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3        UNITED STATES DISTRICT COURT

4        NORTHERN DISTRICT OF CALIFORNIA

5        SAN JOSE DIVISION

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7    IN RE: PERSONALWEB                       Case No.  18-md-02834-BLF
     TECHNOLOGIES, LLC, ET AL. PATENT
8    LITIGATION
                                              **ORDER CONSTRUING CLAIMS IN**
9                                             **U.S. PATENT NOS. 6,928,442; 7,802,310;**
                                              **7,945,544; 8,099,420**
10
                                              [Re: ECF 406, 412, 420]
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13        In this multidistrict litigation ("MDL"), PersonalWeb Technologies, LLC ("PersonalWeb")

14   alleges patent infringement by Amazon.com, Inc. and Amazon Web Services, Inc., and separately

15   by dozens of Amazon's customers, related to the customers' use of Amazon's Simple Storage

16   Service ("S3") in connection with downloading files from S3.  Two of the cases comprising this

17   MDL are proceeding at this time:  *Amazon v. PersonalWeb* (Case No. 5:18-cv-00767-BLF), in

18   which PersonalWeb asserts counterclaims of patent infringement, and *PersonalWeb v. Twitch*

19   *Interactive, Inc.* (Case No. 5:18-cv-05619-BLF), in which PersonalWeb asserts claims of patent

20   infringement and which the Court has designated as a representative customer case.

21        In each of these two actions, PersonalWeb alleges infringement of four patents, all of

22   which are at issue in the present claim construction dispute: U.S. Patent Nos. 6,928,442 ("the '442

23   patent"); 7,802,310 ("the '310 patent"); 7,945,544 ("the '544 patent"); and 8,099,420 ("the '420

24   patent").  PersonalWeb filed an opening claim construction brief (ECF 406); Amazon.com, Inc.,

25   Amazon Web Services, Inc., and Twitch, Interactive, Inc. (collectively, "Amazon") filed a joint

26   responsive brief (ECF 412); and PersonalWeb filed a reply brief (ECF 420).  The Court held a

27   tutorial on May 2, 2019 and a *Markman* hearing on May 24, 2019 ("the Hearing") for the purpose

United States District Court
Northern District of California

## I.    BACKGROUND

All four patents-in-suit share a specification and each claims priority to a patent application filed on April 11, 1995.  The '310 patent is titled "Controlling Access to Data in a Data Processing System" and was issued on September 21, 2010.  Ex. 1 to Thompson Decl. ("'310 patent"), ECF 406-2.  The '420 patent is titled "Accessing Data in a Data Processing System" and was issued on January 17, 2012.  Ex. 7 to Thompson Decl. ("'420 patent"), ECF 406-8.  The '544 patent is titled "Similarity-Based Access Control of Data in a Data Processing System" and was issued on May 17, 2011.  Ex. 9 to Thompson Decl. ("'544 patent"), ECF 406-10.  The '442 patent is titled "Enforcement and Policing of Licensed Content using Content-Based Identifiers" and was issued on August 9, 2005.  Ex. 12 to Thompson Decl. ("'442 patent"), ECF 406-13.

The patents-in-suit generally relate to methods for identifying data items in a data processing system—for example, methods for efficiently naming and identifying files on a computer network.  According to the (shared) specification, the problems with prior art systems include that "[t]he same [file] name in two different [folders] may refer to different data items, and two different [file] names in the same [folder] may refer to the same data item."  *See* '310 patent at 2:41–43.  To address this problem, the patents-in-suit produce a content-based "True Name" identifier for a file or other particular data item, in an effort to ensure that identical file names refer to the same data, and conversely, that different file names refer to different data.  *See id.* at 6:20–41, 34:4–12, 37:48–53.  Put differently, the invention provides an identity for a given data item that "depends on all of the data in the data item and only on the data in the data item."  *See id.* at 3:54–55.  "Thus the [True Name] identity of a data item is independent of its name, origin, location, address, or other information not derivable directly from the data, and depends only on the data itself."  *See id.* at 3:55–58.

The specification states that "[a] True Name is computed using a [hash] function . . . which reduces a data block B . . . to a relatively small, fixed size identifier, the True Name of the data block, such that the True Name of the data block is virtually guaranteed to represent the data block B and only data block B."  '310 patent at 12:21–26.  Larger files may be split into smaller segments.  *See id.* at 13:45–49.  The hash function is applied to each segment, and the resulting

values are strung together into an indirect data item. *See id.* at 13:49–54. The True Name of this indirect data item is then computed and becomes the True Name of the larger file. *See id.* at 13:54–59.

The summary of the invention describes multiple uses for these True Names, including (1) to avoid keeping multiple copies of a given data file, regardless of how files are otherwise named; (2) to avoid copying a data file from a remote location when a local copy is already available; (3) to access files by data name without reference to file structures; (4) to maintain consistency in a cache of data items and allow corresponding directories on disconnected computers to be resynchronized with one another; (5) to confirm whether a user has a particular piece of data according to its content, independent of the name, date, or other properties of the data item; and (6) to verify that data retrieved from a remote location is the intended data. *See* '310 patent at 4:1–52. The patents-in-suit are directed to various specific aspects of this system.

