

**U.S. District Court [LIVE]  
Western District of Texas (Austin)  
CIVIL DOCKET FOR CASE #: 1:24-cv-01326-ADA**

Yondr, Inc. v. Be Smarter, LLC et al  
Assigned to: Judge Alan D Albright  
Cause: 15:1114 Trademark Infringement

Date Filed: 10/31/2024  
Jury Demand: Both  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**Yondr, Inc.**

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V.

**Defendant**

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**Defendant**

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**Counter Plaintiff**

**James Guerra**

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**Counter Plaintiff**

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V.

**Counter Defendant**

**Yondr, Inc.**

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V.

**Counter Defendant**

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**Counter Defendant**

**James Guerra**

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Date Filed	#	Docket Text
10/31/2024	<u>1</u>	COMPLAINT for Patent Infringement, Trademark Infringement, Violations of the Lanham Act, Trade Libel and Unfair Competition ( Filing fee \$ 405 receipt number ATXWDC-19412062), filed by Yondr, Inc.. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E)(Raskin, Joshua) (Attachment 1 replaced on 11/1/2024 to flatten document) (cr5). (Entered: 10/31/2024)
10/31/2024	<u>2</u>	REQUEST FOR ISSUANCE OF SUMMONS by Yondr, Inc.. (Raskin, Joshua) (Entered: 10/31/2024)
10/31/2024	<u>3</u>	NOTICE of Attorney Appearance by Joshua L. Raskin on behalf of Yondr, Inc. (Raskin, Joshua) (Entered: 10/31/2024)
10/31/2024		Case assigned to Judge Robert Pitman. CM WILL NOW REFLECT THE JUDGE INITIALS AS PART OF THE CASE NUMBER. PLEASE APPEND THESE JUDGE INITIALS TO THE CASE NUMBER ON EACH DOCUMENT THAT YOU FILE IN

