

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Civil Minutes

Date: April 5, 2018

Judge: Hon. James Donato

Time: 1 Hour 8 Minutes

Case No. **RELATED ACTIONS:**
 C-17-04344-JD McDonald et al v. Kiloo ApS et al
 C-17-04419-JD Rushing et al v. The Walt Disney Company et al
 C-17-04492-JD Rushing et al v. Viacom Inc. et al

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 Abbye R. Klamann/Facundo Bouzat
Attorney(s) for Defendant(s): Jacob Sommer/Anna Hsia/Jonathan Blavin/Matthew Brown/
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 Allison Barrett Hocombe/Avery Brown/David R. Singh/
 Hazel Mae B. Pangan/Craig J. Mariam/Sonali Maitra/
 Raghav Krishnaprivan/Celeste Brecht

Deputy Clerk: Lisa Clark

Court Reporter: Debbie Pas

PROCEEDINGS

Motions to Dismiss - Held
Motion for Stay Pending Arbitration - Held

NOTES AND ORDERS

I. Arbitration Motion in Case No. 17-4492

The Court hears argument on the Viacom defendants' arbitration motion in *Rushing v. Viacom*, Case No. 17-4492 (Dkt. No. 66).

The Court takes the motion under submission and will issue a written order.

II. Motions to Dismiss Filed in Case No. 17-4344

The Court hears argument on the joint and individual motions to dismiss filed in the lead case, *McDonald v. Kiloo*, Case No. 17-4344 (Dkt. Nos. 113, 114, 115).

The parties agree to, and the Court orders, the following plan:

- For the next 30 days, plaintiffs and defendants Kiloo, Sybo, and Kochava will engage in jurisdictional discovery on an informal basis. Plaintiffs are directed to keep their requests tightly focused as discussed at the hearing. Any disputes may be raised via the Court's usual discovery dispute letter procedure.
- 30 days after the close of jurisdictional discovery, plaintiffs will file amended complaints in all three related cases. At a minimum, the amended complaints must remove claims under the laws of states for which no named plaintiff suffered an in-state injury. The complaints must also remove the references to other apps that were not downloaded by any named plaintiff. Plaintiffs will also amend the personal jurisdiction allegations against Kiloo, Sybo, and Kochava. For the reasons discussed at the hearing, plaintiffs will consider overall amendments to address the Court's concerns about the need for claims independent of COPPA.
- 30 days after the filing of the amended complaints, defendants will file their responses to the amended complaints. If moving to dismiss, defendants may file a single brief of no more than 20 pages that raises all arguments that are being made on a joint basis. Any defendant with a unique individual issue may raise it in a separate and additional brief not to exceed 5 pages. A supplemental brief that repeats in any way the arguments in the main brief will be stricken and sanctions on the party and/or counsel may be imposed. Defendants Kiloo, Sybo, and Kochava may separately renew their jurisdictional motions, if warranted, in briefs not to exceed 10 pages each. All filings should continue to be made in the 17-4344 case.

The Court will terminate the pending motions to dismiss on the basis of the discussion at the hearing and the plan described above.

Discovery remains stayed except as stated above.