Motion to Seal. Signed by Judge Paul W. Grimm on 1/7/2016. (bus, Deputy Clerk) (Entered: 01/07/2016)
01/08/2016	<u>431</u>	PAPERLESS ORDER: As this case continues with discovery, the parties are reminded of the pre-motion conference procedure outlined in the Discovery Order governing this case [130-1]. Signed by Judge Paul W. Grimm on 1/7/2016. (Grimm, Paul) (lyb) (Entered: 01/08/2016)
01/14/2016	<u>432</u>	Memorandum Opinion and Order denying as moot <u>225</u> Motion to Strike; granting <u>362</u> Motion to Dismiss without prejudice; denying <u>296</u> Motion to Dismiss; granting <u>398</u> Motion to Seal; granting the original IV companies up to and including February 18, 2016 to file an amended answer; directing parties to submit any joint proposed modifications to the scheduling order by February 4, 2016. Signed by Judge Paul W. Grimm on 1/14/2016. (bus, Deputy Clerk) (Entered: 01/14/2016)
01/28/2016	<u>433</u>	Consent MOTION extend deadline to file answer <i>Consent Motion for Extending Time to Answer Third-Party Complaint</i> by Intellectual Ventures Management, LLC Responses due by 2/16/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 01/28/2016)
02/01/2016	<u>434</u>	ORDER granting <u>433</u> Consent Motion for Extending Time to Answer Third-Party Complaint. Signed by Judge Paul W. Grimm on 2/1/2016. (bmhs, Deputy Clerk) (Entered: 02/01/2016)
02/03/2016	<u>435</u>	<i>Third-Party Defendants'</i> ANSWER to <u>228</u> Third Party Complaint, by Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC.(Weinberg, Daniel) (Entered: 02/03/2016)
02/03/2016	<u>436</u>	-SEALED- <i>Third-Party Defendants'</i> ANSWER to <u>228</u> Third Party Complaint, by Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC.(Weinberg, Daniel) (Entered: 02/03/2016)
02/03/2016	<u>437</u>	MOTION to Seal <i>Third-Party Defendants' Motion to Seal</i> by Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC Responses due by 2/22/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 02/03/2016)
02/04/2016	<u>438</u>	AMENDED ANSWER to <u>1</u> Complaint,, COUNTERCLAIM against Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC by Capital One Bank (USA), National Association, Capital One, National Association, Capital One Financial Corporation. (Zinsner, Mary) (Entered: 02/04/2016)
02/04/2016	<u>439</u>	-SEALED - NOTICE of Filing Under Seal The Capital One Defendants' Fourth Amended Answer, Defenses, and Counterclaims to Original Complaint by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>438</u> Amended Answer to Complaint,, Counterclaim, (Zinsner, Mary) (Entered: 02/04/2016)
02/04/2016	<u>440</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 2/22/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 02/04/2016)
02/04/2016	<u>441</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC of <i>Joint Proposed Modification to the Scheduling Order</i> (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 02/04/2016)

02/09/2016	442	PAPERLESS ORDER SCHEDULING TELEPHONE CONFERENCE on February 17, 2016 at 9:00am AND DIRECTING Plaintiff's counsel to initiate the call to chambers or circulate a conference number to the parties. Signed by Judge Paul W. Grimm on 2/9/2016. (at, Chambers) (Entered: 02/09/2016)
02/10/2016	<u>443</u>	NOTICE OF DOCKETING IN USCA FOR THE FEDERAL CIRCUIT a petition for writ of mandamus filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC (krc, Deputy Clerk) (Entered: 02/11/2016)
02/17/2016	<u>444</u>	MODIFIED SCHEDULING ORDER Signed by Judge Paul W. Grimm on 2/17/2016. (cags, Deputy Clerk) (Entered: 02/17/2016)
02/18/2016	<u>445</u>	RESPONSE in Support re <u>438</u> Amended Answer to Complaint,, Counterclaim, <i>Plaintiffs' Answer to the Antitrust Counterclaims in Capital One's Fourth Amended Answer</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Weinberg, Daniel) (Entered: 02/18/2016)
02/18/2016	<u>446</u>	–SEALED–RESPONSE in Support re <u>438</u> Amended Answer to Complaint,, Counterclaim, <i>SEALED Plaintiffs' Answer to the Antitrust Counterclaims in Capital One' Fourth Amended Answer</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC. (Weinberg, Daniel) (Entered: 02/18/2016)
02/18/2016	<u>447</u>	MOTION to Seal <i>Plaintiffs' Answer to the Antitrust Counterclaims in Capital One's Fourth Amended Answer</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC Responses due by 3/7/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 02/18/2016)
03/10/2016	<u>448</u>	ORDER of USCA FOR THE FEDERAL CIRCUIT "DENYING" the petition for mandamus as to <u>395</u> Notice of Appeal, filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC (krcc, Deputy Clerk) (Entered: 03/10/2016)
03/11/2016	<u>449</u>	MOTION to Appear Pro Hac Vice for Jessica N. Leal (Filing fee \$ 50, receipt number 0416–5905860.) by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC (Attachments: # <u>1</u> Attachment A)(Bolton, Bryan) (Entered: 03/11/2016)
03/14/2016	450	PAPERLESS ORDER granting <u>449</u> Motion to Appear Pro Hac Vice on behalf of Jessica N Leal. Directing attorney Jessica N Leal to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 3/14/2016. (srd, Deputy Clerk) (Entered: 03/14/2016)
03/23/2016	<u>451</u>	ORDER of USCA FOR THE FEDERAL CIRCUIT "LIFTING" the stay. Appellees' response brief is due within 40 days of the date of filing of this order. The motion is "GRANTED." The appellants are directed to state in their reply brief that they are withdrawing the 409 patent as an issue in this appeal. The appellees may also state in their response brief that the issue has been withdrawn, re: <u>395</u> Notice of Appeal, filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC (krc, Deputy Clerk) (Entered: 03/24/2016)
04/05/2016	452	PAPERLESS ORDER granting <u>429</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/5/2016. (Grimm, Paul) (lyb) (Entered: 04/05/2016)
04/05/2016	453	PAPERLESS ORDER granting <u>437</u> Motion to Seal, given that it is unopposed, the relevant document contains confidential business information, and a redacted version has been filed. Signed by Judge Paul W. Grimm on 4/5/2016. (Grimm, Paul) (lyb) (Entered: 04/05/2016)
04/05/2016	454	PAPERLESS ORDER granting <u>440</u> Motion to Seal, given that it is unopposed, the relevant document contains confidential business information, and a redacted version has been filed. Signed by Judge Paul W. Grimm on 4/5/2016. (Grimm, Paul) (lyb) (Entered: 04/05/2016)
04/05/2016	455	PAPERLESS ORDER granting <u>447</u> Motion to Seal, given that it is unopposed, the relevant document contains confidential business information, and a redacted version has been filed. Signed by Judge Paul W. Grimm on 4/5/16. (Grimm, Paul) (lyb)

		(Entered: 04/05/2016)
04/27/2016	<u>456</u>	Correspondence re: Discovery (Zinsner, Mary) (Entered: 04/27/2016)
04/27/2016	<u>457</u>	Correspondence re: Discovery (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Weinberg, Daniel) (Entered: 04/27/2016)
04/28/2016	458	PAPERLESS ORDER SCHEDULING a discovery dispute call for Thursday, May 12, 2016, at 2 p.m. Plaintiff's counsel please will circulate a call-in number. Signed by Judge Paul W. Grimm on 4/28/16. (Grimm, Paul) (lyb) (Entered: 04/28/2016)
04/28/2016	<u>459</u>	Supplemental to <u>456</u> Miscellaneous Correspondence filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association . (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8)(Zinsner, Mary) (Entered: 04/28/2016)
04/28/2016	<u>460</u>	MOTION to Seal <i>Exhibits to Correspondence Regarding Discovery</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 5/16/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 04/28/2016)
04/28/2016	<u>461</u>	-SEALED - NOTICE of Filing Under Seal Sealed Exhibits to Correspondence Regarding Discovery by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>459</u> Supplemental, (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 5, # <u>5</u> Exhibit 7)(Zinsner, Mary) (Entered: 04/28/2016)
05/04/2016	<u>462</u>	Correspondence re: Discovery (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Zinsner, Mary) (Entered: 05/04/2016)
05/11/2016	463	PAPERLESS ORDER ADVISING COUNSEL the conference call scheduled for May 12, 2016 will begin at 3:00pm. Signed by Judge Paul W. Grimm on 5/11/2016. (at, Chambers) (Entered: 05/11/2016)
05/11/2016	464	PAPERLESS ORDER ADVISING COUNSEL the conference call scheduled for May 12, 2016 IS CANCELLED. The call is RESCHEDULED to Monday May 16, 2016 at 3:30pm. COUNSEL for the Defendant is DIRECTED to circulate a conference call number to the parties. Signed by Judge Paul W. Grimm on 5/11/2016. (at, Chambers) (Entered: 05/11/2016)
05/13/2016	<u>465</u>	Correspondence re: Discovery (Zinsner, Mary) (Entered: 05/13/2016)
05/13/2016	<u>466</u>	Correspondence re: privilege issues (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Zinsner, Mary) (Entered: 05/13/2016)
05/13/2016	<u>467</u>	NOTICE of Appearance by William H. Rawson on behalf of Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Rawson, William) (Entered: 05/13/2016)
05/16/2016	<u>468</u>	MOTION to Appear Pro Hac Vice for Jessica E. Phillips (Filing fee \$ 50, receipt number 0416-6016597.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 05/16/2016)
05/16/2016	469	PAPERLESS ORDER granting <u>468</u> Motion to Appear Pro Hac Vice on behalf of Jessica E Phillips. Directing attorney Jessica E Phillips to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 5/16/2016. (srd, Deputy Clerk) (Entered: 05/16/2016)
05/16/2016	470	PAPERLESS ORDER DIRECTING Capital One to supplement within fourteen days its responses to Interrogatories 6 and 7 in accordance with the discussion in today's discovery dispute call. As for Intellectual Ventures's response to Document Production Request 9, the parties are to meet and confer in person, with their technical advisors present, to reach an agreement on how to search the Salesforce database in a fashion that is responsive to Document Production Request 9, and Intellectual Ventures is directed to complete production within fourteen days. Signed by Judge Paul W. Grimm on 5/16/2016. (Grimm, Paul) (lyb) (Entered: 05/16/2016)

05/23/2016	<u>471</u>	PAPERLESS ORDER MODIFYING <u>444</u> Scheduling Order as follows: (1) A status report is due at the close of all discovery on December 12, 2016; and (2) if the parties file cross-motions for summary judgment, they shall be briefed in accordance with this Court's Local Rule 105.2(c). Signed by Judge Paul W. Grimm on 5/23/16. (Grimm, Paul) (lyb) (Entered: 05/23/2016)
05/31/2016	<u>472</u>	Consent MOTION for Extension of Time <i>To Produce Database Extracts And Documents</i> by Intellectual Ventures I LLC Responses due by 6/17/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 05/31/2016)
06/01/2016	<u>473</u>	ORDER granting <u>472</u> Consent Motion for Extending Time to Produce Database Extracts and Documents. Signed by Judge Paul W. Grimm on 6/1/2016. (bus, Deputy Clerk) (Entered: 06/01/2016)
06/20/2016	<u>474</u>	Correspondence re: Requesting Teleconference Regarding Intellectual Ventures' Privilege Claims (Public Redacted Version) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2 – Notice of Filing Document Under Seal, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4 – Notice of Filing Document Under Seal, # <u>5</u> Exhibit 5 – Notice of Filing Document Under Seal, # <u>6</u> Exhibit 6 – Notice of Filing Document Under Seal, # <u>7</u> Exhibit 7 – Notice of Filing Document Under Seal, # <u>8</u> Exhibit 8 – Notice of Filing Document Under Seal, # <u>9</u> Appendix A – Notice of Filing Document Under Seal)(Zinsner, Mary) (Entered: 06/20/2016)
06/20/2016	<u>475</u>	–SEALED – NOTICE of Filing Under Seal Correspondence re: Requesting Teleconference Regarding Intellectual Ventures' Privilege Claims and Under Seal Exhibits by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>474</u> Miscellaneous Correspondence,, (Attachments: # <u>1</u> Exhibit 2, # <u>2</u> Exhibit 4, # <u>3</u> Exhibit 5, # <u>4</u> Exhibit 6, # <u>5</u> Exhibit 7, # <u>6</u> Exhibit 8, # <u>7</u> Appendix A)(Zinsner, Mary) (Entered: 06/20/2016)
06/20/2016	<u>476</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 7/8/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 06/20/2016)
06/21/2016	<u>477</u>	Correspondence re: Dispute Re Depositions (Freitas, Robert) (Entered: 06/21/2016)
06/22/2016	<u>478</u>	PAPERLESS ORDER SCHEDULING CONFERENCE CALL on June 30, 2016 at 2:00PM AND DIRECTING Defendant's counsel to initiate the call to chambers or circulate a conference call number to the parties. Signed by Judge Paul W. Grimm on 6/22/2016. (ats, Chambers) (Entered: 06/22/2016)
06/23/2016	<u>479</u>	Correspondence re: Discovery (Zinsner, Mary) (Entered: 06/23/2016)
06/24/2016	<u>480</u>	Correspondence re: Discovery (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Zinsner, Mary) (Entered: 06/24/2016)
06/29/2016	<u>481</u>	MOTION to Appear Pro Hac Vice for Kerry J. Dingle (Filing fee \$ 50, receipt number 0416-6104016.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 06/29/2016)
06/29/2016	<u>482</u>	MOTION to Withdraw as Attorney by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 7/18/2016 (Zinsner, Mary) (Entered: 06/29/2016)
06/30/2016	<u>483</u>	PAPERLESS ORDER granting <u>481</u> Motion to Appear Pro Hac Vice on behalf of Kerry J Dingle. Directing attorney Kerry J Dingle to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 6/30/2016. (srd, Deputy Clerk) (Entered: 06/30/2016)
06/30/2016	<u>484</u>	Telephone Conference held on 6/30/2016 before Judge Paul W. Grimm. (at, Chambers) (Entered: 06/30/2016)
06/30/2016	<u>485</u>	PAPERLESS ORDER: For the reasons stated on the record in the discovery dispute conference call this afternoon, which this Paperless Order memorializes, counsel (including senior counsel) for Intellectual Ventures shall review its privilege logs with regard to the 1373 documents for which privilege is disputed, examine each of those documents as to each element of the attorney-client privilege, and confirm to counsel for Capital One that the designation of attorney-client privilege is appropriate.

		Intellectual Ventures shall provide a factual basis for any continued assertion of attorney–client privilege by July 18, 2016 if any of its designations is disputed by Capital One. Counsel will provide me with a status report on this issue by July 29, 2016. Additionally, the parties shall brief the issue of bifurcation, with Capital One submitting an opening letter brief of five pages or less, single spaced, by July 5, 2016; Intellectual Ventures submitting an opposition letter of five pages or less, single spaced, by July 12, 2016; and Capital One submitting a reply letter of three pages or less, single spaced, by July 18, 2016. I will address the scope of the fact witness depositions after resolving the bifurcation issue. Signed by Judge Paul W. Grimm on 6/30/16. (Grimm, Paul) (lyb) (Entered: 06/30/2016)
06/30/2016	<u>486</u>	Status Conference/Telephone Conference held on 6/30/2016 before Judge Paul W. Grimm. (Tape #Hall 4B.) (nh2s, Deputy Clerk) (Entered: 06/30/2016)
07/05/2016	<u>487</u>	Correspondence re: Motion to Bifurcate and Phase or Stay Discovery (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Zinsner, Mary) (Entered: 07/05/2016)
07/12/2016	<u>488</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT for dates of 6/30/16, 42 pages, before Judge Paul W. Grimm, re <u>395</u> Notice of Appeal, Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber, 301–344–3104, before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Does this satisfy all appellate orders for this reporter? – Y. Redaction Request due 8/2/2016. Redacted Transcript Deadline set for 8/12/2016. Release of Transcript Restriction set for 10/11/2016. (krc, Deputy Clerk) (Entered: 07/12/2016)
07/12/2016	<u>489</u>	Correspondence re: bifurcation (Freitas, Robert) (Entered: 07/12/2016)
07/13/2016	490	PAPERLESS ORDER GRANTING <u>482</u> Motion to Withdraw as Attorney. Attorney Jessica E. Phillips terminated. Signed by Judge Paul W. Grimm on 7/13/2016. (ats, Chambers) Modified on 7/13/2016 (bus, Deputy Clerk). (Entered: 07/13/2016)
07/13/2016	491	PAPERLESS ORDER SCHEDULING AN IN–COURT STATUS CONFERENCE on August 9, 2016 at 9:30a.m. Signed by Judge Paul W. Grimm on 7/13/2016. (ats, Chambers) (Entered: 07/13/2016)
07/18/2016	<u>492</u>	Correspondence re: Reply in Support of Motion to Bifurcate and Phase or Stay Discovery (Zinsner, Mary) (Entered: 07/18/2016)
07/27/2016	<u>493</u>	Correspondence re: Request to Continue August 9 Status Conference (Zinsner, Mary) (Entered: 07/27/2016)
07/29/2016	<u>494</u>	Correspondence re: Response to Continuation Request (Weinberg, Daniel) (Entered: 07/29/2016)
07/29/2016	<u>495</u>	Correspondence re: Status Update on Privilege Review (Zinsner, Mary) (Entered: 07/29/2016)
08/01/2016	496	PAPERLESS ORDER RESCHEDULING IN–COURT STATUS CONFERENCE TO August 19, 2016 at 1:00pm. On or before August 15, 2016, counsel are instructed to file a letter identifying any discovery issues to be addressed at the conference. The letter is not to exceed 3 pages in length and exhibits are not to exceed 10 pages in length. Signed by Judge Paul W. Grimm on 8/1/2016. (ats, Chambers) (Entered: 08/01/2016)
08/05/2016	<u>497</u>	Correspondence re: Intellectual Ventures' Revised Privilege Claims (Redacted Version) (Attachments: # <u>1</u> Notice of Filing Under Seal – Exhibit A, # <u>2</u> Notice of Filing Under Seal – Appendix 1, # <u>3</u> Notice of Filing Under Seal – Appendix 2)(Zinsner, Mary) (Entered: 08/05/2016)
08/05/2016	<u>498</u>	–SEALED – NOTICE of Filing Under Seal Correspondence re: Intellectual Ventures' Revised Privilege Claims by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>497</u> Miscellaneous Correspondence, (Attachments: # <u>1</u> Ex. A, # <u>2</u> Appendix 1, # <u>3</u> Appendix 2)(Zinsner, Mary) (Entered: 08/05/2016)

