

**U.S. District Court  
Eastern District of Virginia – (Alexandria)  
CIVIL DOCKET FOR CASE #: 1:21-cv-01366-PTG-WEF**

Boundy v. United States Patent and Trademark Office(USPTO) Date Filed: 12/07/2021  
Assigned to: District Judge Patricia Tolliver Giles Date Terminated: 03/17/2023  
Referred to: Magistrate Judge William E. Fitzpatrick Jury Demand: None  
Cause: 05:552 Freedom of Information Act Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****David Boundy**

represented by **Richard Straussman**  
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**Defendant**

**United States Patent and Trademark  
Office  
(USPTO)**

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Date Filed	#	Docket Text
12/07/2021	<u>1</u>	Complaint ( Filing fee \$ 402, receipt number AVAEDC-8140817.), filed by DAVID BOUNDY. (Attachments: # <u>1</u> Civil Cover Sheet Civil Cover Sheet, # <u>2</u> Letter Appearance (Form ao458), # <u>3</u> Affidavit Certificate of Service)(Neifeld, Richard) (Attachment 1 replaced on 12/8/2021 Removed incorrectly filed PDF fillable form) (nneb, ). (Attachment 2 replaced on 12/8/2021 Removed incorrectly filed PDF fillable form) (nneb, ). Modified on 12/8/2021 (nneb, ). (Entered: 12/07/2021)
12/07/2021		Initial Case Assignment to District Judge Patricia Tolliver Giles and Magistrate Judge Theresa Carroll Buchanan. (nneb) (Entered: 12/08/2021)
12/08/2021		Notice of Correction re <u>1</u> Complaint. The filing user has been notified that document [1-1 and 1-2] are incorrectly saved PDF fillable forms and have been removed. The filing user was directed to refile the documents. (nneb) (Entered: 12/08/2021)

12/08/2021	<u>2</u>	NOTICE of Appearance by Richard Neifeld on behalf of DAVID BOUNDY (Neifeld, Richard) (Entered: 12/08/2021)
12/08/2021	<u>3</u>	NOTICE by DAVID BOUNDY re <u>1</u> Complaint, <i>Civil Cover Sheet</i> (Neifeld, Richard) (Entered: 12/08/2021)
12/08/2021	<u>4</u>	Proposed Summons re <u>1</u> Complaint, by DAVID BOUNDY. (Attachments: # <u>1</u> Appendix Proposed Summons, US Atty, # <u>2</u> Appendix Proposed Summons, Atty General)(Neifeld, Richard) (Entered: 12/08/2021)
12/09/2021	<u>5</u>	Summons Issued as to UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO), U.S. Attorney and U.S. Attorney General NOTICE TO ATTORNEY: Please remove the headers and print two duplexed copies of the electronically issued summons for each Defendant. Please serve one copy of the summons and a copy of the Complaint upon each Defendant. Please ensure that your process server returns the service copy (executed or unexecuted) to your attention and electronically file it using the filing events, Summons Returned Executed or Summons Returned Unexecuted. (Attachments: # <u>1</u> Notice to Attorney)(nneb) (Entered: 12/09/2021)
01/04/2022	<u>6</u>	AFFIDAVIT of Service for Summons and Complaint served on Attorney General of the United States served on 1/4/2022, filed by David Boundy. (Neifeld, Richard) Modified on 1/13/2022 (dest). Modified on 1/13/2022 to correct docket event (nneb, ). (Entered: 01/04/2022)
01/04/2022	<u>7</u>	AFFIDAVIT of Service for Summons and Complaint served on United States Attorney for the Eastern District of Virginia served on 1/4/2022, answer due 3/11/2022. filed by David Boundy. (Neifeld, Richard) Modified on 1/13/2022 to correct docket event (dest). Modified on 1/13/2022 (nneb). (Entered: 01/04/2022)
01/04/2022	<u>8</u>	AFFIDAVIT of Service for Summons and Complaint served on Office of the General Counsel, United States Patent and Trademark Office on 1/4/2022, filed by David Boundy. (Neifeld, Richard) Modified on 1/13/2022 to correct docket event (nneb, ). (Entered: 01/04/2022)
01/12/2022	<u>9</u>	Filed In Error and Removed (nneb, ). (Entered: 01/12/2022)
01/12/2022	<u>10</u>	Filed in Error and Removed (nneb, ). (Entered: 01/12/2022)
01/12/2022	<u>11</u>	Filed in Error and Removed (nneb, ). (Entered: 01/12/2022)
01/13/2022	<u>12</u>	SUMMONS Returned Executed by David Boundy. United States Patent and Trademark Office (USPTO) served on 1/10/2022, answer due 3/11/2022. (Neifeld, Richard) (Entered: 01/13/2022)
01/18/2022	<u>13</u>	NOTICE of Appearance by Carolyn Michaela Wesnousky on behalf of United States Patent and Trademark Office (USPTO) (Wesnousky, Carolyn) (Entered: 01/18/2022)
01/18/2022	<u>14</u>	Certificate Reporting Service by United States Patent and Trademark Office (USPTO). United States Patent and Trademark Office (USPTO) served on 1/4/2022, answer due 3/11/2022. (Wesnousky, Carolyn) (Entered: 01/18/2022)
01/18/2022	<u>15</u>	NOTICE of Appearance by Carolyn Michaela Wesnousky on behalf of United States Patent and Trademark Office (USPTO) (Wesnousky, Carolyn) (Entered: 01/18/2022)
01/18/2022	<u>16</u>	Certificate Reporting Service by United States Patent and Trademark Office (USPTO). (Wesnousky, Carolyn) (Entered: 01/18/2022)
01/18/2022	<u>17</u>	Joint MOTION to Stay <i>the Proceedings</i> by United States Patent and Trademark Office (USPTO). (Attachments: # <u>1</u> Proposed Order)(Wesnousky, Carolyn) (Entered: 01/18/2022)
01/26/2022	<u>18</u>	ORDER granting <u>17</u> Joint MOTION to Stay the Proceedings; and it is further ORDERED that the instant action is STAYED until further order of this Court; and it is hereby ORDERED that the parties shall file status reports with this Court every sixty (60) days from the date of this Order. Signed by District Judge Patricia Tolliver Giles on 1/26/2022. (nneb) (Entered: 01/26/2022)
03/28/2022	<u>19</u>	STATUS REPORT by United States Patent and Trademark Office (USPTO). (Wesnousky, Carolyn) (Entered: 03/28/2022)

