

**U.S. District Court**  
**District of Delaware (Wilmington)**  
**CIVIL DOCKET FOR CASE #: 1:19-cv-00742-GBW**

Cirba IP, Inc. v. VMware, Inc.  
Assigned to: Judge Gregory B. Williams  
Related Cases: [1:20-cv-00480-LPS](#)  
[1:23-cv-00015-GBW](#)  
[1:20-cv-00272-GBW](#)

Date Filed: 04/25/2019  
Jury Demand: Plaintiff  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

Cause: 35:1 Patent Infringement

Date Filed	#	Docket Text
03/07/2023	1623	<p>ORAL ORDER: Having reviewed the parties' briefs relating to Defendant's Motion to Bifurcate Trial (D.I. 1584), D.I. 1585, 1595, 1601, IT IS HEREBY ORDERED that Defendant's Motion to Bifurcate Trial (D.I. 1584) is DENIED. Federal Rule of Civil Procedure 42(b) permits the Court to order a separate trial of one or more separate issues "[f]or convenience, to avoid prejudice, or to expedite and economize...." If a party moves for bifurcation, it has the burden to establish that bifurcation "is appropriate." <i>SenoRx, Inc. v. Hologic, Inc.</i>, 920 F. Supp. 2d 565, 567 (D. Del. 2013) (citations omitted); <i>Sprint Commc'ns Co. L.P. v. Charter Commc'ns, Inc.</i>, 2021 WL 982730, at *1 (D. Del. Mar. 16, 2021). The district court has "broad discretion" when it decides "whether to separate the issues[.]" <i>Idzajt v. Pennsylvania R. Co.</i>, 456 F.2d 1228, 1230 (3d Cir. 1972); see <i>Thabault v. Chait</i>, 541 F.3d 512, 529 (3d Cir. 2008) (citing <i>Idzajt</i>, 456 F.3d at 1230), though "bifurcation remains the exception rather than the rule." <i>Sprint Commc'ns</i>, 2021 WL 982730, at *1 (citation omitted). The Court "should consider whether bifurcation will avoid prejudice, conserve judicial resources, and enhance juror comprehension...." <i>Id.</i> (citation omitted); see 9A Arthur R. Miller &amp; Charles Allan Wright, <i>Federal Practice and Procedure</i> § 2388 (3d ed. 2022) (explaining that decisions under Rule 42(b) are "left to the sound discretion of the trial court"). The first trial was not bifurcated, and Defendant has failed to meet its burden to establish that bifurcation is appropriate for the second trial. See <i>SenoRx</i>, 920 F. Supp. 2d at 567. The Court finds that a bifurcated trial would not conserve judicial resources. The Court has allocated a set time for this trial and bifurcation resulting in a jury deliberation in the middle of this trial could derail this schedule. Thus, the Court finds bifurcating the trial would not result in time saved. Because the Court denies Defendant's Motion to Bifurcate Trial (D.I. 1584), Plaintiff's Motion for Leave to File a Sur-Reply in Opposition to Defendant's Motion to Bifurcate Trial (D.I. 1607) is DENIED as MOOT. IT IS ALSO HEREBY ORDERED that, in light of the Court granting the parties' joint stipulation to sever and stay all claims relating to U.S. Patent No. 10,523,492 and U.S. Patent No. 10,951,459 (D.I. 1583), the Court will allocate six (6) days for this jury trial, with the trial beginning on April 24, 2023 (with no trial on Friday, April 28, 2023). The jury trial will resume on Monday, May 1, 2023. ORDERED by Judge Gregory B. Williams on 3/7/23. (ntl) (Entered: 03/07/2023)</p>