08/05/2016	<u>499</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 8/22/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/05/2016)
08/11/2016	<u>500</u>	(FILED IN ERROR) – Correspondence re: Capital One's Privilege Challenges (Weinberg, Daniel) Modified on 8/11/2016 (bus, Deputy Clerk). (Entered: 08/11/2016)
08/11/2016	<u>502</u>	REDACTED DOCUMENT <i>Correspondence Re Capital One's Privilege Challenges to the Honorable Paul W. Grimm</i> by Intellectual Ventures I LLC. (Freitas, Robert) (Entered: 08/11/2016)
08/11/2016	<u>503</u>	–SEALED–RESPONSE re <u>502</u> Redacted Document <i>Correspondence re: Capital One's Privilege Challenges</i> filed by Intellectual Ventures I LLC. (Freitas, Robert) (Entered: 08/11/2016)
08/11/2016	<u>504</u>	MOTION to Seal <i>Correspondence Re: Capital One's Privilege Challenges [Dkt 503]</i> by Intellectual Ventures I LLC Responses due by 8/29/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Freitas, Robert) (Entered: 08/11/2016)
08/15/2016	<u>505</u>	Joint Correspondence re: Joint List of Issues for August 19 Status Conference (Zinsner, Mary) (Entered: 08/15/2016)
08/22/2016	506	PAPERLESS ORDER: For the reasons stated on the record at the status conference held on August 19, 2016, which this Paperless Order memorializes, Capital One's letter motions to bifurcate and phase or stay discovery pursuant to Fed. R. Civ. P. 42(b) and 26(c)(1)(B), <u>465</u> , <u>479</u> , are DENIED without prejudice, but discovery on damages will proceed in accordance with the parameters outlined at the status conference. Capital One's letter motion challenging Intellectual Ventures's assertions of attorney–client privilege and work–product protection, <u>497</u> , is GRANTED, with the exception of the documents included in Email Chain Nos. 4 and 12, as categorized by Intellectual Ventures in <u>503</u> , at 34. The Court will review the documents included in Email Chain No. 4 in camera before rendering a final decision with respect to Intellectual Ventures's privilege claims as to those documents. With respect to all other documents, Intellectual Ventures waived the attorney–client privilege and work–product protection by failing to comply with Fed. R. Civ. P. 26(b)(5)(A), the Discovery Order, [130–1], and Local Rules, App. A, Guideline 10(d)(iv). Signed by Judge Paul W. Grimm on 8/22/2016. (Grimm, Paul) (jlb) (Entered: 08/22/2016)
08/29/2016	<u>507</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT for Status Conference of 8/19/16, before Judge Paul W. Grimm, re <u>395</u> Notice of Appeal, Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber, 301–344–3104, before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 9/19/2016. Redacted Transcript Deadline set for 9/29/2016. Release of Transcript Restriction set for 11/28/2016. (krcs, Deputy Clerk) (Entered: 08/29/2016)
08/31/2016	<u>508</u>	Second MOTION Proposed Modification to the Scheduling Order (<i>Joint Motion</i>) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/19/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/31/2016)
09/06/2016	<u>510</u>	ORDER granting <u>508</u> Second MOTION Proposed Modification to the Scheduling Order (<i>Joint Motion</i>). Signed by Judge Paul W. Grimm on 9/6/2016. (jf3s, Deputy Clerk) (Entered: 09/06/2016)
09/06/2016	<u>511</u>	RESPONSE re 506 Order,,,,, <i>re Paperless Order 506</i> filed by Intellectual Ventures I LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Freitas, Robert) (Entered: 09/06/2016)
09/08/2016	512	PAPERLESS ORDER directing Defendant Capital One to respond to Plaintiff Intellectual Ventures's Request to File a Motion for Reconsideration <u>511</u> in a letter of no more than five pages filed on or before September 16, 2016. Signed by Judge Paul W. Grimm on 9/8/2016. (Grimm, Paul) (jlb) (Entered: 09/08/2016)
09/12/2016	<u>513</u>	Correspondence re: Response to IV's Request to File Motion for Reconsideration (Attachments: # <u>1</u> Notice of Filing Exhibit Under Seal)(Zinsner, Mary) (Entered: 09/12/2016)

09/12/2016	<u>514</u>	–SEALED – NOTICE of Filing Under Seal Exhibit A by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>513</u> Miscellaneous Correspondence (Zinsner, Mary) (Entered: 09/12/2016)
09/12/2016	<u>515</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 9/29/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/12/2016)
09/15/2016	<u>516</u>	Correspondence re: Requesting Discovery Teleconference (Public Version) (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 09/15/2016)
09/15/2016	<u>517</u>	–SEALED – NOTICE of Filing Under Seal Capital One's Letter to Judge Grimm dated September 15, 2016 by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>516</u> Miscellaneous Correspondence (Zinsner, Mary) (Entered: 09/15/2016)
09/15/2016	<u>518</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 10/3/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/15/2016)
09/15/2016	<u>519</u>	Correspondence re: Requesting Discovery Teleconference (Freitas, Robert) (Entered: 09/15/2016)
09/16/2016	520	PAPERLESS ORDER informing parties that I have reviewed their submissions regarding Plaintiff Intellectual Ventures's request to file a Motion for Reconsideration <u>511</u> of the Court's August 22, 2016 Paperless Order at ECF No. 506 holding that Intellectual Ventures waived privilege with respect to thirty-five email chains. The letter filings sufficiently set forth the facts and law governing Intellectual Ventures's request for reconsideration of the Paperless Order. More formal briefing is not necessary, and I will treat the letters themselves as the Motion, <u>511</u> , and Opposition, <u>513</u> . If Intellectual Ventures wishes to file a Reply it shall do so in four single-spaced pages or less, exclusive of exhibits, within fourteen days of this Order. Signed by Judge Paul W. Grimm on 9/16/2016. (Grimm, Paul) (jlb) (Entered: 09/16/2016)
09/19/2016	521	PAPERLESS ORDER SCHEDULING A PRE-MOTION CONFERENCE on September 29, 2016 at 11:30am and directing Defendant's counsel to initiate the call to chambers por circulate a conference call number to the parties. Signed by Judge Paul W. Grimm on 9/19/2016. (at, Chambers) (Entered: 09/19/2016)
09/20/2016	<u>522</u>	Letter Order granting <u>460</u> Motion to Seal; granting <u>476</u> Motion to Seal; granting <u>499</u> Motion to Seal; granting <u>504</u> Motion to Seal; granting <u>515</u> Motion to Seal; granting <u>518</u> Motion to Seal. Signed by Judge Paul W. Grimm on 9/20/2016. (jf3s, Deputy Clerk) (Entered: 09/20/2016)
09/23/2016	<u>523</u>	Correspondence re: Requesting Teleconference to Discuss Deposition of Edward Jung (Attachments: # <u>1</u> Exhibit 1 – Notice of Filing Document Under Seal, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3 – Notice of Filing Document Under Seal, # <u>4</u> Exhibit 4 – Notice of Filing Document Under Seal, # <u>5</u> Exhibit 5 – Notice of Filing Document Under Seal, # <u>6</u> Exhibit 6 – Notice of Filing Document Under Seal, # <u>7</u> Exhibit 7 – Notice of Filing Document Under Seal)(Zinsner, Mary) (Entered: 09/23/2016)
09/23/2016	<u>524</u>	–SEALED – NOTICE of Filing Under Seal Capital One's Request for Teleconference dated September 23, 2016 by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>523</u> Miscellaneous Correspondence, (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 3, # <u>3</u> Exhibit 4, # <u>4</u> Exhibit 5, # <u>5</u> Exhibit 6, # <u>6</u> Exhibit 7)(Zinsner, Mary) (Entered: 09/23/2016)
09/23/2016	<u>525</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association Responses due by 10/11/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/23/2016)
09/29/2016	526	Status Conference held on 9/29/2016 before Judge Paul W. Grimm. (ats, Chambers) (Entered: 09/29/2016)
09/29/2016	527	PAPERLESS ORDER memorializing telephone conference call held on September 29, 2016. Having considered the parties letter filings, <u>516</u> , <u>519</u> , <u>523</u> , a discovery

		conference was held and recorded on FTR Gold. For the reasons explained at the hearing, Capital One's letter filing, <u>516</u> , will be treated as a Motion for a Protective Order and is DENIED. Intellectual Ventures may proceed with the deposition of Mr. Stephen Crawford, and the parties will cooperate to identify a reasonable time and place for the deposition. Capital One's second filing, <u>523</u> , which will be treated as a Motion to Compel, is DENIED as moot because Intellectual Ventures has agreed to make Mr. Edward Jung available for deposition. The parties will contact the Court within one week to arrange a time for a telephone conference to discuss the appointment of a court-appointed expert witness pursuant to Fed. R. Evid. 706. Signed by Judge Paul W. Grimm on 9/29/2016. (Grimm, Paul) (jlb) (Entered: 09/29/2016)
09/29/2016	<u>528</u>	Status Conference/Telephone Conference held on 9/29/2016 before Judge Paul W. Grimm. (Hall 4B) (nh2s, Deputy Clerk) Text Modified on 9/30/2016 To Reflect Correct Date Held (nh2s, Deputy Clerk). (Entered: 09/30/2016)
09/30/2016	<u>529</u>	RESPONSE re 520 Order,,, <i>Response Letter Re Court's September 16, 2016 Paperless Order [ECF 520]</i> filed by Intellectual Ventures I LLC. (Attachments: # <u>1</u> Exhibit A)(Weinberg, Daniel) (Entered: 09/30/2016)
10/11/2016	<u>530</u>	Memorandum Opinion/Order denying <u>511</u> Venture's Motion for Reconsideration. Signed by Judge Paul W. Grimm on 10/11/2016. (jf3s, Deputy Clerk) (Entered: 10/11/2016)
10/11/2016	<u>531</u>	PAPERLESS ORDER SCHEDULING A TELEPHONE STATUS CONFERENCE on October 26, 2016 at 5:00p.m. AND DIRECTING Plaintiff's counsel to initiate the call to chambers or circulate a conference call number to the parties. Signed by Judge Paul W. Grimm on 10/11/2016. (ats, Chambers) (Entered: 10/11/2016)
10/11/2016	<u>532</u>	Request for Conference (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4 – Notice of Filing Document Under Seal, # <u>5</u> Exhibit 5 – Notice of Filing Document Under Seal)(Weinberg, Daniel) (Entered: 10/11/2016)
10/11/2016	<u>533</u>	MOTION to Seal <i>October 11, 2016 Letter to Hon. Paul W. Grimm and Exhibits 4 and 5 [Dkt. 532]</i> by Intellectual Ventures I LLC Responses due by 10/28/2016 (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 10/11/2016)
10/11/2016	<u>534</u>	–SEALED – NOTICE of Filing Under Seal October 11, 2016 Letter to Hon. Paul W. Grimm and Exhibits 4 and 5 by Intellectual Ventures I LLC re <u>532</u> Request for Conference, <u>533</u> MOTION to Seal <i>October 11, 2016 Letter to Hon. Paul W. Grimm and Exhibits 4 and 5 [Dkt. 532]</i> (Attachments: # <u>1</u> Exhibit 4, # <u>2</u> Exhibit 5)(Weinberg, Daniel) (Entered: 10/11/2016)
10/12/2016	<u>535</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of telephone conference held on 9/29/16, before Judge Paul W. Grimm. Total number of pages filed: 24. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 11/2/2016. Redacted Transcript Deadline set for 11/14/2016. Release of Transcript Restriction set for 1/10/2017. (kres, Deputy Clerk) (Entered: 10/12/2016)
10/13/2016	<u>536</u>	ORDER scheduling in-court discovery conferences for October 21, 2015 at 5:00 p.m., October 28, 2016 at 5:00 p.m. and November 10, 2016 at 5:00 p.m.; Canceling the telephone conference scheduled for October 26, 2016. Signed by Judge Paul W. Grimm on 10/13/2016. (Attachments: # <u>1</u> Attachment)(jf3s, Deputy Clerk) (Entered: 10/13/2016)
10/20/2016	<u>537</u>	Correspondence re: October 21 In-Court Discovery Conference (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 10/20/2016)
10/21/2016	<u>538</u>	Joint Correspondence re: Joint letter regarding expert pursuant to Court's Letter Order, Dkt. No. 536 (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Zinsner, Mary) (Entered: 10/21/2016)
10/27/2016	<u>539</u>	MOTION to Appear Pro Hac Vice for Susan L. Grace (Filing fee \$100, receipt number 0416-6316373.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 10/27/2016)

10/27/2016	<u>540</u>	MOTION to Appear Pro Hac Vice for Daniel N. Anziska (Filing fee \$100, receipt number 0416-6316453.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 10/27/2016)
10/27/2016	<u>541</u>	Joint Correspondence re: Joint letter regarding discovery pursuant to Court's Letter Order, Dkt. No. 536 (Weinberg, Daniel) (Entered: 10/27/2016)
10/28/2016	542	PAPERLESS ORDER granting <u>539</u> Motion to Appear Pro Hac Vice on behalf of Susan Grace. Directing attorney Susan Grace to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 10/28/2016. (srd, Deputy Clerk) (Entered: 10/28/2016)
10/28/2016	543	PAPERLESS ORDER granting <u>540</u> Motion to Appear Pro Hac Vice on behalf of Daniel Anziska. Directing attorney Daniel Anziska to register online for CM/ECF at https://www.mdd.uscourts.gov/attyregB/inputProHac.asp . Signed by Clerk on 10/28/2016. (srd, Deputy Clerk) (Entered: 10/28/2016)
10/28/2016	544	PAPERLESS ORDER acknowledging receipt of parties joint letter <u>541</u> and scheduling telephone conference call for October 28, 2016 at 5:00 P.M. using call-in information provided by parties in lieu of an in-court status conference. Signed by Judge Paul W. Grimm on 10/28/2016. (Grimm, Paul) (jlb) (Entered: 10/28/2016)
10/31/2016	<u>545</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 10/21/2016, before Judge Grimm. Total number of pages filed: 48. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber ((301) 344-3104) before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 11/21/2016. Redacted Transcript Deadline set for 12/1/2016. Release of Transcript Restriction set for 1/30/2017.(kns, Deputy Clerk) (Entered: 11/02/2016)
11/04/2016	<u>546</u>	Joint Correspondence re: Nov 4 In-Court Conference (Weinberg, Daniel) (Entered: 11/04/2016)
11/08/2016	<u>547</u>	MOTION to Withdraw as Attorney by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 11/08/2016)
11/09/2016	<u>548</u>	ORDER granting <u>547</u> Motion to Withdraw as Attorney. Attorney Elizabeth V Johnson terminated. Signed by Judge Paul W. Grimm on 11/9/2016. (jf3s, Deputy Clerk) (Entered: 11/09/2016)
11/10/2016	<u>549</u>	Joint Correspondence re: Nov 10 In-Court Discovery Conference (Weinberg, Daniel) (Entered: 11/10/2016)
11/10/2016	550	PAPERLESS ORDER GRANTING Capital One's request made at the November 10, 2016 in-court discovery conference to increase the interrogatory limit from 25 to 28. Signed by Judge Paul W. Grimm on 11/10/2016. (Grimm, Paul) (jlb) (Entered: 11/10/2016)
11/16/2016	551	PAPERLESS ORDER scheduling in-court discovery conferences for November 28, 2016 at 5:30 p.m., December 5, 2016 at 5:30 p.m., December 12, 2016 at 5:30 p.m., and December 19, 2016 at 5:30 p.m. Signed by Judge Paul W. Grimm on 11/16/2016. (Grimm, Paul) (jlb) (Entered: 11/16/2016)
11/17/2016	<u>552</u>	STIPULATION <i>Joint Stipulation and [Proposed] Order To Present Designated Materials to District Court and Third Party Counsel</i> by Intellectual Ventures I LLC(Weinberg, Daniel) (Entered: 11/17/2016)
11/18/2016	<u>553</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 11/4/16, before Judge Paul W. Grimm. Total number of pages filed: 22. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber, 301-344-3104, before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 12/9/2016. Redacted Transcript Deadline set for 12/19/2016. Release of Transcript Restriction set for 2/16/2017.(krcs, Deputy Clerk) (Entered: 11/18/2016)

11/18/2016	<u>554</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 11/10/16, before Judge Paul W. Grimm. Total number of pages filed: 30. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber, 301-344-3104, before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 12/9/2016. Redacted Transcript Deadline set for 12/19/2016. Release of Transcript Restriction set for 2/16/2017.(kracs, Deputy Clerk) (Entered: 11/18/2016)
11/18/2016	<u>555</u>	MOTION to Withdraw as Attorney <i>Motion of Veishesh Narayen For Leave To Withdraw As Pro Hac Vice Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 11/18/2016)
11/21/2016	556	PAPERLESS ORDER GRANTING <u>555</u> Motion to Withdraw as Attorney. Attorney Vishesh Narayen terminated. Signed by Judge Paul W. Grimm on 11/21/2016. (ats, Chambers) (Entered: 11/21/2016)
11/22/2016	<u>557</u>	ORDER approving <u>552</u> Joint Stipulation To Present Designated Materials to District Court and Third Party Counsel by Intellectual Ventures I LLC. Signed by Judge Paul W. Grimm on 11/22/2016. (jf3s, Deputy Clerk) (Entered: 11/22/2016)
11/28/2016	<u>558</u>	Correspondence re: November 28, 2016 in-court Discovery Conference (Zinsner, Mary) (Entered: 11/28/2016)
11/28/2016	<u>559</u>	Correspondence re: November 28, 2016 In-Court Discovery Conference (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2 – Notice of Filing Under Seal, # <u>3</u> Exhibit 3 – Notice of Filing Under Seal, # <u>4</u> Exhibit 4 – Notice of Filing Under Seal, # <u>5</u> Exhibit 5 – Notice of Filing Under Seal)(Leal, Jessica) (Entered: 11/28/2016)
11/28/2016	<u>560</u>	–SEALED – NOTICE of Filing Under Seal Exhibits 2–5 to the letter to Judge Grimm Re November 28, 2016 In-Court Discovery Conference by Intellectual Ventures I LLC re <u>559</u> Miscellaneous Correspondence, (Attachments: # <u>1</u> Exhibit 2 – Filed Under Seal, # <u>2</u> Exhibit 3 – Filed Under Seal, # <u>3</u> Exhibit 4 – Filed Under Seal, # <u>4</u> Exhibit 5 – Filed Under Seal)(Leal, Jessica) (Entered: 11/28/2016)
12/05/2016	<u>561</u>	Correspondence re: Joint Letter in advance of today's weekly Discovery Conference (Zinsner, Mary) (Entered: 12/05/2016)
12/05/2016	562	PAPERLESS ORDER CANCELLING in-court discovery conference scheduled for December 5, 2016. As requested in the parties' joint letter <u>561</u> , the parties may submit simultaneous three-page opening letter briefs concerning Intellectual Ventures's Request for Production No. 21 on December 6, 2016 and two-page reply letter briefs on December 8, 2016. Signed by Judge Paul W. Grimm on 12/5/2016. (Grimm, Paul) (jlb) (Entered: 12/05/2016)
12/06/2016	<u>563</u>	Correspondence re: Intellectual Ventures Request for Production No. 21 (Attachments: # <u>1</u> Exhibit 1)(Leal, Jessica) (Entered: 12/06/2016)
12/06/2016	<u>564</u>	Correspondence re: Capital One's Response to IV's RFP 21 (Public Version) (Attachments: # <u>1</u> Notice of Filing Document Under Seal – Exhibit A, # <u>2</u> Notice of Filing Document Under Seal – Exhibit B, # <u>3</u> Notice of Filing Document Under Seal – Exhibit C, # <u>4</u> Notice of Filing Document Under Seal – Exhibit D)(Zinsner, Mary) (Entered: 12/06/2016)
12/06/2016	<u>565</u>	–SEALED – NOTICE of Filing Under Seal Capital One's Response to IV's RFP 21 by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>564</u> Miscellaneous Correspondence, (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Zinsner, Mary) (Entered: 12/06/2016)
12/06/2016	<u>566</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 12/06/2016)
12/08/2016	567	PAPERLESS ORDER RESCHEDULING IN-COURT STATUS CONFERENCE to Wednesday, December 14, 2016 at 4:00pm. The in-court status conference scheduled

