

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNITED SERVICES AUTOMOBILE
ASSOCIATION,

Plaintiff,

v.

PNC BANK N.A.,

Defendant.

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CASE NO. 2:20-CV-00319-JRG-RSP

ORDER

Plaintiff United Services Automobile Association (“USAA”) previously filed a Motion for Partial Summary Judgment that PNC's Mobile App Version 4.20.1 Is Not a Non-Infringing Alternative (“USAA’s Motion for Summary Judgment”) (Dkt. No. 326) and Defendant PNC Bank N.A. (“PNC”) filed a Motion For Partial Summary Judgment Of Noninfringement Regarding Version 4.20.1 Of The PNC Mobile App (“PNC’s Motion for Summary Judgment”) (Dkt. No. 319.) Magistrate Judge Payne entered a Report and Recommendations and Order (Dkt. No. 592), recommending denial of USAA’s Motion for Summary Judgment and granting in part, denying in part PNC’s Motion for Summary Judgment. As to the Order, Magistrate Judge Payne entered an Order granting in part, denying in part the Motion to Strike Expert Report of Alan C. Bovik (“Motion to Strike”) (Dkt. No. 307) filed by USAA. Both USAA and PNC have filed objections to the Report and Recommendations and Order: USAA’s Objections are found at Dkt. No. 634 and PNC Objections are found at Dkt. Nos. 625, 626, 627.

After conducting a *de novo* review of the briefing on all three motions, the Report and Recommendations and Order, and the briefing on USAA’s and PNC’s Objections, the Court agrees with the reasoning provided within the Report and Recommendations and the Order and concludes that the Objections fail to show that the Report and Recommendations and the Order

were erroneous. Consequently, the Court **OVERRULES** USAA's and PNC's Objections and **ADOPTS** the Report and Recommendations and Order (Dkt. No. 592) and orders that USAA's Motion for Summary Judgment is **DENIED**; PNC's Motion for Summary Judgment is **GRANTED IN PART, DENIED IN PART**; and the Motion to Strike is **GRANTED IN PART, DENIED IN PART**.

So Ordered this

May 6, 2022



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE