UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NETWORK-1 TECHNOLOGIES, INC.,

Plaintiff,

- against -

GOOGLE, INC., and YOUTUBE, LLC,

Defendants.

14 Civ. 2396 (PGG)

NETWORK-1 TECHNOLOGIES, INC.'S OPENING CLAIM CONSTRUCTION BRIEF

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I.   INTRODUCTION

This case presents several terms and phrases from the claims of the patents-in-suit for the Court to construe. This requires that the Court determine the ordinary and customary meaning of those terms to a person of ordinary skill in the relevant art at the time of the effective filing date of the patent application. This understanding is informed by both the context of the particular claim(s) where the term appears as well as the patent specification.

Plaintiff Network-1 Technologies, Inc. ("Network-1") proposes constructions that fit these basic principles and the many Federal Circuit decisions implementing and elucidating them. Defendants (collectively, "Google") offer constructions that fail to accurately reflect the ordinary meaning of these claim terms to persons skilled in the art in an effort to advance invalidity or non-infringement positions. Additionally, for some terms, Google argues that they are indefinite. This assertion of indefiniteness is a species of patent invalidity under 35 U.S.C. § 112, paragraph 2. Google bears a heavy burden under the most recent decisions from the Supreme Court of showing, by clear and convincing evidence, that the claims fail to inform persons skilled in the art of the scope of the invention with reasonable certainty. Google cannot meet that burden here.

Below we present first, a brief background of the patents-in-suit and the basic concepts involved. Next, we provide an overview of some of the key legal principles of claim construction as set forth by the Federal Circuit. Finally, we address the disputed claim construction issues in turn, demonstrating that the constructions offered by Network-1 conform to the standards set by the Federal Circuit, while the constructions offered by Google do not.

II.   BACKGROUND

Professor Ingemar J. Cox, a Professor in the Department of Computer Science at the University College of London and at the University of Copenhagen is the inventor of the four

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