		for Monday, December 12, 2016 is CANCELLED. Signed by Judge Paul W. Grimm on 12/8/2016. (ats, Chambers) (Entered: 12/08/2016)
12/08/2016	<u>568</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference held on 11/28/16, before Judge Paul W. Grimm. Total number of pages filed: 43. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber, 301-344-3104, before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 12/29/2016. Redacted Transcript Deadline set for 1/9/2017. Release of Transcript Restriction set for 3/8/2017.(krcs, Deputy Clerk) (Entered: 12/08/2016)
12/08/2016	<u>569</u>	Correspondence re: Capital One's Reply re: IV's RFP 21 (REDACTED version) (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 12/08/2016)
12/08/2016	<u>570</u>	-SEALED - NOTICE of Filing Under Seal Capital One's Reply re: IV's RFP 21 by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>569</u> Miscellaneous Correspondence (Zinsner, Mary) (Entered: 12/08/2016)
12/08/2016	<u>571</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 12/08/2016)
12/08/2016	<u>572</u>	Correspondence re: Intellectual Ventures Reply Re Request for Production No. 21 (Leal, Jessica) (Entered: 12/08/2016)
12/12/2016	573	PAPERLESS ORDER DIRECTING Capital One to file under seal by close of business on December 13, 2016 three representative examples of the auditor response letters that are the subject of Intellectual Ventures's request for an order to compel production <u>563</u> . I will do my best to review the sealed letters along with the filings and other exhibits pertaining to this matter before the December 14, 2016 in-court discovery conference. Signed by Judge Paul W. Grimm on 12/12/2016. (Grimm, Paul) (jlb) (Entered: 12/12/2016)
12/14/2016	<u>574</u>	Discovery Conference held on 12/14/2016 before Judge Paul W. Grimm.(FTR - Ulander - 4B.) (bus, Deputy Clerk) (Entered: 12/14/2016)
12/14/2016	575	PAPERLESS ORDER RESCHEDULING IN-COURT STATUS CONFERENCE to Wednesday, December 21, 2016 at 3:00pm. The in-court status conference scheduled for Monday, December 19, 2016 is CANCELLED. Signed by Judge Paul W. Grimm on 12/14/2016 (Grimm, Paul)(jlb) (Entered: 12/14/2016)
12/16/2016	<u>576</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 12/14/16, before Judge Paul W. Grimm. Total number of pages filed: 50. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber, 301-344-3104, before the deadline for Release of Transcript Restriction. After that date it may be obtained from the Court Reporter or through PACER. Redaction Request due 1/6/2017. Redacted Transcript Deadline set for 1/17/2017. Release of Transcript Restriction set for 3/16/2017.(krcs, Deputy Clerk) Modified on 12/16/2016 (krcs, Deputy Clerk). (Entered: 12/16/2016)
12/21/2016	577	Status Conference held on 12/21/2016 before Judge Paul W. Grimm. (ats, Chambers) (Entered: 12/21/2016)
12/22/2016	578	PAPERLESS ORDER memorializing telephone conference call held on December 21, 2016. If Capital One does not agree to produce the relevant portions of audit letters requested by Intellectual Ventures pursuant to the protections of Fed. R. Evid. 502(d), the parties shall file on or before January 3, 2017 simultaneous opening briefs of three single-spaced pages or less regarding Capital One's potential waiver of work-product protection for the audit letters. The parties shall file simultaneous responses of three single-spaced pages or less on or before January 6, 2017. The parties will work to identify an appropriate place, time, and duration for the deposition of third-party deponent Barnheydt on or before January 15, 2017. Signed by Judge Paul W. Grimm on 12/22/2016. (Grimm, Paul) (jlb) (Entered: 12/22/2016)
12/30/2016	<u>579</u>	Joint Filing re Parties' Separate Proposed Supplemental Schedules per <u>510</u> Order on Motion for Miscellaneous Relief filed by Intellectual Ventures I LLC (Freitas, Robert)

		Modified on 1/3/2017 (jf3s, Deputy Clerk). (Entered: 12/30/2016)
01/03/2017	<u>580</u>	MOTION to Withdraw as Attorney – <i>Motion of Kerry J. Dingle for Leave to Withdraw as Pro Hac Vice Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 01/03/2017)
01/03/2017	<u>581</u>	MOTION to Appear Pro Hac Vice for Mary C. Zinsner (Filing fee \$100, receipt number 0416-6422909.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association(Zinsner, Mary) (Entered: 01/03/2017)
01/03/2017	<u>582</u>	Correspondence re: "At Issue" Waiver of Work Product Protection (Zinsner, Mary) (Entered: 01/03/2017)
01/03/2017	<u>583</u>	–SEALED – NOTICE of Filing Under Seal Letter to Judge Grimm with exhibits by Intellectual Ventures I LLC (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Leal, Jessica) (Entered: 01/04/2017)
01/04/2017	<u>584</u>	Correspondence re: Request for Production No. 21 relating to loss contingency communications (Attachments: # <u>1</u> Exhibit 1 – Notice of Filing Under Seal, # <u>2</u> Exhibit 2 – Notice of Filing Under Seal, # <u>3</u> Exhibit 3 – Notice of Filing Under Seal, # <u>4</u> Exhibit 4 – Notice of Filing Under Seal)(Leal, Jessica) (Entered: 01/04/2017)
01/04/2017	585	PAPERLESS ORDER granting <u>581</u> Motion to Appear Pro Hac Vice on behalf of Alicia R Jovais. Directing attorney Alicia R Jovais to register online for CM/ECF at http://www.mdd.uscourts.gov/electronic-case-filing-registration . Signed by Clerk on 1/4/2017. (srd, Deputy Clerk) (Entered: 01/04/2017)
01/05/2017	586	PAPERLESS ORDER GRANTING <u>580</u> Motion to Withdraw as Attorney. Attorney Kerry J Dingle terminated. Signed by Judge Paul W. Grimm on 1/5/2017. (ats, Chambers) (Entered: 01/05/2017)
01/06/2017	<u>587</u>	Correspondence re: Reply re: "At Issue" Waiver of Work Product Protection (Redacted Version) (Zinsner, Mary) (Entered: 01/06/2017)
01/06/2017	<u>588</u>	–SEALED – NOTICE of Filing Under Seal Reply re: "At Issue" Waiver of Work Product Protection by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>587</u> Miscellaneous Correspondence (Zinsner, Mary) (Entered: 01/06/2017)
01/06/2017	<u>589</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 01/06/2017)
01/06/2017	<u>590</u>	–SEALED – NOTICE of Filing Under Seal Letter to Judge Grimm with exhibits by Intellectual Ventures I LLC (Attachments: # <u>1</u> Exhibit 5, # <u>2</u> Exhibit 6)(Leal, Jessica) (Entered: 01/06/2017)
01/07/2017	<u>591</u>	Correspondence re: Letter to Judge Grimm (Attachments: # <u>1</u> Exhibit 5, # <u>2</u> Exhibit 6)(Leal, Jessica) (Entered: 01/07/2017)
01/07/2017	<u>592</u>	MOTION to Seal <i>January 3 and January 6 letters and exhibits to Judge Grimm</i> by Intellectual Ventures I LLC (Attachments: # <u>1</u> Text of Proposed Order)(Leal, Jessica) (Entered: 01/07/2017)
01/10/2017	593	PAPERLESS ORDER scheduling in-court discovery conference for January 18, 2017 at 5:00 p.m. Signed by Judge Paul W. Grimm on 1/10/2017. (Grimm, Paul) (jlb) (Entered: 01/10/2017)
01/11/2017	<u>594</u>	LETTER/ORDER adopting proposed Amended Scheduling Order re <u>579</u> Joint Filing re Parties' Separate Proposed Supplemental Schedules filed by Intellectual Ventures I LLC. Signed by Judge Paul W. Grimm on 1/11/2017. (jf3s, Deputy Clerk) (Entered: 01/11/2017)
01/11/2017	<u>595</u>	MOTION to Seal <i>Exhibit 2 to the January 3 Letter to Judge Grimm</i> by Intellectual Ventures I LLC (Attachments: # <u>1</u> Text of Proposed Order)(Leal, Jessica) (Entered: 01/11/2017)

