

INTRACIRCUIT, VACANTJUDGESHIP

**U.S. District Court
District of Delaware (Wilmington)
CIVIL DOCKET FOR CASE #: 1:09-cv-00678-RBK**

Hart Intercivic Inc. v. Diebold Incorporated et al
Assigned to: Judge Robert B. Kugler
Cause: 15:2 Antitrust Litigation

Date Filed: 09/11/2009
Jury Demand: Plaintiff
Nature of Suit: 410 Anti-Trust
Jurisdiction: Federal Question

Plaintiff**Hart Intercivic Inc.**

represented by **Dominick T. Gattuso**
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V.

Defendant

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Date Filed	#	Docket Text
09/11/2009	1	COMPLAINT filed with Jury Demand against Diebold Incorporated, Election Systems & Software Inc. -(Filing fee \$ 350, receipt number 031100000000630903.) - filed by Hart Intercivic Inc.. (Attachments: # 1 Civil Cover Sheet)(els) (Entered: 09/14/2009)
09/11/2009	2	Notice, Consent and Referral forms re: U.S. Magistrate Judge jurisdiction (els) (Entered: 09/14/2009)
09/11/2009		No Summons Issued (els) (Entered: 09/14/2009)
09/14/2009	3	NOTICE of Appearance by Patricia L. Enerio on behalf of Hart Intercivic Inc. (Enerio, Patricia) (Entered: 09/14/2009)
09/14/2009	4	AMENDED COMPLAINT against all defendants- filed by Hart Intercivic Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F)(Enerio, Patricia) (Entered: 09/14/2009)
09/23/2009	5	MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> - filed by Hart Intercivic Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F)(Heyman, Kurt) (Entered: 09/23/2009)
09/23/2009	6	MEMORANDUM in Support re 5 MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> filed by Hart Intercivic Inc..Answering Brief/Response due date per Local Rules is 10/13/2009. (Attachments: # 1 Exhibit A)(Heyman, Kurt) (Entered: 09/23/2009)
09/23/2009		Case assigned to Judge Robert B. Kugler of the District of New Jersey (in lieu of Vacant Judgeship). Please include the initials of the Judge (RBK) after the case number on all documents filed. (Courtesy copies of filings should be sent to the chambers of the assigned Judge). (rjb) (Entered: 09/23/2009)
09/24/2009	7	Letter to THE HONORABLE ROBERT B. KUGLER from PHILIP A. ROVNER, ESQ. regarding RESPONSE TO MOTION FOR TRO OR PRELIMINARY INJUNCTION - re 4 Amended Complaint, 5 MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> . (Rovner, Philip) (Entered: 09/24/2009)

09/25/2009	8	NOTICE of Appearance by Dominick T. Gattuso on behalf of Hart Intercivic Inc. (Gattuso, Dominick) (Entered: 09/25/2009)
09/25/2009	9	MOTION for Pro Hac Vice Appearance of Attorney Jonathan L. Rubin - filed by Hart Intercivic Inc.. (Attachments: # 1 Certification of Jonathan Rubin to Pro Hac Motion) (Gattuso, Dominick) (Entered: 09/25/2009)
09/25/2009	10	Letter to The Honorable Robert B. Kugler from Dominick T. Gattuso regarding Enclosing courtesy copies of filed documents and confirming a hearing for the TRO motion on September 29, 2009 at 10:00 a.m. - re 6 MEMORANDUM in Support, 4 Amended Complaint, 5 MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> , 1 Complaint. (Gattuso, Dominick) (Entered: 09/25/2009)
09/28/2009	11	MOTION for Pro Hac Vice Appearance of Attorney MARK D. GATELY, ESQ. AND LAUREN S. COLTON, ESQ. - filed by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	12	SEALED ANSWERING BRIEF in Opposition re 5 MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> DEFENDANT ELECTION SYSTEMS & SOFTWARE, INC.'S OPPOSITION TO PLAINTIFF'S VERIFIED MOTION FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION WITH EXHIBITS 1 AND 2 filed by Election Systems & Software Inc..Reply Brief due date per Local Rules is 10/8/2009. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	13	DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF TOM BURT</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	14	SEALED DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF JIM MAY</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	15	DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF MATT NELSON</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	16	SEALED DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF THOMAS O'BRIEN</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	17	DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF HOWARD VAN PELT</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	18	DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF BRUCE SHERBET</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	19	DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF KATHY ROGERS WITH EXHIBIT A</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	20	DECLARATION re 12 Answering Brief in Opposition, <i>DECLARATION OF GARY ROBERTS, PH.D. WITH EXHIBIT A</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	21	Letter to THE HONORABLE ROBERT B. KUGLER from PHILIP A. ROVNER, ESQ. regarding ENCLOSING COURTESY COPIES OF DEFENDANT ELECTION SYSTEMS & SOFTWARE, INC.'S OPPOSITION AND SUPPORTING

