

1 M. Elizabeth Day (SBN 177125)

2 eday@feinday.com

Marc Belloli (SBN 244290)

3 mbelloli@feinday.com

FEINBERG DAY KRAMER ALBERTI

4 **LIM TONKOVICH & BELLOLI LLP**

5 577 Airport Blvd., Suite 250

Burlingame, CA. 94010

6 Tel: 650 825-4300/Fax 650 460-8443

7 Brian N. Platt (Admitted pro hac vice)

8 bplatt@wnlaw.com

Brent P. Lorimer (*Admitted pro hac vice*)

9 blorimer@wnlaw.com

WORKMAN NYDEGGER

10 60 East South Temple Suite 1000

Salt Lake City, UT 84111

11 Tel: 801-533-9800/Fax 801-328-1707

12 *Attorneys for Defendant Triller, Inc.*

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17 BYTEDANCE INC., TIKTOK INC., and
18 TIKTOK PTE. LTD.,

19 Plaintiffs,

20 v.

21 TRILLER, INC.,

22 Defendant.

Case No: 4:20-cv-7572-JSW

**DEFENDANT'S NOTICE OF MOTION
AND MOTION TO STAY LITIGATION
PENDING *INTER PARTES* REVIEW**

Hon. Jeffrey S. White

Date: January 7, 2022

Time: 9:00 AM

Courtroom: 5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

NOTICE OF MOTION..... 1

RELIEF REQUESTED..... 1

STATEMENT OF ISSUES TO BE DECIDED 1

SUMMARY OF ARGUMENT 2

I. STATEMENT OF FACTS 3

 A. Nature and Stage of the Pleadings 3

 B. Triller’s Petitions for *Inter Partes* Review of the Three Asserted Patents 3

 C. Relationship Between Plaintiffs and Triller..... 8

II. ARGUMENT 8

 A. Simplification of Issues..... 9

 B. Discovery and Trial Dates. 11

 C. Prejudice or Tactical Advantage..... 12

 D. Reduce the Burden of Litigation..... 15

III. CONCLUSION..... 15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Aavid Thermalloy LLC v. Cooler Master, Ltd.</i> , 2019 WL 4009166 (N.D. Cal. 2019)	12
<i>ASCII Corp. v. STD Entm't USA, Inc.</i> , 844 F. Supp. 1378 (N.D. Cal. 1994)	11
<i>Aylus Networks, Inc. v. Apple Inc.</i> , 856 F.3d 1353 (Fed. Cir. 2017).....	10
<i>Cellwitch, Inc. v. Tile, Inc.</i> , No. 19-cv-1315 JSW (N.D. Cal. Jan. 17, 2020)	8, 9, 11
<i>Chrimar Sys. Inc. v. Ruckus Wireless, Inc.</i> , No. 16-cv-00186-SI, 2016 WL 5403595 (N.D. Cal. Sept. 26, 2016)	10
<i>In re Cygnus Telecom. Tech., LLC, Patent Litig.</i> , 385 F. Supp. 2d 1022 (N.D. Cal. 2005)	2
<i>Cypress Semiconductor Corp. v. GSI Tech., Inc.</i> , No. 13-cv-02013 JST, 2014 WL 5021100 (N.D. Cal. Oct. 7, 2014)	12, 13
<i>Delphix Corp. v. Actifio, Inc.</i> , No. 13-cv-04613 BLF, 2014 WL 6068407 (N.D. Cal. Nov. 13, 2014).....	8
<i>Ethicon, Inc. v. Quigg</i> , 849 F.2d 1422 (Fed. Cir. 1988).....	8
<i>Evolutionary Intelligence, LLC v. Apple, Inc.</i> , No. 13-cv-1401 WHA, 2014 WL 93954 (N.D. Cal. Jan. 9, 2014)	14
<i>Evolutionary Intelligence, LLC v. Facebook, Inc.</i> , No. 13-cv-4202 SI, 2014 WL 261837 (N.D. Cal. Jan. 23, 2014)	10, 12, 13, 15
<i>Finjan, Inc. v. Symantec Corp.</i> , 139 F. Supp. 3d 1032 (N.D. Cal. 2015)	<i>passim</i>
<i>Fisher-Price, Inc. v. Dynacraft BSC, Inc.</i> , No. 17-cv-3745-PJH, 2017 WL 5153588 (N.D. Cal. Nov. 7, 2017)	11
<i>Fresenius USA, Inc. v. Baxter Int'l, Inc.</i> , 721 F.3d 1330 (Fed. Cir. 2013), cert. denied, 134 S. Ct. 2295 (U.S. 2014)	2