01/18/2017	596	PAPERLESS ORDER RESCHEDULING in-court status conference to January 25, 2017 at 5:00 P.M. The status conference scheduled for January 18, 2017 is CANCELLED. Signed by Judge Paul W. Grimm on 1/18/2017. (Grimm, Paul) (jlb) (Entered: 01/18/2017)
01/18/2017	597	PAPERLESS ORDER REMINDING Counsel that this Court's Local Rules' new restrictions on page limits apply. Pursuant to Local Rule 105.3, "[u]nless otherwise ordered by the Court, memoranda in support of a motion or in opposition thereto and trial briefs shall not exceed thirty-five (35) pages, and reply memoranda shall not exceed twenty (20) pages, exclusive of (a) affidavits and exhibits, (b) tables of contents and citations, and (c) addenda containing statutes, rules, regulations, and similar material." Additionally, Local Rule 102.2(b) requires that "[t]yped, printed, or written material," including footnotes, "shall appear only on the front side of any page in at least 12-point font size." Signed by Judge Paul W. Grimm on 1/18/17. (Grimm, Paul) (lyb) (Entered: 01/18/2017)
01/20/2017	<u>598</u>	Supplemental to <u>594</u> Order filed by Intellectual Ventures I LLC <i>Plaintiffs and Third-Party Defendants Supplements to the Court's List of Key Authorities</i> (Weinberg, Daniel) (Entered: 01/20/2017)
01/20/2017	<u>599</u>	Supplemental to <u>594</u> Order filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association <i>Capital One's Supplemental Authorities</i> (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 01/20/2017)
01/24/2017	600	PAPERLESS ORDER requesting that Intellectual Ventures file a PDF of its supplemental authorities <u>598</u> on or before January 25, 2017. Signed by Judge Paul W. Grimm on 1/24/2017. (Grimm, Paul) (jlb) (Entered: 01/24/2017)
01/24/2017	<u>601</u>	LETTER/ORDER to Counsel. Signed by Judge Paul W. Grimm on 1/24/2017. (jf3s, Deputy Clerk) (Entered: 01/24/2017)
01/24/2017	602	PAPERLESS ORDER SCHEDULING telephone conference call to discuss Fed. R. Evid. 706 expert work for February 3, 2017 at 3:00 P.M. Plaintiffs' counsel shall initiate the call to chambers or circulate a conference number to the parties. Signed by Judge Paul W. Grimm on 1/24/2017. (Grimm, Paul) (jlb) (Entered: 01/24/2017)
01/25/2017	603	PAPERLESS ORDER cancelling in-court status conference scheduled for January 25, 2017. Signed by Judge Paul W. Grimm on 1/25/2017. (Grimm, Paul) (jlb) (Entered: 01/25/2017)
01/25/2017	<u>604</u>	Supplemental to <u>598</u> Supplemental, 600 Order filed by Intellectual Ventures I LLC <i>Plaintiffs' and Third-Party Defendants' Submission of Key Authorities in PDF Form</i> (Attachments: # <u>1</u> Exhibit A)(Weinberg, Daniel) (Entered: 01/25/2017)
01/26/2017	<u>605</u>	NOTICE by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>594</u> Order <i>Joint Proposed Modification to the Case Schedule</i> (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 01/26/2017)
01/26/2017	<u>606</u>	LETTER ORDER to Counsel. Signed by Judge Paul W. Grimm on 1/26/2017. (jf3s, Deputy Clerk) (Entered: 01/27/2017)
01/27/2017	607	PAPERLESS ORDER APPROVING the Joint Proposed Modification to the Case Schedule <u>605</u> . Signed by Judge Paul W. Grimm on 1/27/2017. (Grimm, Paul) (jlb) (Entered: 01/27/2017)
02/03/2017	608	Status Conference held on 2/3/2017 before Judge Paul W. Grimm. (ats, Chambers) (Entered: 02/03/2017)
02/07/2017	609	PAPERLESS ORDER THANKING the Parties for providing key authorities for my review. <u>599</u> , <u>604</u> . I have reviewed the authorities, but want to ensure that I understand each case's principal points as it pertains to the instant matter. Accordingly, I REQUEST that each side provide a short summary of each of its key authorities (one page or less per authority) on or before February 21, 2017. Signed by Judge Paul W. Grimm on 2/7/2017. (Grimm, Paul) (jlb) (Entered: 02/07/2017)

02/08/2017	610	PAPERLESS ORDER directing parties to provide technical assistant Professor John de Figueiredo with a copy of the protective order for his signature and to file the signed order on his behalf. Signed by Judge Paul W. Grimm on 2/8/2017.(Grimm, Paul)(jlb) (Entered: 02/08/2017)
02/21/2017	<u>611</u>	Correspondence re: Summaries of Capital One's Key Authorities (Zinsner, Mary) (Entered: 02/21/2017)
02/21/2017	<u>612</u>	Supplemental to 609 Order, filed by Intellectual Ventures I LLC <i>Plaintiffs' and Third Party Defendants' Summaries of Key Authorities</i> (Freitas, Robert) (Entered: 02/21/2017)
02/27/2017	<u>613</u>	STIPULATION <i>Re Interrogatory Nos. 16 and 17</i> by Intellectual Ventures I LLC(Freitas, Robert) (Entered: 02/27/2017)
03/03/2017	614	PAPERLESS ORDER scheduling a conference call for March 15, 2017, at 11:30 a.m. Plaintiffs' counsel will circulate a call-in number please. Signed by Judge Paul W. Grimm on 3/3/17. (Grimm, Paul) (lyb) (Entered: 03/03/2017)
03/07/2017	<u>615</u>	OPINION AND JUDGMENT OF USCA FOR THE FEDERAL CIRCUIT affirming the Judgment of the USDC as to <u>395</u> Notice of Appeal, filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC (Attachments: # <u>1</u> Notice of Judgment, # <u>2</u> Rehearing Information Sheet, # <u>3</u> Supreme Court Information Sheet)(krc, Deputy Clerk) (Entered: 03/07/2017)
03/10/2017	616	PAPERLESS ORDER acknowledging receipt of Intellectual Ventures's Responsive Expert Reports. It is my customary practice to limit parties to a single expert per discrete subject matter for summary-judgment practice and trial. Intellectual Ventures should identify a single expert that they intend to reply upon for each subject matter. The issue will be discussed in greater detail on the March 15, 2017 status call.Signed by Judge Paul W. Grimm on 3/10/2017. (Grimm, Paul) (jlb) (Entered: 03/10/2017)
03/14/2017	<u>617</u>	Correspondence re: Discovery Issues (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3)(Zinsner, Mary) (Entered: 03/14/2017)
03/15/2017	<u>618</u>	Correspondence re: March 14 Letter from Capital One (Freitas, Robert) (Entered: 03/15/2017)
03/15/2017	<u>619</u>	LETTER ORDER memorializing the telephone conference held March 15, 2017. Signed by Judge Paul W. Grimm on 3/15/2017. (jf3s, Deputy Clerk) (Entered: 03/15/2017)
03/15/2017	620	PAPERLESS ORDER CORRECTING one date in the Letter Order issued on this date <u>619</u> . The Letter Order provided an incorrect date for the new deadline for Capital One's submission of Reply expert reports. The correct deadline is April 4, 2017. Signed by Judge Paul W. Grimm on 3/15/2017. (Grimm, Paul) (jlb) (Entered: 03/15/2017)
03/20/2017	<u>621</u>	Correspondence re: Experts Pursuant to March 10, 2017 Paperless Order [ECF No. 616] and Letter Order [ECF No. 619] (Freitas, Robert) (Entered: 03/20/2017)
03/23/2017	<u>622</u>	Correspondence re: IV's Identification of Experts (Zinsner, Mary) (Entered: 03/23/2017)
03/24/2017	623	PAPERLESS ORDER: At the joint request of the Parties, the deadline is extended for the parties to agree to the manner in which Intellectual Ventures's corporate representative, Jim Weisfeld, will supplement his deposition testimony. On or before March 31, 2017, the parties shall inform me by letter whether they have resolved the matter. If they are unable to do so, then Intellectual Ventures shall set forth its position in a one-page letter,and Capital One shall respond with a one-page letter on or before April 3, 2017. Signed by Judge Paul W. Grimm on 3/24/2017. (Grimm, Paul) (jlb) (Entered: 03/24/2017)
03/27/2017	624	PAPERLESS ORDER: Having reviewed Intellectual Ventures's response to my Orders directing it to specify a narrower set of expert witnesses upon which it will rely, <u>621</u> , and Capital One's responsive letter, <u>622</u> , I find Intellectual Ventures's response fails to narrow the number of experts it designated in a manner that makes the proceedings through summary judgment on liability workable. Accordingly, I am ordering that, for summary-judgment purposes, Intellectual Ventures shall designate

		one non-technical expert as responsive to each of Capital One's three experts and designate one expert per each of the nine patents asserted against Capital One. I will address which experts will be permitted to testify at trial at a later time. Intellectual Ventures shall also advise whether or not the experts addressing the nine patents need to be at the tutorial currently scheduled for May 19, 2017 (which primarily is meant to assist me with the expert issues that will be presented in the summary-judgment filings) but which will be rescheduled to accommodate Professor de Figueiredo's schedule. Intellectual Ventures shall file a letter addressing these matters on or before March 31, 2017. Signed by Judge Paul W. Grimm on 3/27/2017. (Grimm, Paul) (jlb) (Entered: 03/27/2017)
03/31/2017	625	PAPERLESS ORDER RESCHEDULING in-court tutorial with experts whose opinions may impact summary judgment on liability from May 19, 2017, <i>see</i> 605, to June 2, 2017. Signed by Judge Paul W. Grimm on 3/31/2017. (Grimm, Paul) (jlb) (Entered: 03/31/2017)
03/31/2017	<u>626</u>	Correspondence re: Pursuant to the Court's March 24, 2017 Paperless Order (ECF No. 623) (Freitas, Robert) (Entered: 03/31/2017)
03/31/2017	<u>627</u>	Correspondence re: Experts Pursuant to the Court's March 27, 2017 Paperless Order (ECF No. 624) (Freitas, Robert) (Entered: 03/31/2017)
04/03/2017	<u>628</u>	Correspondence re: IV 30(b)(6) Deposition Testimony (Redacted Version) (Attachments: # <u>1</u> Notice of Filing of Document Under Seal – Exhibit 1, # <u>2</u> Notice of Filing of Document Under Seal – Exhibit 2, # <u>3</u> Notice of Filing of Document Under Seal – Exhibit 3, # <u>4</u> Notice of Filing of Document Under Seal – Exhibit 4)(Zinsner, Mary) (Entered: 04/03/2017)
04/03/2017	<u>629</u>	–SEALED – NOTICE of Filing Under Seal Correspondence re: IV 30(b)(6) Deposition Testimony by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>628</u> Miscellaneous Correspondence, (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Zinsner, Mary) (Entered: 04/03/2017)
04/03/2017	<u>630</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 04/03/2017)
04/04/2017	631	PAPERLESS ORDER SCHEDULING a telephone conference call for April 10, 2017 at 11:30 A.M. Plaintiffs' counsel shall initiate the call to chambers or circulate a conference number to the parties. Signed by Judge Paul W. Grimm on 4/10/2017. (Grimm, Paul) (jlb) (Entered: 04/04/2017)
04/04/2017	<u>632</u>	MOTION to Withdraw as Attorney by Intellectual Ventures I LLC, Intellectual Ventures II LLC, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC(McCabe, Michael) (Entered: 04/04/2017)
04/04/2017	<u>633</u>	Letter Order to Counsel. Signed by Judge Paul W. Grimm on 4/4/2017. (jf3s, Deputy Clerk) (Entered: 04/04/2017)
04/04/2017	634	PAPERLESS ORDER granting <u>632</u> Motion to Withdraw as Attorney. Attorney Michael Edward McCabe, Jr terminated. Signed by Judge Paul W. Grimm on 4/4/2017. (jf3s, Deputy Clerk) (Entered: 04/05/2017)
04/04/2017	635	PAPERLESS ORDER granting <u>632</u> Motion to Withdraw as Attorney. Attorney Michael Edward McCabe, Jr terminated. Signed by Judge Paul W. Grimm on 4/4/2017. (jf3s, Deputy Clerk) (Entered: 04/05/2017)
04/07/2017	<u>636</u>	Correspondence re: Discovery Issues (Zinsner, Mary) (Entered: 04/07/2017)
04/10/2017	<u>637</u>	Correspondence re: authentication issues (Freitas, Robert) (Entered: 04/10/2017)
04/12/2017	<u>638</u>	Correspondence re: pursuant to April 10 conference call (Freitas, Robert) (Entered: 04/12/2017)
04/12/2017	<u>639</u>	LETTER ORDER following up a telephone conference. Signed by Judge Paul W. Grimm on 4/12/2017. (jf3s, Deputy Clerk) (Entered: 04/13/2017)

04/13/2017	<u>640</u>	MANDATE of USCA FOR THE FEDERAL CIRCUIT issued as to <u>395</u> Notice of Appeal filed by Intellectual Ventures II LLC, Intellectual Ventures I LLC. (kns, Deputy Clerk) (Entered: 04/14/2017)
04/27/2017	<u>641</u>	STIPULATION <i>Joint Proposed Modification To The Case Schedule</i> by Intellectual Ventures I LLC(Freitas, Robert) (Entered: 04/27/2017)
04/27/2017	642	PAPERLESS ORDER APPROVING the Joint Proposed Modification to the Case Schedule <u>641</u> . Signed by Judge Paul W. Grimm on 4/27/2017. (Grimm, Paul) (jlb) (Entered: 04/27/2017)
04/28/2017	643	PAPERLESS ORDER granting <u>630</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/2017. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	644	PAPERLESS ORDER granting <u>525</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	645	PAPERLESS ORDER granting <u>533</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	646	PAPERLESS ORDER granting <u>566</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	647	PAPERLESS ORDER granting <u>571</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	648	PAPERLESS ORDER granting <u>589</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	649	PAPERLESS ORDER granting <u>592</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
04/28/2017	650	PAPERLESS ORDER granting <u>595</u> Motion to Seal, given that it is unopposed, the relevant documents contain confidential business information, and redacted versions have been filed. Signed by Judge Paul W. Grimm on 4/28/17. (Grimm, Paul) (lyb) (Entered: 04/28/2017)
06/02/2017	<u>651</u>	LETTER ORDER. Signed by Judge Paul W. Grimm on 6/2/2017. (rss, Deputy Clerk) (Entered: 06/02/2017)
06/16/2017	<u>652</u>	Correspondence re: June 21 Tutorial (Attachments: # <u>1</u> Exhibit 1)(Zinsner, Mary) (Entered: 06/16/2017)
06/19/2017	<u>653</u>	Correspondence re: June 21 Tutorial (Freitas, Robert) (Entered: 06/19/2017)
07/10/2017	<u>654</u>	Correspondence re: page limit (Freitas, Robert) (Entered: 07/10/2017)
07/10/2017	655	PAPERLESS ORDER: I have reviewed Intellectual Ventures's correspondence regarding page limits for summary judgment briefing <u>654</u> . Despite my Case Management Order's instructions to the contrary, I do not require an executive summary in this case. Accordingly, Intellectual Ventures may devote the full 50-page allotment to its memorandum, and Capital One may do likewise in its Opposition. Signed by Judge Paul W. Grimm on 7/10/2017. (Grimm, Paul) (jlb) (Entered: 07/10/2017)

07/11/2017	<u>656</u>	MOTION for Summary Judgment <i>Notice of Motion and Motion for Summary Judgment</i> by Intellectual Ventures I LLC(Freitas, Robert) (Entered: 07/11/2017)
07/11/2017	<u>657</u>	–SEALED – NOTICE of Filing Under Seal Memorandum in Support of Motion for Summary Judgment by Intellectual Ventures I LLC re <u>656</u> MOTION for Summary Judgment <i>Notice of Motion and Motion for Summary Judgment</i> (Freitas, Robert) (Entered: 07/11/2017)
07/11/2017	<u>658</u>	MOTION to Seal by Intellectual Ventures I LLC (Attachments: # <u>1</u> Text of Proposed Order)(Freitas, Robert) (Entered: 07/11/2017)
08/01/2017	<u>659</u>	PAPERLESS ORDER DIRECTING the parties to deliver two copies of the Joint Record for the summary judgment motion to my chambers, in binders with rings of no more than three inches diameter. Insofar as the Joint Record is not complete, it may be supplemented as briefing continues. Signed by Judge Paul W. Grimm on 8/1/2017. (Grimm, Paul) (lyb) (Entered: 08/01/2017)
08/09/2017	<u>660</u>	MOTION to Appear Pro Hac Vice for Alexander E. Reicher (Filing fee \$100, receipt number 0416–6821917.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association(Zinsner, Mary) (Entered: 08/09/2017)
08/09/2017	<u>661</u>	MOTION to Appear Pro Hac Vice for J. Scott Ballenger (Filing fee \$100, receipt number 0416–6821934.) by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association(Zinsner, Mary) (Entered: 08/09/2017)
08/10/2017	<u>662</u>	RESPONSE in Opposition re <u>656</u> MOTION for Summary Judgment <i>Notice of Motion and Motion for Summary Judgment (Redacted Version)</i> filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association.(Zinsner, Mary) (Entered: 08/10/2017)
08/10/2017	<u>663</u>	Request for Judicial Notice in Support of Opposition to IV's Motion for Summary Judgment by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>662</u> Response in Opposition to Motion, (Zinsner, Mary) Modified on 8/11/2017 (jf3s, Deputy Clerk). (Entered: 08/10/2017)
08/10/2017	<u>664</u>	–SEALED – NOTICE of Filing Under Seal Capital One's Opposition to IV's Motion for Summary Judgment by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>662</u> Response in Opposition to Motion, (Zinsner, Mary) (Entered: 08/10/2017)
08/10/2017	<u>665</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 08/10/2017)
08/15/2017	<u>666</u>	PAPERLESS ORDER granting <u>660</u> Motion to Appear Pro Hac Vice on behalf of Alexander Reicher. Directing attorney Alexander Reicher to register online for CM/ECF at http://www.mdd.uscourts.gov/electronic-case-filing-registration . Signed by Clerk on 8/15/2017. (srd, Deputy Clerk) (Entered: 08/15/2017)
08/15/2017	<u>667</u>	PAPERLESS ORDER granting <u>661</u> Motion to Appear Pro Hac Vice on behalf of J Scott Ballenger. Directing attorney J Scott Ballenger to register online for CM/ECF at http://www.mdd.uscourts.gov/electronic-case-filing-registration . Signed by Clerk on 8/15/2017. (srd, Deputy Clerk) (Entered: 08/15/2017)
08/17/2017	<u>668</u>	REDACTED DOCUMENT to <u>658</u> MOTION to Seal <i>Redacted Version Memorandum in Support of Motion for Summary Judgment</i> <u>657</u> by Intellectual Ventures I LLC(Freitas, Robert) (Entered: 08/17/2017)
08/31/2017	<u>669</u>	–SEALED–REPLY to Response to Motion re <u>656</u> MOTION for Summary Judgment <i>Notice of Motion and Motion for Summary Judgment</i> filed by Intellectual Ventures I LLC.(Freitas, Robert) (Entered: 08/31/2017)
08/31/2017	<u>670</u>	MOTION to Seal <i>Reply Memorandum in Support of Motion for Summary Judgment</i> by Intellectual Ventures I LLC (Attachments: # <u>1</u> Text of Proposed Order)(Freitas, Robert) (Entered: 08/31/2017)

