

**U.S. District Court
Eastern District of Virginia – (Alexandria)
CIVIL DOCKET FOR CASE #: 1:23-cv-01075-CMH-LRV**

Malone v. United States Patent and Trademark Office
Assigned to: District Judge Claude M. Hilton
Referred to: Magistrate Judge Lindsey R. Vaala
Cause: 05:552 Freedom of Information Act

Date Filed: 08/15/2023
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Josh Malone

represented by **Brett Mangrum**
Cherry Johnson Seigmund James, PLLC
400 Austin Ave
Suite 903
Waco, TX 76701
NA
254-732-2242
Fax: 866-627-3509
Email: bmangrum@cjsjlaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Joshua John White
Cherry Johnson Seigmund James, PLLC
400 Austin Ave
Suite 903
Waco, TX 76701
NA
254-732-2242
Fax: 866-627-3509
Email: jwhite@cjsjlaw.com
PRO HAC VICE
ATTORNEY TO BE NOTICED

Travis Richins
Richins Law Group
11357 Nuckols Rd
Ste 2076
Glen Allen, VA 23059
214-601-0678
Email: travis@richinslawfirm.com
ATTORNEY TO BE NOTICED

Defendant

United States Patent and Trademark Office

represented by **Carolyn M. Wesnousky**
DOJ-USAO
2100 Jamieson Avenue
Alexandria, VA 22315
703-299-3996
Fax: 703-299-3983
Email: carolyn.wesnousky@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/15/2023	<u>1</u>	Complaint (Filing fee \$ 402, receipt number AVAEDC-9077139.), filed by JOSH MALONE. (Attachments: # <u>1</u> Civil Cover Sheet)(Richins, Travis) (Entered: 08/15/2023)

08/15/2023	<u>2</u>	Motion to appear Pro Hac Vice by Joshua White and Certification of Local Counsel Travis Richins Filing fee \$ 75, receipt number AVAEDC-9077191. by JOSH MALONE. (Richins, Travis) (Entered: 08/15/2023)
08/15/2023	<u>3</u>	Proposed Summons by JOSH MALONE. (Richins, Travis) (Entered: 08/15/2023)
08/15/2023		Initial Case Assignment to District Judge Claude M. Hilton and Magistrate Judge Lindsey R. Vaala. (dvanm) (Entered: 08/16/2023)
08/16/2023		Notice of Correction re <u>3</u> Proposed Summons. The filing user has been notified to submit proposed summons for the USAO and Attorney General. (dvanm) (Entered: 08/16/2023)
08/16/2023	<u>4</u>	Proposed Summons <i>to the US Attorney General</i> by Josh Malone. (Richins, Travis) (Entered: 08/16/2023)
08/16/2023	<u>5</u>	Proposed Summons <i>on the US Attorney's Office for the EDVA</i> by Josh Malone. (Richins, Travis) (Entered: 08/16/2023)
08/18/2023	<u>6</u>	Summons Issued as to United States Patent and Trademark Office, 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 as to USA or Summons Returned Unexecuted as to USA. (Attachments: # <u>1</u> Notice)(dvanm) (Entered: 08/18/2023)
09/20/2023	<u>7</u>	ANSWER to Complaint by United States Patent and Trademark Office.(Wesnousky, Carolyn) (Entered: 09/20/2023)
10/23/2023	<u>8</u>	SCHEDULING ORDER: Initial Pretrial Conference set for 11/8/2023 at 11:00 AM in Alexandria Courtroom 400 before Magistrate Judge Lindsey R. Vaala. Final Pretrial Conference set for 3/21/2024 at 10:00 AM in Alexandria Courtroom 800 before District Judge Claude M. Hilton. Discovery due by 3/15/2024. Signed by District Judge Claude M. Hilton on 10/23/23. (Attachments: # <u>1</u> Pretrial Notice, # <u>2</u> Magistrate Judge Consent Form)(tarm) (Entered: 10/24/2023)
10/26/2023	<u>9</u>	MOTION to Continue <i>Pretrial Conference</i> by Josh Malone. (Attachments: # <u>1</u> Proposed Order)(Richins, Travis) (Entered: 10/26/2023)
10/26/2023	<u>10</u>	ORDERED that the motion is GRANTED IN PART; and it is hereby ORDERED that the Pretrial Conference set for November 8, 2023 (ECF No. 8) is continued to Monday, November 20, 2023 at 9:30 a.m. and will be held telephonically. The undersigned's chambers will contact counsel regarding dial-in information for the telephonic conference. The parties' joint discovery plan must be filed by November 15, 2023. All other deadlines remain unchanged in re <u>9</u> MOTION to Continue Pretrial Conference. Signed by Magistrate Judge Lindsey R. Vaala on 10/26/2023. (jlan) (Entered: 10/27/2023)
10/27/2023		Reset Hearing: Initial Pretrial Conference reset for 11/20/2023 at 09:30 AM in Alexandria Courtroom 400 before Magistrate Judge Lindsey R. Vaala. (jlan) (Entered: 10/27/2023)
11/09/2023	<u>11</u>	MOTION to Vacate <i>Initial Scheduling Order and Enter a Briefing Schedule (Unopposed)</i> by United States Patent and Trademark Office. (Attachments: # <u>1</u> Proposed Order)(Wesnousky, Carolyn) (Entered: 11/09/2023)
11/13/2023	<u>12</u>	ORDER granting <u>11</u> MOTION to Vacate Initial Scheduling Order and Enter a Briefing Schedule and it is ORDERED that the Court's initial scheduling order is VACATED; Defendant will file a motion for summary judgment on or before December 15, 2023. Plaintiff will file a motion for summary judgment, on or before February 9, 2024. Defendant will file a single memorandum containing reply arguments in further support of its motion for summary judgment, and in opposition to Plaintiff's motion for summary judgment, on or before March 1, 2024; Plaintiff will file a reply memorandum of law in further support of his motion for summary judgment on or before 3/15/2024. Signed by District Judge Claude M. Hilton on 11/13/23. (tarm)