1	<i>GT Nexus, Inc. v. Intra, Inc.</i> ,	
	No. 11-cv-2145 SBA, 2014 WL 3373088, at *2 (N.D. Cal. July 9, 2014).....	8
2	<i>Heffernan v. City of Paterson</i> ,	
3	578 U.S. 266, 136 S. Ct. 1412 (2016).....	14
4	<i>Karl Storz Endoscopy-Am. Inc. v. Stryker Corp.</i> ,	
5	No. 14-cv-00876 RS, 2015 WL 13727876 (N.D. Cal. Mar. 30, 2015)	10, 13
6	<i>KLA-Tencor Corp. v. Nanometrics, Inc.</i> ,	
7	No. C 05-03116 JSW, 2006 WL 708661 (N.D. Cal. Mar. 16, 2006)	13
8	<i>Longitude Licensing Ltd. v. Apple Inc.</i> ,	
9	No. 14-cv-04275-EDL, 2015 WL 12778777 (N.D. Cal. Oct. 29, 2015)	10
10	<i>MasterObjects, Inc. v. eBay Inc.</i> ,	
11	No. 16-cv-6824 JSW, 2017 WL 2181132 (N.D. Cal. May 5, 2017)	9, 10, 11, 13
12	<i>Nat'l Inst. of Fam. & Life Advs. v. Becerra</i> ,	
13	138 S. Ct. 2361 (2018) (Breyer, J., dissenting).....	14
14	<i>Oyster Optics, LLC v. Ciena Corp.</i> ,	
15	No. 17-cv-05920 JSW, 2018 WL 6972999 (N.D. Cal. Jan. 29, 2018)	10, 12
16	<i>PersonalWeb Techs., LLC v. Apple Inc.</i> ,	
17	69 F. Supp. 3d 1022 (N.D. Cal. 2014)	9
18	<i>PersonalWeb Techs., LLC v. Facebook, Inc.</i> ,	
19	No. 5:13-cv-01356-EJD, 2014 WL 116340 (N.D. Cal. Jan. 13, 2014)	11
20	<i>Pragmatus AV, LLC v. Facebook, Inc.</i> ,	
21	No. 11-cv-02168 EJD, 2011 WL 4802958 (N.D. Cal. Oct. 11, 2011)	9
22	<i>Riverbed Tech., Inc. v. Silver Peak Systems, Inc.</i> ,	
23	No. C 13-02980 JSW, 2014 WL 1647399 (N.D. Cal. Mar. 14, 2014)	12
24	<i>Robert Bosch Healthcare Sys. v. Cardiocom, LLC</i> ,	
25	No. 14-cv-1574 EMC, 2014 WL 3107447 (N.D. Cal. July 3, 2014).....	15
26	<i>Robert Bosch Healthcare Sys. v. Cardiocom, LLC</i> ,	
27	No. 5:12-cv-3864 EJD, 2012 WL 6020012 (N.D. Cal. Dec. 3, 2012).....	15
28	<i>Slip Track Sys., Inc. v. Metal Lite, Inc.</i> ,	
	159 F.3d 1337 (Fed. Cir. 1998).....	9
	<i>Software Rights Archive, LLC v. Facebook, Inc.</i> ,	
	C-12-3971 RMW, 2013 WL 5225522 (N.D. Cal. Sept. 17, 2013).....	15
	<i>Uniloc USA Inc. v. Apple</i> ,	
	No. 18-cv-00361-PJH, 2018 WL 2387855 (N.D. Cal. May 25, 2018).....	13

1 *Uniloc USA v. LG Electronics U.S.A., Inc.*,
Case No. 18-cv-6737 JST, 2019 WL 1905161 (N.D. Cal. April 4, 2019).....10, 12

2 *VirtualAgility, Inc. v. Salesforce.com, Inc.*,
3 759 F.3d 1307 (Fed. Cir. 2014).....8

4 **Statutes**

5 35 U.S.C. § 315(b)13

6 35 U.S.C. § 315(e)10

7 America Invents Act Section 18(b).....8, 11

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.