

ESTTA Tracking number: **ESTTA1318367**
Filing date: **10/26/2023**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding No.	91276542
Filing Party	Defendant Wander.com, Inc.
Other Party	Plaintiff Virtuoso, Ltd.
Pending Motion	There is no motion currently pending and no other motion is being filed concurrent with this consent motion.
Attachments	Dkt 1 - Complaint for Declaratory Judgment.pdf(2065436 bytes)

Consent Motion for Suspension in View of Civil Proceeding

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Wander.com, Inc. hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Wander.com, Inc. has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Certificate of Service

The undersigned hereby certifies that a copy of this submission has been served upon all parties, at their address of record by Email on this date.

Respectfully submitted,
/JEM/

Jered E. Matthyse

tmcentral@pirkeybarber.com, ckindel@pirkeybarber.com, twimberly@pirkeybarber.com, es-
tafki@pirkeybarber.com, darmendariz@pirkeybarber.com, eolson@pirkeybarber.com
10/26/2023

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

WANDER.COM, INC.,

Plaintiff,

v.

VIRTUOSO, LTD.,

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____

JURY DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Wander.com, Inc., appearing through its undersigned counsel, brings this Complaint for Declaratory Judgment against Virtuoso, Ltd. and alleges as follows:

NATURE OF ACTION, JURISDICTION, & VENUE

1. This is an action for a declaratory judgment of non-infringement under the Lanham Act, 15 U.S.C § 1051 *et seq.*, and under Texas law.

2. This Court has subject matter jurisdiction to grant the requested declaratory relief under 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has supplemental jurisdiction to hear the state-law claims under 28 U.S.C. § 1367(a).

4. Venue in this district is proper under 28 U.S.C. §§ 1391(b)(1) and (b)(2).

THE PARTIES

5. Plaintiff Wander.com, Inc. is a Delaware corporation with a principal place of business at 98 San Jacinto Boulevard, Suite 400, Austin, Texas 78701.

6. Defendant Virtuoso, Ltd. is a Delaware corporation with a principal place of business at 777 Main Street, Suite 900, Fort Worth, Texas 76102.

FACTS

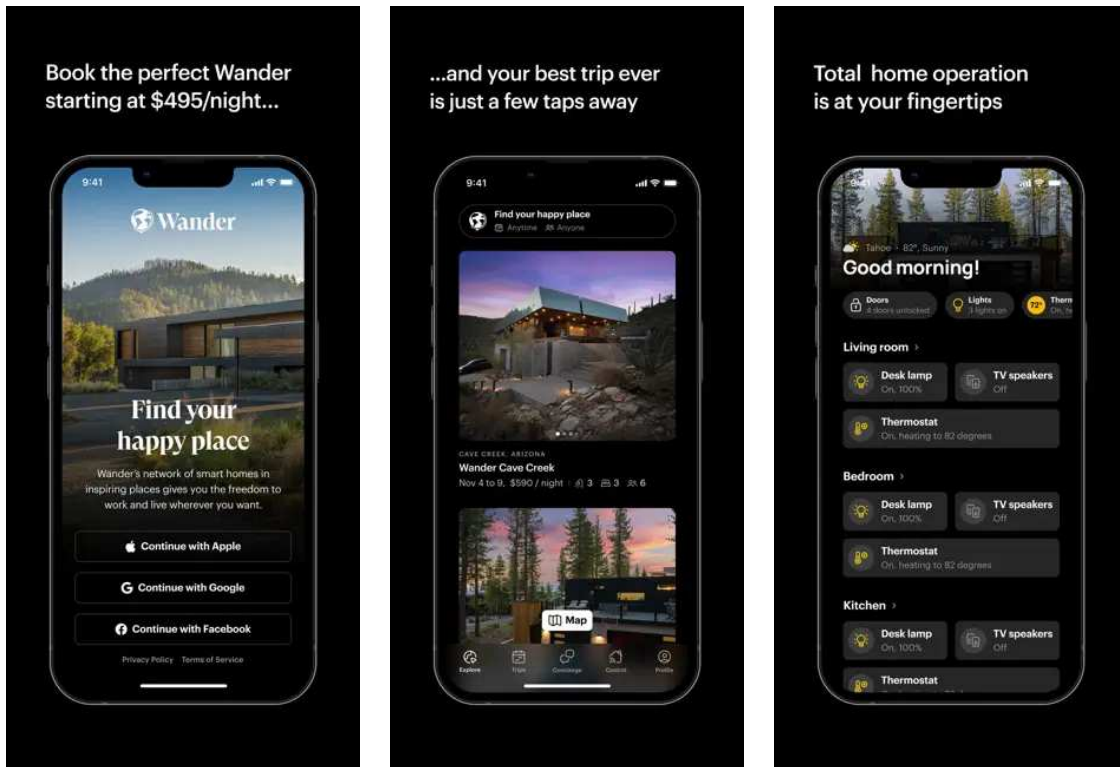
A. Wander.com and its Marks

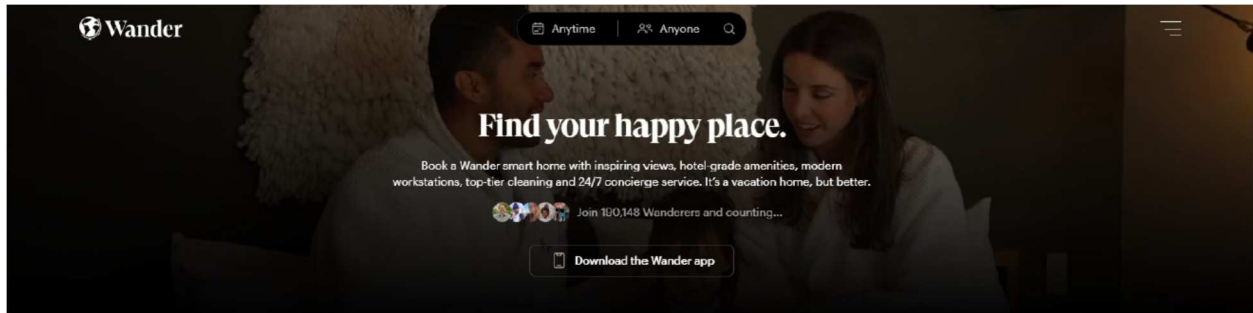
7. Wander.com is an Austin-based business that has changed the way people vacation with its revolutionary WANDER app and website.

8. Founded in 2021 with the mission of building the travel experience of the future, Wander.com allows customers access to a network of smart homes across the globe that they can access with the tap of a button.

9. Wander.com is uniquely different from other companies in the travel space because they control 100% of the homes on their platform, providing uncompromising high quality, smart technology, and a wide range of unique, inspiring locations for every guest experience.

10. Below are true-and-correct screenshots of Wander.com's revolutionary WANDER app, as shown in Apple's App Store, as well as the header of Wander.com's website.





11. Wander.com also owns trademark applications for the marks WANDER & Design (Serial Nos. 97/581,169 and 97/581,099), as shown below, WANDER.COM (Serial No. 97/061,692), @WANDER (Serial No. 97/215,221), WANDERHQ (Serial No. 90/802,002), and WANDER ATLAS (Ser. No. 97/290,152) in connection with its downloadable software and app, website, and temporary accommodation services, among other goods and services.



12. Through its continuous use in commerce, Wander.com enjoys valuable common law rights in its WANDER, WANDER & Design, WANDER.COM, @WANDER, WANDERHQ, and WANDER ATLAS marks (together, the “WANDER Marks”).

13. Wander.com’s WANDER Marks are inherently distinctive and serve to identify and indicate the source of Wander.com’s services to the public.

14. Wander.com has developed significant goodwill in its WANDER Marks. That goodwill is important and valuable to Wander.com.

B. Virtuoso’s Business

15. On information and belief, Virtuoso operates under the mark VIRTUOSO at virtuoso.com. Below is a true-and-correct screenshot of the header of Virtuoso’s website, as well as Virtuoso’s logo.



16. At [virtuoso.com/why-virtuoso/about-us](https://www.virtuoso.com/why-virtuoso/about-us), Virtuoso describes itself as a network of travel agencies.

17. On information and belief, in connection with its VIRTUOSO mark, Virtuoso uses the mark WANDERLIST at [virtuoso.com/wanderlist/sign-in](https://www.virtuoso.com/wanderlist/sign-in) for users to create lists of travel ideas.

18. On information and belief, Virtuoso uses its VIRTUOSO mark in connection with its WANDERLIST mark.

19. Below is a true-and-correct screenshot of the listing for Virtuoso's Wanderlist app, as shown in Apple's App store, showing its use of the mark VIRTUOSO before WANDERLIST.



20. United States Patent and Trademark Office (USPTO) records indicate that Virtuoso owns a registration for the mark WANDERLIST in connection with travel booking agencies and travel planning and information, as well as for the mark VIRTUOSO WANDERLIST for travel agency and information services, among other services.

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.