		(Entered: 11/13/2023)
12/08/2023	<u>13</u>	ORDER granting <u>2</u> Motion for Pro hac vice Appointed Joshua John White for Josh Malone. Signed by District Judge Claude M. Hilton on 12/8/2023. (swil) (Entered: 12/11/2023)
12/15/2023	<u>14</u>	MOTION for Summary Judgment by United States Patent and Trademark Office. (Wesnousky, Carolyn) (Entered: 12/15/2023)
12/15/2023	<u>15</u>	Memorandum in Support re <u>14</u> MOTION for Summary Judgment filed by United States Patent and Trademark Office. (Attachments: # <u>1</u> Agency Declaration)(Wesnousky, Carolyn) (Entered: 12/15/2023)
12/15/2023	<u>16</u>	NOTICE by United States Patent and Trademark Office of <i>Waiver of Hearing</i> (Wesnousky, Carolyn) (Entered: 12/15/2023)
01/02/2024	<u>17</u>	Motion to appear Pro Hac Vice by Brett Mangrum and Certification of Local Counsel Travis Richins Filing fee \$ 75, receipt number AVAEDC-9289271. by Josh Malone. (Richins, Travis) (Entered: 01/02/2024)
02/09/2024	<u>18</u>	Cross MOTION for Summary Judgment by Josh Malone. (Richins, Travis) (Entered: 02/09/2024)
02/09/2024	<u>19</u>	Memorandum <i>in Opposition to Defendant's Motion for Summary Judgment and in Support of Plaintiff's Cross-Motion for Summary Judgment</i> to <u>14</u> MOTION for Summary Judgment , <u>18</u> Cross MOTION for Summary Judgment , <u>15</u> Memorandum in Support filed by Josh Malone. (Attachments: # <u>1</u> Affidavit Richins Declaration with Exhibits, # <u>2</u> Exhibit Exhibit 7 – Proposed Discovery)(Richins, Travis) (Entered: 02/09/2024)
02/12/2024		Notice of Correction re <u>18</u> Cross MOTION for Summary Judgment. The filing user has been notified to file a Notice of Hearing or a Waiver of Oral Argument. (dvanm) (Entered: 02/12/2024)
02/12/2024	<u>20</u>	NOTICE by Josh Malone re <u>19</u> Memorandum, <u>14</u> MOTION for Summary Judgment , <u>18</u> Cross MOTION for Summary Judgment , <u>15</u> Memorandum in Support <i>Waiver of Oral Hearing</i> . (Richins, Travis) (Entered: 02/12/2024)
03/01/2024	<u>21</u>	Reply to Motion re <u>14</u> MOTION for Summary Judgment , <u>18</u> Cross MOTION for Summary Judgment filed by United States Patent and Trademark Office. (Attachments: # <u>1</u> Exhibit)(Wesnousky, Carolyn) (Entered: 03/01/2024)
03/15/2024	<u>22</u>	REPLY to Response to Motion re <u>14</u> MOTION for Summary Judgment , <u>18</u> Cross MOTION for Summary Judgment filed by Josh Malone. (Richins, Travis) (Entered: 03/15/2024)
04/10/2024	<u>23</u>	MEMORANDUM OPINION in re Defendant United States Patent and Trademark Office's (USPTO or "Agency") Motion for Summary Judgment and Plaintiff Josh Malone's Cross-Motion for Summary Judgment. Signed by District Judge Claude M. Hilton on 4/10/2024. (dvanm) (Entered: 04/10/2024)
04/10/2024	<u>24</u>	ORDERED that Defendant's Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART, and Plaintiff's Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART. It is further ORDERED that Defendant turn over the 2018 expanded panel list to Plaintiff subject to appropriate redactions. Signed by District Judge Claude M. Hilton on 4/10/2024. (dvanm) (Entered: 04/10/2024)
08/20/2024	<u>25</u>	ORDER granting <u>17</u> Motion for Pro hac vice Appointed Brett Mangrum for Josh Malone. Signed by District Judge Claude M. Hilton on 8/20/2024. (swil) (Entered: 08/20/2024)