08/31/2017	<u>671</u>	REPLY to Response to Motion re <u>656</u> MOTION for Summary Judgment <i>Notice of Motion and Motion for Summary Judgment Redacted Version Reply Memorandum in Support of Motion for Summary Judgment</i> filed by Intellectual Ventures I LLC.(Freitas, Robert) (Entered: 09/01/2017)
09/05/2017	<u>672</u>	ORDER granting <u>670</u> MOTION to Seal <u>669</u> Reply Memorandum in Support of Motion for Summary Judgment. Signed by Judge Paul W. Grimm on 9/5/2017. (aos, Deputy Clerk) (Entered: 09/05/2017)
09/07/2017	<u>673</u>	Correspondence re: objections to exhibits in the Joint Record (Weinberg, Daniel) (Entered: 09/07/2017)
09/13/2017	<u>674</u>	REDACTED DOCUMENT <i>Objections to Joint Record Exhibits</i> by Intellectual Ventures I LLC(Weinberg, Daniel) (Entered: 09/13/2017)
09/13/2017	<u>675</u>	–SEALED – NOTICE of Filing Under Seal Objections to Joint Record Exhibits by Intellectual Ventures I LLC re <u>674</u> Redacted Document (Attachments: # <u>1</u> SEALED Objections to Joint Record Exhibits)(Weinberg, Daniel) (Entered: 09/13/2017)
09/13/2017	<u>676</u>	MOTION to Seal by Intellectual Ventures I LLC (Attachments: # <u>1</u> Text of Proposed Order)(Weinberg, Daniel) (Entered: 09/13/2017)
09/20/2017	<u>677</u>	RESPONSE re <u>675</u> Notice of Filing Exhibit or Attachment Under Seal, <u>674</u> Redacted Document (<i>Public Version</i>) filed by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. (Attachments: # <u>1</u> Exhibit A – Notice of Filing of Document Under Seal, # <u>2</u> Exhibit B – Notice of Filing of Document Under Seal, # <u>3</u> Exhibit C – Notice of Filing of Document Under Seal, # <u>4</u> Exhibit D – Notice of Filing of Document Under Seal)(Zinsner, Mary) (Entered: 09/20/2017)
09/20/2017	<u>678</u>	MOTION to Seal by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 09/20/2017)
09/20/2017	<u>679</u>	–SEALED – NOTICE of Filing Under Seal Capital One Counterclaimants' Responses to IV's Objections to Joint Record Exhibits and Exhibits A–D by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association re <u>677</u> Response,, (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Zinsner, Mary) (Entered: 09/20/2017)
09/28/2017	<u>680</u>	MOTION to Withdraw as Attorney <i>Motion of Eric B. Fastiff for Leave to Withdraw as Pro Hac Vice Counsel for Plaintiffs</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Attachments: # <u>1</u> Text of Proposed Order)(Fastiff, Eric) (Entered: 09/28/2017)
09/28/2017	<u>681</u>	MOTION to Withdraw as Attorney <i>Motion of David T. Rudolph for Leave to Withdraw as Pro Hac Vice Counsel for Plaintiffs</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Attachments: # <u>1</u> Text of Proposed Order)(Fastiff, Eric) (Entered: 09/28/2017)
10/05/2017	<u>682</u>	ORDER granting <u>680</u> Motion to Withdraw as Attorney. Attorney Eric B Fastiff terminated. Signed by Judge Paul W. Grimm on 10/5/2017. (jf3s, Deputy Clerk) (Entered: 10/05/2017)
10/05/2017	<u>683</u>	ORDER granting <u>681</u> Motion to Withdraw as Attorney. Attorney David Taylor Rudolph terminated. Signed by Judge Paul W. Grimm on 10/5/2017. (jf3s, Deputy Clerk) (Entered: 10/05/2017)
10/06/2017	<u>684</u>	MOTION to Withdraw as Attorney – <i>Motion of William H. Rawson for Leave to Withdraw as Counsel for Defendants</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 10/06/2017)
10/10/2017	<u>685</u>	PAPERLESS ORDER GRANTING <u>684</u> Motion to Withdraw as Attorney. Attorney William H. Rawson terminated. Signed by Judge Paul W. Grimm on 10/10/2017. (ats, Chambers) (Entered: 10/10/2017)
12/01/2017	<u>686</u>	MEMORANDUM OPINION. Signed by Judge Paul W. Grimm on 11/30/2017. (rss, Deputy Clerk) (Entered: 12/01/2017)

12/01/2017	<u>687</u>	ORDER GRANTING <u>656</u> Motion for Summary Judgment; Judgment is Entered in IV's Favor on Count One, Two, and Three of Capital One's Third Party Complaint and Counts Twelve, Thirteen, and Fourteen of Capital One's Counterclaim; GRANTING <u>658</u> Motion to Seal; GRANTING <u>665</u> Motion to Seal; GRANTING <u>676</u> Motion to Seal. Signed by Judge Paul W. Grimm on 11/30/2017. (rss, Deputy Clerk) (Entered: 12/01/2017)
12/15/2017	<u>688</u>	BILL OF COSTS by Intellectual Ventures I LLC (Attachments: # <u>1</u> Memorandum In Support of Bill of Costs)(Freitas, Robert) (Entered: 12/15/2017)
12/18/2017	<u>689</u>	BILL OF COSTS <i>Amended Bill of Costs</i> by Intellectual Ventures I LLC (Attachments: # <u>1</u> Memorandum In Support of Amended Bill of Costs)(Freitas, Robert) (Entered: 12/18/2017)
12/22/2017	<u>690</u>	Joint MOTION for Extension of Time <i>for Further Briefing on IV's Bill of Costs</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 12/22/2017)
12/28/2017	<u>691</u>	NOTICE OF APPEAL by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association. Filing fee \$ 505, receipt number 0416-7073098.(Zinsner, Mary) (Entered: 12/28/2017)
12/28/2017	<u>692</u>	NOTICE of Change of Address by Bryan D Bolton (Bolton, Bryan) (Entered: 12/28/2017)
12/28/2017	<u>693</u>	Correspondence re: Stay of Further Briefing and Consideration of Costs (Zinsner, Mary) (Entered: 12/28/2017)
12/29/2017	<u>694</u>	TRANSMISSION of Notice of Appeal and Docket Sheet to US Court of Appeals for the Federal Circuit, re: <u>691</u> Notice of Appeal filed by Capital One, National Association, Capital One Bank (USA), National Association, Capital One Financial Corporation (Attachments: # <u>1</u> Notice of Appeal, # <u>2</u> Docket Sheet, # <u>3</u> Order)(krcs, Deputy Clerk) (Entered: 12/29/2017)
01/02/2018	<u>695</u>	NOTICE OF DOCKETING US Court of Appeals for the Federal Circuit (No. 18-1367), re <u>691</u> Notice of Appeal (Attachment: # <u>1</u> Civil Case Docketing)(krc, Deputy Clerk) (Entered: 01/03/2018)
01/09/2018	696	PAPERLESS ORDER re: <u>688</u> Bill of Costs, <u>689</u> Bill of Costs. Costs are denied without prejudice to filing a new bill of costs within fourteen days of the U.S. Court of Appeals issuing any mandate affirming judgment. See Guidelines for Bills I.F. Signed by Clerk on 1/9/2018 (decs, Deputy Clerk) (Entered: 01/09/2018)
01/11/2018	<u>697</u>	TRANSCRIPT REQUEST by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Zinsner, Mary) (Entered: 01/11/2018)
01/12/2018	698	PAPERLESS ORDER finding as moot <u>690</u> Motion for Extension of Time in light of Paperless Order, ECF No. 696. Signed by Judge Paul W. Grimm on 1/12/18. (Grimm, Paul) (lyb) (Entered: 01/12/2018)
02/14/2018	<u>699</u>	MOTION to Withdraw as Attorney <i>Re: Clayton Walter Thompson II for Leave to Withdraw as Pro Hac Vice Counsel for Plaintiffs</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Attachments: # <u>1</u> Text of Proposed Order)(Bolton, Bryan) (Entered: 02/14/2018)
02/14/2018	<u>700</u>	MOTION to Withdraw as Attorney <i>Re: Yakov Zolotorev for Leave to Withdraw as Pro Hac Vice Counsel for Plaintiffs</i> by Intellectual Ventures I LLC, Intellectual Ventures II LLC (Attachments: # <u>1</u> Text of Proposed Order)(Bolton, Bryan) (Entered: 02/14/2018)
02/15/2018	701	PAPERLESS ORDER GRANTING <u>699</u> Motion to Withdraw as Attorney. Attorney Clayton Walter Thompson, II terminated. Signed by Judge Paul W. Grimm on 2/15/2018. (ats, Chambers) (Entered: 02/15/2018)
02/15/2018	702	PAPERLESS ORDER GRANTING <u>700</u> Motion to Withdraw as Attorney. Attorney Yakov Zolotorev terminated. Signed by Judge Paul W. Grimm on 2/15/2018. (ats, Chambers) (Entered: 02/15/2018)

04/02/2018	<u>703</u>	Joint MOTION Regarding Joint Record Exhibit Nos. 1-286 by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association, Intellectual Ventures Management, LLC, Invention Investment Fund I, L.P., Invention Investment Fund II, LLC (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 04/02/2018)
04/04/2018	<u>704</u>	ORDER granting <u>703</u> Joint Motion Regarding Joint Record Exhibit Nos. 1-286. Signed by Judge Paul W. Grimm on 4/4/2018. (jf3s, Deputy Clerk) (Entered: 04/05/2018)
04/06/2018	<u>705</u>	MOTION to Withdraw as Attorney – <i>Motion of Alicia R. Jovais for Leave to Withdraw as Counsel for Defendants/Counterclaimants/Third-Party Plaintiffs</i> by Capital One Bank (USA), National Association, Capital One Financial Corporation, Capital One, National Association (Attachments: # <u>1</u> Text of Proposed Order)(Zinsner, Mary) (Entered: 04/06/2018)
04/06/2018	706	PAPERLESS ORDER granting <u>705</u> Motion to Withdraw as Attorney. Attorney Alicia R Jovais terminated. Signed by Judge Paul W. Grimm on 4/6/2018. (jf3s, Deputy Clerk) (Entered: 04/09/2018)