

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NATIONAL ASSOCIATION OF THE

DEAF, et al.,

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Plaintiffs,

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v.

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Civil Action No. 15-30024-MGM

MASSACHUSETTS INSTITUTE OF

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TECHNOLOGY,

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Defendants.

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MEMORANDUM AND ORDER ON DEFENDANTS'

MOTION TO STAY OR DISMISS

(Dkt. No. 24)

November 4, 2016

MASTROIANNI, U.S.D.J.

The National Association of the Deaf and four named plaintiffs (collectively, “NAD” or “Plaintiffs”) bring this action against the Massachusetts Institute of Technology (“MIT” or “Defendants”) under Title III of the Americans with Disabilities Act (“ADA”), 29 U.S.C. §§ 12181–12189, and Section 504 of the Rehabilitation Act of 1972 (“Section 504”), 29 U.S.C. § 794, alleging discrimination in the provision of goods and/or services. Defendants have moved to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) or, in the alternative, to stay based on the doctrine of primary jurisdiction.

NAD has filed a virtually identical claim against the President and Fellows of Harvard College (“Harvard”), alleging, as in this case, that Harvard discriminated against Plaintiffs under the ADA and Section 504 by refusing to closed caption its online content. *See Nat’l Assoc. of the Deaf v. Harvard Univ. et al.*, 15-cv-30023-MGM (filed Feb. 12, 2015). The papers filed in the present case, including NAD’s complaint (Dkt. No. 1), MIT’s Motion to Stay or Dismiss (Dkt. No. 24), Magistrate Judge Robertson’s Report and Recommendation (“R&R”) (Dkt. No. 51), Defendants’ timely filed objections to Judge Robertson’s R&R, and Plaintiffs’ reply to Defendants’ objections, differ from those filed in *National Association of the Deaf v. Harvard University* only in their factual content. At oral argument on September 10, 2015, counsel for MIT and Harvard conceded the substantial similarity of the two cases.

Accordingly, having reviewed the pleadings, the court adopts Judge Robertson’s recommendation in full for the reasons set forth in the Memorandum and Order on Defendants’ Motion to Stay or Dismiss in *National Association for the Deaf v. Harvard University*. 15-cv-30023-MGM (Dkt. No. 77).

CONCLUSION

For the foregoing reasons, Defendants’ Motion to Stay or Dismiss is hereby DENIED.

It is So Ordered.

/s/ Mark G. Mastroianni

MARK G. MASTROIANNI

United States District Judge