05/23/2022	<u>20</u>	Joint MOTION to Lift the Stay and Enter a Briefing Schedule by United States Patent and Trademark Office (USPTO). (Attachments: # <u>1</u> Proposed Order)(Wesnousky, Carolyn) (Entered: 05/23/2022)
05/25/2022	<u>21</u>	ORDER granting <u>20</u> Joint MOTION to Lift the Stay and Enter a Briefing Schedule; and it is further ORDERED that the STAY currently in place in the instant action is LIFTED and the case is returned to the Court's active docket (see Order for details). Signed by District Judge Patricia Tolliver Giles on 5/25/2022. (nneb) (Entered: 05/25/2022)
05/25/2022		Set Deadlines as to Motion Hearing set for 9/15/2022 at 10:00 AM in Alexandria Courtroom 801 before District Judge Patricia Tolliver Giles. (nneb) (Entered: 05/26/2022)
06/10/2022	<u>22</u>	ANSWER to Complaint by United States Patent and Trademark Office (USPTO).(Wesnousky, Carolyn) (Entered: 06/10/2022)
06/17/2022	<u>23</u>	[ <b>VACATED per ECF 25</b> ] SCHEDULING ORDER: Initial Pretrial Conference set for 7/20/2022 at 11:00 AM in Alexandria Courtroom 500 before Magistrate Judge Theresa Carroll Buchanan. Final Pretrial Conference set for 10/19/2022 at 10:00 AM in Alexandria Courtroom 801 before District Judge Patricia Tolliver Giles. Discovery due by 10/14/2022. Signed by District Judge Patricia Tolliver Giles on 06/17/22. (Attachments: # <u>1</u> Pretrial Notice, # <u>2</u> Magistrate Judge Consent Form)(pml, ) Modified on 6/24/2022 (nneb, ). (Entered: 06/17/2022)
06/24/2022	<u>24</u>	MOTION to Vacate <i>Initial Scheduling Order</i> by United States Patent and Trademark Office (USPTO). (Attachments: # <u>1</u> Proposed Order)(Wesnousky, Carolyn) (Entered: 06/24/2022)
06/24/2022	<u>25</u>	ORDER granting <u>24</u> MOTION to Vacate Initial Scheduling Order. Signed by District Judge Patricia Tolliver Giles on 6/24/2022. (nneb) (Entered: 06/24/2022)
07/08/2022	<u>26</u>	MOTION for Summary Judgment by United States Patent and Trademark Office (USPTO). (Wesnousky, Carolyn) (Entered: 07/08/2022)
07/08/2022	<u>27</u>	Memorandum in Support re <u>26</u> MOTION for Summary Judgment filed by United States Patent and Trademark Office (USPTO). (Attachments: # <u>1</u> Campbell Declaration & Exs. A to O, # <u>2</u> Exs. N to X to Campbell Declaration)(Wesnousky, Carolyn) (Entered: 07/08/2022)
07/12/2022	<u>28</u>	Motion to appear Pro Hac Vice by RICHARD STRAUSSMAN and Certification of Local Counsel RICHARD NEIFELD Filing fee \$ 75, receipt number AVAEDC-8468534. by David Boundy. (Neifeld, Richard) (Entered: 07/12/2022)
07/18/2022	<u>29</u>	ORDER granting <u>28</u> Motion for Pro hac vice Appointed Richard Straussman for David Boundy. Signed by District Judge Patricia Tolliver Giles on 07/18/2022. (clar, ) (Entered: 07/18/2022)
07/25/2022	<u>30</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>26</u> MOTION for Summary Judgment , <u>27</u> Memorandum in Support, by David Boundy. (Neifeld, Richard) (Entered: 07/25/2022)
07/28/2022	<u>31</u>	ORDER granting <u>30</u> Motion for Extension of Time to File Response/Reply; and it is further ORDERED: a. The due date for Plaintiff's combined brief in opposition to Defendant's Motion for summary judgment and cross motion for summary judgment with supporting papers is extended to on or before August 5, 2022. b. The due date for Defendant's reply brief is extended to on or before August 19, 2022 c. All other dates set forth in the schedule order (ECF Doc. 21) remain unchanged. Signed by District Judge Patricia Tolliver Giles on 7/28/2022. (nneb) Modified on 7/29/2022 (nneb, ). (Entered: 07/28/2022)
08/04/2022	<u>32</u>	Memorandum in Opposition re <u>26</u> MOTION for Summary Judgment <i>and for Summary Judgment</i> filed by David Boundy. (Attachments: # <u>1</u> Affidavit Declaration of David Boundy with attached Exhibits 1-29)(Neifeld, Richard) (Entered: 08/04/2022)
08/11/2022		Case Reassigned to Magistrate Judge William E. Fitzpatrick. Magistrate Judge Theresa Carroll Buchanan no longer assigned to the case. (jlan) (Entered: 08/11/2022)

08/19/2022	<u>33</u>	RESPONSE in Support re <u>26</u> MOTION for Summary Judgment , Opposition to <i>Plaintiff's Motion for Summary Judgment</i> filed by United States Patent and Trademark Office (USPTO). (Attachments: # <u>1</u> Exhibits 1 & 2)(Wesnousky, Carolyn) (Entered: 08/19/2022)
08/25/2022	<u>34</u>	REPLY to Response to Motion re <u>26</u> MOTION for Summary Judgment <i>and Exhibit 30</i> filed by David Boundy. (Neifeld, Richard) (Entered: 08/25/2022)
09/09/2022	<u>35</u>	Notice of Hearing Date re <u>32</u> Memorandum in Opposition, <u>26</u> MOTION for Summary Judgment (Wesnousky, Carolyn) (Entered: 09/09/2022)
09/09/2022		Set Deadlines as to <u>26</u> MOTION for Summary Judgment . Motion Hearing set for 10/27/2022 at 10:00 AM in Alexandria Courtroom 801 before District Judge Patricia Tolliver Giles. (dvanm) (Entered: 09/19/2022)
10/24/2022		Reset Deadline as to <u>26</u> MOTION for Summary Judgment . Motion Hearing set for 10/27/2022 at <b>11:00</b> AM in Alexandria Courtroom 801 before District Judge Patricia Tolliver Giles. (PER PTG CHAMBERS) (pmil, ) (Entered: 10/24/2022)
10/27/2022	<u>36</u>	NOTICE by United States Patent and Trademark Office (USPTO) of <i>Tendering Documents for In Camera Review</i> (Wesnousky, Carolyn) (Entered: 10/27/2022)
10/27/2022	<u>37</u>	Minute Entry for proceedings held before District Judge Patricia Tolliver Giles: Motion Hearing held on 10/27/2022. Appearances of counsel for Plaintiff and Defendant. Re: <u>26</u> MOTION for Summary Judgment filed by United States Patent and Trademark Office (USPTO) – <b>MATTER ARGUED AND TAKEN UNDER ADVISEMENT – ORDER TO FOLLOW. The Court directs Deft to submit withheld/redacted documents for in camera inspection.</b> Court Reporter: S. Wallace(pmil, ) (Entered: 10/28/2022)
11/04/2022	<u>38</u>	NOTICE by David Boundy (Neifeld, Richard) (Entered: 11/04/2022)
03/17/2023	<u>39</u>	MEMORANDUM OPINION and ORDER that Plaintiff's Motion for Summary Judgment (Dkt. 32) is DENIED. Defendant's Motion for Summary Judgment (Dkt. 26) is GRANTED and Defendant is hereby ORDERED to produce the images of the 2013 Authority Chart on pages fifteen and nineteen of Document Four, as listed in the Vaughn index, to Plaintiff (see Order for further details). Signed by District Judge Patricia Tolliver Giles on 3/17/2023. (swil) (Entered: 03/17/2023)
03/22/2023	<u>40</u>	TRANSCRIPT of proceedings held on 10–27–22, before Judge Patricia Tolliver Giles, Court Reporter/Transcriber Scott Wallace, Telephone number 202–277–3739. <b>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have thirty(30) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at <a href="http://www.vaed.uscourts.gov">www.vaed.uscourts.gov</a> 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 through PACER Redaction Request due 4/21/2023. Redacted Transcript Deadline set for 5/22/2023. Release of Transcript Restriction set for 6/20/2023.(wallace, scott) (Entered: 03/22/2023)</b>