

Plaintiff,

v.

MULTI MEDIA, LLC, *et al.*,

Defendants.

WAG ACQUISITION, LLC,

Plaintiff,

v.

DATA CONVERSIONS, INC., *et al.*,

Defendants.

WAG ACQUISITION, LLC,

Plaintiff,

v.

FLYING CROCODILE, INC., *et al.*,

Defendants.

Civil Action No.: 14-2345 (ES) (MAH)

Civil Action No.: 14-2674 (ES) (MAH)

Defendants.

WAG ACQUISITION, LLC,

Plaintiff,

v.

FRIENDFINDER NETWORKS INC., et al.,

Defendants.

Civil Action No.: 14-3456 (ES) (MAH)

WAG ACQUISITION, LLC,

Plaintiff,

v.

VUBEOLOGY, INC., et al.,

Defendants.

Civil Action No.: 14-4531 (ES) (MAH)

WAG ACQUISITION, LLC,

Plaintiff,

v.

WEBPOWER, INC., et al.,

Defendants.

Civil Action No.: 15-3581 (ES) (MAH)

**OPINION ADOPTING
REPORT & RECOMMENDATION**

Plaintiff WAG Acquisition, LLC (“Plaintiff”) opposes the motions. (D.E. No. 165). Also before the Court is Plaintiff’s cross-motion to dismiss Defendant Docler Media, LLC as a Defendant (D.E. No. 152), which Defendants Docler Media, LLC and Duodecad IT Services Luxembourg S.a.r.l. oppose (D.E. No. 154).³

On October 23, 2018, Magistrate Judge Michael A. Hammer issued a Report and Recommendation (D.E. No. 175 (“R&R”)) recommending that this Court: (i) deny the joint motion to dismiss for lack of subject-matter jurisdiction filed by all Defendants in the above-captioned cases; (ii) deny Defendants’ joint motion to dismiss for improper venue; (iii) grant Defendants’ joint motion to transfer venue as to *WAG v. Multi Media, LLC* (Civ. No. 14-2340); *WAG v. Data Conversions, Inc.* (Civ. No. 14-2345); *WAG v. Flying Crocodile, Inc.* (Civ. No. 14-2674); *WAG v. FriendFinder Networks, Inc.* (Civ. No. 14-3456); *WAG v. Vubeology, Inc.* (Civ. No. 14-4531); and *WAG v. WebPower, Inc.* (Civ. No. 15-3581); (iv) grant Plaintiff’s cross-motion to dismiss

¹ This litigation is proceeding against various Defendants across the above-captioned related actions. The following Defendants have signed on to the pending motion to dismiss: Multi Media, LLC; FriendFinder Networks Inc.; Streamray Inc.; WMM, LLC; WMM Holdings, LLC; WebPower; Accretive Technology Group, Inc.; ICF Technology Group, Inc.; Riser Apps, LLC; Duodecad IT Services Luxembourg S.a.r.l.; Docler Media LLC; and Vubeology, Inc. (See Civil Action No. 14-2340, D.E. No. 163 at 49–51).

² For ease of reference, all citations will be to docket entries in the lead case, *WAG Acquisition, LLC v. Multi Media, LLC*, Civil Action No. 14-2340, unless otherwise noted.

³ All references to this motion and the documents pertaining thereto relate to *WAG Acquisition, LLC v. Gattyán Group S.a.r.l.*, Civil Action No. 14-2832.

at 44). Defendants timely filed a joint objection (D.E. No. 176 (“Def. Obj.”)), and Plaintiff timely filed a response (D.E. No. 181 (“Pl. Resp.”)).

Having carefully reviewed the Report and Recommendation *de novo* and the submissions by the parties, the Court hereby ADOPTS the well-reasoned and thorough Report and Recommendation of Judge Hammer. In addition to adopting the facts, the procedural history, the summary of the parties’ arguments, the discussion, and the conclusions of Judge Hammer, the Court addresses Defendants’ main objections to the Report and Recommendation and Plaintiff’s main responses.

I. Legal Standard

When a magistrate judge addresses motions that are considered “dispositive,” such as to grant or deny a motion to dismiss, a magistrate judge will submit a report and recommendation to the district court. *See* 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72; L. Civ. R. 72.1(a)(2). The district court may then “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate. The district judge may also receive further evidence or recommit the matter to the magistrate with instructions.” 28 U.S.C. § 636(b)(1)(C); *see also* L. Civ. R. 72.1(c)(2). Unlike an opinion and order issued by a magistrate judge, a report and recommendation does not have the force of law unless and until the district court enters an order accepting or rejecting it. *United Steelworkers of Am. v. N.J. Zinc Co., Inc.*, 828 F.2d 1001, 1005 (3d Cir. 1987).

72.1(c)(2); *see also State Farm Indem. v. Fornaro*, 227 F. Supp. 2d 229, 231 (D.N.J. 2002); *Zinberg v. Washington Bancorp Inc.*, 138 F.R.D. 397, 401 (D.N.J. 1990). The district court “may consider the record developed before the Magistrate Judge” and make its “own determination on the basis of that record.” L. Civ. R. 72.1(c)(2).

II. Discussion

Defendants object only to Judge Hammer’s denial of Defendants’ motion to dismiss for lack of subject-matter jurisdiction. (Def. Obj. at 7). Defendants primarily recycle arguments made in support of their motion to dismiss—namely, that by virtue of a series of litigation funding agreements which Plaintiff entered with Woodsford Litigation Funding (US) Limited (“WLF”), Plaintiff surrendered substantial rights in the patents-in-suit to WLF such that Plaintiff lacks constitutional and prudential standing to enforce those patents. (*See generally* Def. Obj.; D.E. No. 163 at 22–36). Judge Hammer rejected these arguments, concluding generally that Plaintiff did not transfer such significant rights to WLF, and that WLF’s rights were not so restrictive of Plaintiff’s rights, as would deprive Plaintiff of standing. (*See generally* R&R at 11–27). This Court agrees with Judge Hammer.

As an initial matter, the Court echoes Judge Hammer’s contextualization of this dispute in the relevant legal landscape:

This matter is distinguishable from much of the caselaw on which the parties rely. Most of those cases involved licensing agreements between the patent owner and a licensee, where some right to practice under the patents, or to assign or license the patents, was

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