		THIS CASE. (kp) (Entered: 11/01/2024)
10/31/2024		If ordered by the court, all referrals and consents in this case will be assigned to Magistrate Judge Mark Lane. (kp) (Entered: 11/01/2024)
10/31/2024		DEMAND for Trial by Jury by Yondr, Inc.. (kp) (Entered: 11/01/2024)
11/01/2024	<u>4</u>	Notice of Filing of Patent/Trademark Form (AO 120). AO 120 forwarded to the Director of the U.S. Patent and Trademark Office. (Raskin, Joshua) (Entered: 11/01/2024)
11/01/2024	<u>5</u>	Notice of Filing of Patent/Trademark Form (AO 120). AO 120 forwarded to the Director of the U.S. Patent and Trademark Office. (Raskin, Joshua) (Entered: 11/01/2024)
11/01/2024	<u>6</u>	Pro Hac Vice Letter to Anne M. Rock, Omar A. Nesheiwat, and Matthew J. Levinstein. (kp) (Entered: 11/01/2024)
11/01/2024	<u>7</u>	Summons Issued as to Be Smarter, LLC. (kp) (Entered: 11/01/2024)
11/07/2024	<u>8</u>	SUMMONS Returned Executed by Yondr, Inc.. Be Smarter LLC. c/o James Guerra served on 11/4/2024 , answer due 11/25/2024. (Raskin, Joshua) Modified on 11/7/2024 (dm). (Entered: 11/07/2024)
11/08/2024	<u>9</u>	REQUEST FOR ISSUANCE OF SUMMONS by Yondr, Inc.. <i>To James Guerra</i> (Raskin, Joshua) (Entered: 11/08/2024)
11/12/2024	<u>10</u>	Summons Issued as to James Guerra. (dm) (Entered: 11/12/2024)
11/14/2024	<u>11</u>	MOTION to Appear Pro Hac Vice by Joshua L. Raskin <i>for Anne M. Rock</i> ( Filing fee \$ 100 receipt number ATXWDC-19467338) by on behalf of Yondr, Inc.. (Raskin, Joshua) (Entered: 11/14/2024)
11/14/2024	<u>12</u>	MOTION to Appear Pro Hac Vice by Joshua L. Raskin <i>for Omar A. Nesheiwat</i> ( Filing fee \$ 100 receipt number ATXWDC-19467494) by on behalf of Yondr, Inc.. (Raskin, Joshua) (Entered: 11/14/2024)
11/20/2024	<u>13</u>	ORDER GRANTING <u>11</u> Motion to Appear Pro Hac Vice as to Anne M. Rock. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Robert Pitman. (dm) (Entered: 11/20/2024)
11/20/2024	<u>14</u>	ORDER GRANTING <u>12</u> Motion to Appear Pro Hac Vice as to Omar A. Nesheiwat. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Robert Pitman. (dm) (Entered: 11/20/2024)
11/22/2024	<u>15</u>	NOTICE of Attorney Appearance by Melissa Samano Ruiz on behalf of Be Smarter, LLC, James Guerra. Attorney Melissa Samano Ruiz added to party Be Smarter, LLC(pty:dft), Attorney Melissa Samano Ruiz added to party James Guerra(pty:dft) (Ruiz, Melissa) (Entered: 11/22/2024)
11/22/2024	<u>16</u>	NOTICE of Attorney Appearance by Arthur Gollwitzer, III on behalf of Be Smarter, LLC, James Guerra. Attorney Arthur Gollwitzer, III added to party Be Smarter, LLC(pty:dft), Attorney Arthur Gollwitzer, III added to party James Guerra(pty:dft) (Gollwitzer, Arthur) (Entered: 11/22/2024)
11/22/2024	<u>17</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by Be Smarter, LLC, James Guerra. (Attachments: # <u>1</u> Proposed Order)(Gollwitzer, Arthur) (Entered: 11/22/2024)
11/25/2024		Text Order GRANTING <u>17</u> Unopposed Motion for Extension of Time to Answer entered by Judge Robert Pitman. IT IS ORDERED that Defendant shall answer or otherwise respond on or before December 13, 2024. (This is a text-only entry generated by the court. There is no document associated with this entry.) (qtlc) (Entered: 11/25/2024)