		DECLARATIONS - re 20 Declaration, 13 Declaration, 15 Declaration, 18 Declaration, 16 Declaration, 12 Answering Brief in Opposition, 19 Declaration, 14 Declaration, 17 Declaration. (Rovner, Philip) (Entered: 09/28/2009)
09/28/2009	22	Supplemental DECLARATION re 5 MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> by Hart Intercivic Inc.. (Attachments: # 1 Declaration of Lawrence J. Altman)(Gattuso, Dominick) (Entered: 09/28/2009)
09/28/2009	23	Letter to The Honorable Robert B. Kugler from Dominick T. Gattuso regarding enclosing courtesy copies of the Supplemental Declaration in Support of Verified Motion or Plaintiff for a Temporary Restraining Order - re 22 Declaration. (Gattuso, Dominick) (Entered: 09/28/2009)
09/29/2009		Minute Entry for proceedings held before Judge Robert B. Kugler - Motion Hearing held on 9/29/2009 re 5 MOTION for Temporary Restraining Order <i>or Preliminary Injunction</i> filed by Hart Intercivic Inc. (Court Reporter Carl Nami, Jr.) (ntl) (Entered: 09/29/2009)
09/30/2009	24	OPINION re 5 Motion for Temporary Restraining Order. Signed by Judge Robert B. Kugler on 9/30/09. (ntl) (Entered: 10/01/2009)
09/30/2009	25	ORDER denying 5 Motion for TRO; trial on the preliminary injunction will begin on 11/12/09 at 9:30 a.m.; the parties will complete all discovery on preliminary injunction issues by 10/30/09; briefs shall be submitted simultaneously by 11/6/09. Signed by Judge Robert B. Kugler on 9/30/09. (ntl) (Entered: 10/01/2009)
10/02/2009	26	NOTICE of Appearance by Frederick L. Cottrell, III on behalf of Diebold Incorporated (Cottrell, Frederick) (Entered: 10/02/2009)
10/02/2009	27	MOTION for Pro Hac Vice Appearance of Attorney John M. Majoras, Matthew A. Kairis and Todd S. Swatsler - filed by Diebold Incorporated. (Cottrell, Frederick) (Entered: 10/02/2009)
10/02/2009	28	REDACTED VERSION of 12 Answering Brief in Opposition, <i>PUBLIC VERSION OF DEFENDANT ELECTION SYSTEMS & SOFTWARE, INC.'S OPPOSITION TO PLAINTIFF'S VERIFIED MOTION FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION WITH EXHIBITS 1-2</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 10/02/2009)
10/02/2009	29	REDACTED VERSION of 14 Declaration <i>PUBLIC VERSION OF DECLARATION OF JIM MAY</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 10/02/2009)
10/02/2009	30	REDACTED VERSION of 16 Declaration <i>PUBLIC VERSION OF DECLARATION OF THOMAS O'BRIEN WITH EXHIBIT A</i> by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 10/02/2009)
10/02/2009	31	NOTICE OF SERVICE of DEFENDANT ELECTION SYSTEMS & SOFTWARE, INC.'S FIRST SET OF DOCUMENT REQUESTS; DEFENDANT ELECTION SYSTEMS & SOFTWARE, INC.'S FIRST SET OF INTERROGATORIES re 25 Order on Motion for TRO, by Election Systems & Software Inc.. Related document: 25 Order on Motion for TRO,.(Rovner, Philip) (Entered: 10/02/2009)
10/02/2009	32	NOTICE OF SERVICE of First Set of Document Requests to Defendant Diebold Incorporated by Hart Intercivic Inc..(Gattuso, Dominick) (Entered: 10/02/2009)

10/02/2009	33	NOTICE OF SERVICE of First Set of Document Requests to Defendant Election Systems & Software, Inc. by Hart Intercivic Inc..(Gattuso, Dominick) (Entered: 10/02/2009)
10/05/2009	34	Official Transcript of Motion Hearing held on 9/29/09 before Judge Kugler. Court Reporter/Transcriber Carl J. Nami. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER Redaction Request due 10/26/2009. Redacted Transcript Deadline set for 11/5/2009. Release of Transcript Restriction set for 1/4/2010. (ntl) (Entered: 10/05/2009)
10/06/2009	35	MOTION for Pro Hac Vice Appearance of Attorney T. Michael Guiffre, Kevin P. McCart and Patrick F. McManemin - filed by Hart Intercivic Inc.. (Attachments: # 1 Certification of T. Michael Guiffre, # 2 Certification of Kevin P. McCart, # 3 Certification of Patrick F. McManemin)(Gattuso, Dominick) (Entered: 10/06/2009)
10/06/2009	36	NOTICE OF SERVICE of Defendant Diebold, Incorporated's First Set of Requests for Production of Documents and First Set of Interrogatories by Diebold Incorporated. (Stafford, Sarah) (Entered: 10/06/2009)
10/14/2009	37	AMENDED ORDER - that the Order entered on September 30, 2009 25 is AMENDED to reflect the following: (1) the parties will complete all discovery on preliminary injunction issues on or before December 30, 2009; (2) briefs shall be simultaneously submitted on or before January 8, 2010; and (3) the trial on the preliminary injunction will begin at 9:30 a.m. on January 14, 2010. Signed by Judge Robert B. Kugler on 10/14/09. (rwc) (Entered: 10/15/2009)
10/15/2009	38	SECOND AMENDED ORDER - that the Amended Order 37 entered on October 14, 2009 is AMENDED to reflect the following: (1) the parties will complete all discovery on preliminary injunction issues on or before November 30, 2009; (2) briefs shall be simultaneously submitted on or before December 7, 2009; and (3) the trial on the preliminary injunction will begin at 9:30 a.m. on December 14, 2009. Signed by Judge Robert B. Kugler on 10/15/09. (rwc) (Entered: 10/15/2009)
11/03/2009	39	Joint MOTION for Extension of Time to <i>extend deadline for discovery, briefing and trial on preliminary injunction and extend deadline for responding to complaint</i> - filed by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 11/03/2009)
11/13/2009		SO ORDERED, re 39 Joint MOTION for Extension of Time to <i>extend deadline for discovery, briefing and trial on preliminary injunction and extend deadline for responding to complaint - Set/Reset Answer Deadlines: Diebold Incorporated answer due 5/28/2010; Election Systems & Software Inc. answer due 5/28/2010. (See Order for details). Signed by Judge Robert B. Kugler on 11/9/09. (rwc) (Entered: 11/13/2009)</i>
11/18/2009	40	Disclosure Statement pursuant to Rule 7.1 filed by Hart Intercivic Inc.. (Enerio, Patricia) (Entered: 11/18/2009)
11/18/2009	41	NOTICE OF SERVICE of First Set of Interrogatories to Defendant Diebold, Incorporated by Hart Intercivic Inc..(Enerio, Patricia) (Entered: 11/18/2009)
11/18/2009	42	NOTICE OF SERVICE of First Set of Interrogatories to Defendant Election Systems & Software, Inc. by Hart Intercivic Inc..(Enerio, Patricia) (Entered: 11/18/2009)

11/18/2009	43	WAIVER OF SERVICE returned executed by Hart Intercivic Inc.: For Diebold Incorporated waiver sent on 11/17/2009, answer due 5/28/2010. (Enerio, Patricia) (Entered: 11/18/2009)
11/18/2009	44	MOTION for Pro Hac Vice Appearance of Attorney Katherine L. Henderson - filed by Hart Intercivic Inc.. (Attachments: # 1 Certification of Katherine L. Henderson)(Enerio, Patricia) (Entered: 11/18/2009)
11/19/2009	45	WAIVER OF SERVICE returned executed by Hart Intercivic Inc.: For Election Systems & Software Inc. waiver sent on 11/17/2009, answer due 5/28/2010. (Enerio, Patricia) (Entered: 11/19/2009)
11/24/2009		SO ORDERED, re 44 MOTION for Pro Hac Vice Appearance of Attorney Katherine L. Henderson filed by Hart Intercivic Inc. Signed by Judge Robert B. Kugler on 11/23/09. (rwc) (Entered: 11/24/2009)
12/01/2009	46	MOTION for Pro Hac Vice Appearance of Attorney GREGORY C. SCAGLIONE, ESQ. - filed by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 12/01/2009)
12/03/2009	47	Joint STIPULATION TO EXTEND TIME DEADLINE FOR DISCOVERY; DEADLINE FOR BRIEFS; TRIAL FOR PRELIMINARY INJUNCTION; DEADLINE FOR RESPONDING TO COMPLAINT to DISCOVERY - MAY 10, 2010; BRIEFING MAY 14, 2010; TRIAL MAY, 2010; ANSWER TO COMPLAINT JULY 9, 2010 - filed by Election Systems & Software Inc.. (Rovner, Philip) (Entered: 12/03/2009)
12/09/2009		SO ORDERED, re 46 MOTION for Pro Hac Vice Appearance of Attorney GREGORY C. SCAGLIONE, ESQ. filed by Election Systems & Software Inc. Signed by Judge Robert B. Kugler on 12/3/09. (rwc) (Entered: 12/09/2009)
12/10/2009		Minute Entry for proceedings held before Judge Robert B. Kugler - Telephone Conference held on 12/10/2009. (Court Reporter Carl Nami, Jr.) (rwc) (Entered: 12/10/2009)
12/10/2009		SO ORDERED, re 11 MOTION for Pro Hac Vice Appearance of Attorney MARK D. GATELY, ESQ. AND LAUREN S. COLTON, ESQ. filed by Election Systems & Software Inc.. Signed by Judge Robert B. Kugler on 12/9/09. (rwc) (Entered: 12/10/2009)
12/10/2009		SO ORDERED, re 27 MOTION for Pro Hac Vice Appearance of Attorney John M. Majoras, Matthew A. Kairis and Todd S. Swatsler filed by Diebold Incorporated. Signed by Judge Robert B. Kugler on 12/9/09. (rwc) (Entered: 12/10/2009)
12/10/2009		SO ORDERED, re 9 MOTION for Pro Hac Vice Appearance of Attorney Jonathan L. Rubin filed by Hart Intercivic Inc., 35 MOTION for Pro Hac Vice Appearance of Attorney T. Michael Guiffre, Kevin P. McCart and Patrick F. McManemin filed by Hart Intercivic Inc.. Signed by Judge Robert B. Kugler on 12/9/09. (rwc) (Entered: 12/10/2009)
12/10/2009	56	SO ORDERED, re 47 Joint STIPULATION TO EXTEND TIME DEADLINE FOR DISCOVERY; DEADLINE FOR BRIEFS; TRIAL FOR PRELIMINARY INJUNCTION; DEADLINE FOR RESPONDING TO COMPLAINT to DISCOVERY - MAY 10, 2010; BRIEFING MAY 14, 2010; TRIAL MAY, 2010; ANSWER TO COMPLAINT JULY 9, 2010 filed by Election Systems & Software Inc., Set/Reset Answer Deadlines: Diebold Incorporated answer due 7/9/2010; Election Systems &