## II.   LEGAL STANDARD

Claim construction is a matter of law. *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 387 (1996). "It is a 'bedrock principle' of patent law that 'the claims of a patent define the invention to which the patentee is entitled the right to exclude,'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (internal citation omitted). As such, "[t]he appropriate starting point . . . is always with the language of the asserted claim itself." *Comark Commc'ns, Inc. v. Harris Corp.*, 156 F.3d 1182, 1186 (Fed. Cir. 1998).

Claim terms "are generally given their ordinary and customary meaning," defined as "the meaning . . . the term would have to a person of ordinary skill in the art in question . . . as of the effective filing date of the patent application." *Phillips*, 415 F.3d at 1313 (internal citation omitted). The court reads claims in light of the specification, which is "the single best guide to the meaning of a disputed term." *Id.* at 1315; *see also Lighting Ballast Control LLC v. Philips Elecs. N. Am. Corp.*, 744 F.3d 1272, 1284–85 (Fed. Cir. 2014) (en banc). Furthermore, "the interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim." *Phillips*, 415

1    Cir. 1998)).  The words of the claims must therefore be understood as the inventor used them, as

2    such understanding is revealed by the patent and prosecution history.  *Id.*  The claim language,

3    written description, and patent prosecution history thus form the intrinsic record that is most

4    significant when determining the proper meaning of a disputed claim limitation.  *Id.* at 1315–17;

5    *see also Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996).

6          Evidence external to the patent is less significant than the intrinsic record, but the court

7    may also consider such extrinsic evidence as expert and inventor testimony, dictionaries, and

8    learned treatises "if the court deems it helpful in determining 'the true meaning of language used

9    in the patent claims.'"  *Philips,* 415 F.3d at 1318 (quoting *Markman*, 52 F.3d at 980).  However,

10   extrinsic evidence may not be used to contradict or change the meaning of claims "in derogation

11   of the 'indisputable public records consisting of the claims, the specification and the prosecution

12   history,' thereby undermining the public notice function of patents."  *Id.* at 1319 (quoting

13   *Southwall Techs., Inc. v. Cardinal IG Co.*, 54 F.3d 1570, 1578 (Fed. Cir. 1995)).

## III.    AGREED CONSTRUCTIONS

15         The parties agree on the construction of five terms.  Revised Joint Claim Construction and

16   Prehearing Statement at 2, ECF 430; *see id.* at Appendix A.  The Court approves and adopts the

17   parties' agreed-upon constructions as follows:

| Claim Term | Agreed-Upon Construction |
|---|---|
| "data item"<br><br>('310 patent, claim 20)<br>('420 patent, claims 25, 166) | "sequence of bits" |
| "data file(s)"<br><br>('442 patent, claim 10) | "a named data item" |
| "wherein the particular file comprises a first one or more parts"<br><br>('544 patent, claim 46) | "wherein the particular file is made up of a first one or more separate sequences of bits" |

| "wherein each file of the plurality of files comprises a corresponding one or more parts"<br><br>('544 patent, claim 52) | "wherein each file of the plurality of files is made up of one or more corresponding separate sequences of bits"<br><br>"plurality" means "two or more" |
|---|---|
| "database"<br><br>('544 patent, claims 46, 52, 55) | "an organized electronic collection of data" |

## IV. DISCUSSION

The Court discusses in turn the ten disputed terms that appear in the four patents-in-suit.

### A. Disputed "authorization" and "licensing" terms in the '310 and '420 patents

The parties dispute two analogous terms in the '310 and '420 patents, respectively: "unauthorized or unlicensed" (in claim 20 of the '310 patent) and "authorization" (in claims 25 and 166 of the '420 patent). Claim 20 of the '310 patent recites:

20. A computer-implemented method operable in a system which includes a plurality of computers, the method comprising:

controlling distribution of content from a first computer to at least one other computer, in response to a request obtained by a first device in the system from a second device in the system, the first device comprising hardware including at least one processor, the request including at least a content-dependent name of a particular data item, the content-dependent name being based at least in part on a function of at least some of the data comprising the particular data item, wherein the function comprises a message digest function or a hash function, and wherein two identical data items will have the same content-dependent name,

based at least in part on said content-dependent name of said particular data item, the first device (A) permitting the content to be provided to or accessed by the at least one other computer if it is not determined that the content is **unauthorized or unlicensed**, otherwise, (B) if it is determined that the content is **unauthorized or unlicensed**, not permitting the content to be provided to or accessed by the at least one other computer.

'310 Patent at 39:8–31 (emphasis added).

With respect to the '420 patent, claim 25 is representative and recites:

25. A computer-implemented method implemented at least in part by hardware in combination with software, the method comprising the steps:

. . . selectively allowing a copy of the particular sequence of bits to be provided to or accessed by or from at least one of the computers in a network of computers, wherein a copy of the sequence of bits is not to be provided or accessed with **authorization**, as determined, at least in part, based on whether or not said first content-dependent name of the particular sequence of bits

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