11/25/2024		Reset Deadlines: Be Smarter, LLC answer due 12/13/2024; James Guerra answer due 12/13/2024. (dm) (Entered: 11/25/2024)
12/13/2024	<u>18</u>	<i>Defendants' Affirmative Defenses</i> , ANSWER to <u>1</u> Complaint, with Jury Demand , COUNTERCLAIM against Yondr, Inc. by James Guerra, Be Smarter, LLC. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Gollwitzer, Arthur) (Entered: 12/13/2024)
12/23/2024	<u>19</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Defendants' Counterclaims</i> by Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order)(Raskin, Joshua) (Entered: 12/23/2024)
12/26/2024		Text Order GRANTING <u>19</u> Motion for Extension of Time to File Response entered by Judge Robert Pitman. IT IS ORDERED that Plaintiff shall answer or otherwise respond to Defendants' counterclaims on or before January 17, 2025. (This is a text-only entry generated by the court. There is no document associated with this entry.) (tclc) (Entered: 12/26/2024)
12/26/2024		Set/Reset Deadlines: Yondr, Inc. answer to counterclaim due 1/17/2025. (bc) (Entered: 01/13/2025)
01/17/2025	<u>20</u>	MOTION to Dismiss <i>Defendants Counterclaims For (1) Tortious Interference with Business Relations And (2) Declaratory Judgment of Invalidity or Unenforceability of Registered Trademark No. 6,995,045</i> by Yondr, Inc.. (Attachments: # <u>1</u> Declaration of Joshua Raskin, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Proposed Order)(Raskin, Joshua) (Entered: 01/17/2025)
01/17/2025	<u>21</u>	ANSWER to <u>18</u> Answer to Complaint, Counterclaim , COUNTERCLAIM against Be Smarter, LLC, James Guerra by Yondr, Inc..(Raskin, Joshua) (Entered: 01/17/2025)
01/31/2025	<u>22</u>	<i>Defendant Be Smarter's First</i> AMENDED COUNTERCLAIM <i>Defendant Be Smarter's First</i> against Yondr, Inc. amending, filed by Be Smarter, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Gollwitzer, Arthur) (Entered: 01/31/2025)
02/03/2025		Text Order MOOTING <u>20</u> Motion to Dismiss entered by Judge Robert Pitman. In light of the First Amended Counterclaim, (Dkt. 22), this motion to dismiss is MOOT. (This is a text-only entry generated by the court. There is no document associated with this entry.) (tclc) (Entered: 02/03/2025)
02/14/2025	<u>23</u>	COUNTERCLAIM DEFENDANTS ANSWER to <u>22</u> Amended Counterclaim, , COUNTERCLAIM against Yondr, Inc. by Yondr, Inc..(Raskin, Joshua) (Entered: 02/14/2025)
02/14/2025	<u>24</u>	Order for Proposed Scheduling Order. Proposed scheduling order due to the Court within sixty (60) days after the appearance of any defendant. Proposed Scheduling Order due by 2/28/2025. Signed by Judge Mark Lane. (dm) (Entered: 02/14/2025)
02/28/2025	<u>25</u>	NOTICE of Attorney Appearance by Leisa Talbert Peschel on behalf of Be Smarter, LLC, James Guerra. Attorney Leisa Talbert Peschel added to party Be Smarter, LLC(pty:dft), Attorney Leisa Talbert Peschel added to party James Guerra(pty:dft) (Peschel, Leisa) (Entered: 02/28/2025)
02/28/2025	<u>26</u>	Proposed Scheduling Order by Yondr, Inc.. (Raskin, Joshua) (Entered: 02/28/2025)
02/28/2025	<u>27</u>	Rule 26(f) Discovery Report/Case Management Plan <i>plaintiff</i> by Yondr, Inc.. (Raskin, Joshua) (Entered: 02/28/2025)
03/04/2025	<u>28</u>	NOTICE CONCERNING REFERENCE TO UNITED STATES MAGISTRATE JUDGE by Yondr, Inc. (Raskin, Joshua) (Entered: 03/04/2025)
03/05/2025	<u>29</u>	NON-CONSENT to Trial by US Magistrate Judge by Be Smarter, LLC, James Guerra. (Gollwitzer, Arthur) (Entered: 03/05/2025)
03/07/2025	<u>30</u>	Order for Joint Proposed Scheduling Order. Joint Proposed Scheduling Order due by 3/21/2025. Signed by Judge Mark Lane. (dm) (Entered: 03/10/2025)
03/12/2025	<u>31</u>	MOTION to Appear Pro Hac Vice by Joshua L. Raskin <i>for Matthew J. Levinstein</i> ( Filing fee \$ 100 receipt number ATXWDC-19903613) by on behalf of Yondr, Inc.. (Raskin, Joshua) (Entered: 03/12/2025)

03/19/2025	<u>32</u>	MOTION for Entry of Scheduling Order Deadlines by Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order)(Raskin, Joshua) (Entered: 03/19/2025)
03/24/2025	<u>33</u>	ORDER GRANTING <u>31</u> Motion to Appear Pro Hac Vice as to Matthew J. Levinstein. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Robert Pitman. (dm) (Entered: 03/24/2025)
03/25/2025	<u>34</u>	ORDER REASSIGNING CASE. Case reassigned to Judge Alan D Albright for all proceedings. Judge Robert Pitman no longer assigned to case. Signed by Judge Robert Pitman. (bot2) (Entered: 03/27/2025)
04/03/2025		Parties shall comply with Judge Albright's <u>Standing Order Governing Proceedings (OGP) – Patent Cases</u> . (bot4) (Entered: 04/03/2025)
05/21/2025	<u>35</u>	NOTICE of Attorney Appearance by Robert Pierce Earle on behalf of Yondr, Inc.. Attorney Robert Pierce Earle added to party Yondr, Inc.(pty:pla) (Earle, Robert) (Entered: 05/21/2025)
05/21/2025	<u>36</u>	NOTICE of Attorney Appearance by Stephen Burbank on behalf of Yondr, Inc.. Attorney Stephen Burbank added to party Yondr, Inc.(pty:pla) (Burbank, Stephen) (Entered: 05/21/2025)
05/23/2025	<u>37</u>	MOTION to Appear Pro Hac Vice by Robert Pierce Earle <i>on behalf of Jeremiah S. Helm</i> ( Filing fee \$ 100 receipt number ATXWDC–20229044) by on behalf of Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order Proposed Order)(Earle, Robert) (Entered: 05/23/2025)
05/23/2025	<u>38</u>	MOTION to Appear Pro Hac Vice by Robert Pierce Earle <i>on behalf of Rhett D. Ramsey</i> ( Filing fee \$ 100 receipt number ATXWDC–20231014) by on behalf of Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order Proposed Order)(Earle, Robert) (Entered: 05/23/2025)
05/23/2025	<u>39</u>	MOTION to Appear Pro Hac Vice by Robert Pierce Earle <i>on behalf of Stephen C. Jensen</i> ( Filing fee \$ 100 receipt number ATXWDC–20231055) by on behalf of Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order Proposed Order)(Earle, Robert) (Entered: 05/23/2025)
06/06/2025	<u>40</u>	ORDER GRANTING <u>37</u> Motion to Appear Pro Hac Vice as to Jeremiah S. Helm. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Alan D Albright. (dm) (Entered: 06/06/2025)
06/06/2025	<u>41</u>	ORDER GRANTING <u>38</u> Motion to Appear Pro Hac Vice as to Rhett D. Ramsey. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Alan D Albright. (dm) (Entered: 06/06/2025)
06/06/2025	<u>42</u>	ORDER GRANTING <u>39</u> Motion to Appear Pro Hac Vice as to Stephen C. Jensen. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic filing with our court within 10 days of this order. Registration is managed by the PACER Service Center. Signed by Judge Alan D Albright. (dm) (Entered: 06/06/2025)
06/06/2025	<u>43</u>	MOTION to Appear Pro Hac Vice by Robert Pierce Earle <i>on behalf of Ben K. Shiroma</i> ( Filing fee \$ 100 receipt number ATXWDC–20297039) by on behalf of Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order Proposed Order)(Earle, Robert) (Entered: 06/06/2025)
06/06/2025	<u>44</u>	Opening Claim Construction Brief by Be Smarter, LLC, James Guerra. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Gollwitzer, Arthur) (Entered: 06/06/2025)
06/09/2025	<u>45</u>	ORDER GRANTING <u>43</u> Motion to Appear Pro Hac Vice as to BEN K. SHIROMA. Pursuant to our Administrative Policies and Procedures for Electronic Filing, the attorney hereby granted to practice pro hac vice in this case must register for electronic

		filing with our court within 10 days of this order. Registration is managed by the PACER Service Center Signed by Judge Alan D Albright. (cc3) (Entered: 06/09/2025)
06/18/2025	<u>46</u>	Unopposed MOTION to Withdraw as Attorney <i>Joshua L. Raskin, Anne M. Rock, Omar A. Nesheiwat, and Matthew J. Levinstein</i> by Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order)(Raskin, Joshua) (Entered: 06/18/2025)
06/27/2025	<u>47</u>	RESPONSE <i>YONDR, INC.'S RESPONSIVE CLAIM CONSTRUCTION BRIEF</i> to <u>44</u> Claim Construction Brief by Yondr, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Declaration of David Smith, # <u>4</u> Appendix A to Declaration of David Smith, # <u>5</u> Appendix B to Declaration of David Smith, # <u>6</u> Appendix C to Declaration of David Smith)(Helm, Jeremiah) (Entered: 06/27/2025)
07/11/2025	<u>48</u>	Reply Claim Construction Brief regarding <u>47</u> Response, by Be Smarter, LLC, James Guerra. (Attachments: # <u>1</u> Exhibit A– Summary of Disputed Claim Terms and Proposed Definitions)(Gollwitzer, Arthur) (Entered: 07/11/2025)
07/25/2025	<u>49</u>	BRIEF <i>Sur Reply Claim Construction Brief</i> regarding <u>44</u> Claim Construction Brief by Yondr, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Shiroma, Ben) (Entered: 07/25/2025)
07/29/2025	<u>50</u>	Joint Claim Construction Brief or Statement regarding <u>44</u> Claim Construction Brief by Yondr, Inc.. (Shiroma, Ben) (Entered: 07/29/2025)
07/30/2025		Text Order DENYING WITHOUT PREJUDICE TO REILING <u>32</u> Motion for Entry of Scheduling Order entered by Judge Alan D Albright. On or before August 4, 2025, the parties shall move for entry of a scheduling order which matches the exemplary schedule in Appendix A of the Standing Order Governing Proceedings (OGP) – Patent Cases. (This is a text–only entry generated by the court. There is no document associated with this entry.) (zclc) (Entered: 07/30/2025)
08/04/2025	<u>51</u>	Joint MOTION for Entry of Scheduling Order Deadlines by Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order)(Shiroma, Ben) (Entered: 08/04/2025)
08/04/2025		<b>DEFICIENCY NOTICE:</b> re <u>51</u> Joint MOTION for Entry of Scheduling Order Deadlines . <b>Certificate of service reflects service via CM/ECF. Not all parties are registered to receive e–notices as is indicated by a missing email addresses for the attorney information on the docket sheet. Please file an Amended Certificate of Service as a SEPARATE PLEADING. Use the "Certificate of Service" event under the "Service of Process" menu. State parties served by CM/ECF and the alternate means of service to parties NOT registered for CM/ECF.</b> (tgp) (Entered: 08/05/2025)
08/05/2025	<u>52</u>	CERTIFICATE OF SERVICE by Yondr, Inc. <i>Amended Certificate of Service re: Deficiency Notice,, <u>51</u> Joint MOTION for Entry of Scheduling Order Deadlines</i> (Shiroma, Ben) (Entered: 08/05/2025)
08/05/2025		Text Order DENYING WITHOUT PREJUDICE TO REILING <u>51</u> Motion for Entry of Scheduling Order entered by Judge Alan D Albright. The parties shall submit a proposed schedule that includes 09/22/2025 as the date of the <i>Markman</i> Hearing, and includes specific dates for all deadlines thereafter (i.e., not "[X] weeks after <i>Markman</i> "). (This is a text–only entry generated by the court. There is no document associated with this entry.) (zclc) (Entered: 08/05/2025)
08/06/2025	<u>53</u>	Second MOTION for Entry of Scheduling Order Deadlines <i>Second Joint Motion for Entry of a Scheduling Order</i> by Yondr, Inc.. (Attachments: # <u>1</u> Proposed Order)(Shiroma, Ben) (Entered: 08/06/2025)
08/07/2025	<u>54</u>	SCHEDULING ORDER: Final Pretrial Conference set for 8/31/2026 before Judge Alan D Albright, Jury Selection and Trial set for 9/21/2026 before Judge Alan D Albright, Markman Hearing set for 9/22/2025 at 9:30 AM before Judge Alan D Albright, Amended Pleadings due by 1/9/2026, Discovery due by 4/17/2026, Joinder of Parties due by 10/31/2025, and Dispositive Motions due by 6/26/2026. Signed by Judge Alan D Albright. (cc3) (Entered: 08/07/2025)