		Software Inc. answer due 7/9/2010. Signed by Judge Robert B. Kugler on 12/9/09. (rwc) (ntl). (Entered: 12/10/2009)
12/22/2009	48	MOTION to Dismiss - filed by Diebold Incorporated. (Attachments: # 1 Text of Proposed Order)(Stafford, Sarah) (Entered: 12/22/2009)
12/22/2009	49	SEALED OPENING BRIEF in Support re 48 MOTION to Dismiss <i>Defendant Diebold, Incorporated's Opening Brief in Support of Its Motion to Dismiss (UNDER SEAL)</i> filed by Diebold Incorporated.Answering Brief/Response due date per Local Rules is 1/8/2010. (Stafford, Sarah) (Entered: 12/22/2009)
12/22/2009	50	Disclosure Statement pursuant to Rule 7.1 filed by Diebold Incorporated. (Stafford, Sarah) (Entered: 12/22/2009)
12/22/2009	51	REDACTED VERSION of 49 Opening Brief in Support, <i>Defendant Diebold, Incorporated's Opening Brief in Support of Its Motion to Dismiss (REDACTED PUBLIC VERSION)</i> by Diebold Incorporated. (Stafford, Sarah) (Entered: 12/22/2009)
12/24/2009	52	STIPULATION setting the briefing schedule on Defendant Diebold's Motion to Dismiss re 48 MOTION to Dismiss by Hart Intercivic Inc.. (Heyman, Kurt) (Entered: 12/24/2009)
01/05/2010		SO ORDERED, re 52 Stipulation - Reset Briefing Schedule: re 48 MOTION to Dismiss. (Answering Brief due 1/29/2010. Reply Brief due 2/22/2010.). Signed by Judge Robert B. Kugler on 1/4/10. (rwc) (Entered: 01/05/2010)
01/29/2010	53	NOTICE of Voluntary Dismissal by Hart Intercivic Inc. as to Defendant Diebold Incorporated without prejudice (Enerio, Patricia) (Entered: 01/29/2010)
02/12/2010	54	NOTICE OF SERVICE of Plaintiff's Response to Defendant Election Systems & Software, Inc.'s First Set of Document Requests re 31 Notice of Service, by Hart Intercivic Inc.. Related document: 31 Notice of Service, filed by Election Systems & Software Inc..(Enerio, Patricia) (Entered: 02/12/2010)
02/16/2010	55	NOTICE OF SERVICE of DEFENDANT ELECTION SYSTEMS & SOFTWARE, INC.'S RESPONSES TO PLAINTIFF HART INTERCIVIC, INC.'S FIRST SET OF DOCUMENT REQUESTS re 33 Notice of Service by Election Systems & Software Inc.. Related document: 33 Notice of Service filed by Hart Intercivic Inc..(Rovner, Philip) (Entered: 02/16/2010)
03/04/2010		CORRECTING ENTRY: the Stipulation and Order to Extend Time 47 signed by Judge Kugler was added to the docket at D.I. 56 . (ntl) (Entered: 03/04/2010)

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Transaction Receipt			
03/10/2010 12:40:45			
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