

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

SLING TV L.L.C., SLING MEDIA, L.L.C.,  
DISH NETWORK L.L.C., DISH TECHNOLOGIES L.L.C.  
Petitioners

v.

REALTIME ADAPTIVE STREAMING LLC,  
Patent Owner.

---

Case IPR2018-01342  
Patent 8,934,535 B2

---

**PATENT OWNER'S NOTICE REGARDING DISTRICT  
COURT CLAIM CONSTRUCTION OF "ACCESS PROFILE"**

IPR2018-01342 ('535 Patent)

PATENT OWNER'S NOTICE REGARDING DISTRICT COURT CONSTRUCTION

During oral argument on December 5, 2019, the Board requested that the parties submit any district court claim constructions for “access profile” that have not been brought to the Board’s attention. Pursuant to this request, Patent Owner submits as Ex. 2019 the Final Ruling on *Markman*/Claim Construction from *Realtime Adaptive Streaming LLC v. Google LLC et al.*, Case No. 2:18-cv-03629-GW-(JCx) (C.D. Cal.); *Realtime Adaptive Streaming LLC v. Adobe Systems Inc.*, Case No. 2:18-cv-09344-GW-(JCx) (C.D. Cal.). In the *Markman* order, Judge Wu construed the term “access profile” in claims 1 and 14 of the '535 patent to mean: “profile relating to the number and/or frequency at which information is obtained (‘read’) or placed (‘written’).” Ex. 2019 at 9–13.

In district court proceedings, Realtime proposed the same construction as its proposal this IPR: “information that enables the controller to select a suitable compression algorithm that provides a desired balance between execution speed (rate compression) and efficiency (compression ratio).” *Id.* at 9. And defendants Google and Adobe proposed the same construction as the Board’s preliminary construction in the Netflix IPR (IPR2018-001169): “information regarding the number or frequency of reads or writes.” *Id.*

Judge Wu considered both proposals and provided analysis. *Id.* at 9–13. Judge Wu found that the correct construction of “access profile” should identify what information is actually included in an access profile, not just information

about the intended use of an access profile. *Id.* at 12. Judge Wu also found that the construction should reflect the meaning of the word “access,” consistent with the three examples of access profiles in the specification, as well as the technical meaning of “access” in the field of art:

The specification’s proffered example of three types of “access profiles” is also generally consistent with the technical definitions of “access” submitted by Defendants. Although Defendants appear to acknowledge that the phrase “access profile” need not be limited to the exact three examples provided in the specification, the technical meaning of “access” and its consistency with what is disclosed in the intrinsic record factually support the conclusion that the term “access” should be given the same meaning in the context of the coined phrase “access profile” as it generally has in this field.

*Id.* Accordingly, Judge Wu construed “access profile” as “profile relating to the number and/or frequency at which information is obtained (‘read’) or placed (‘written’).” *Id.* at 12–13. At the *Markman* hearing, all three parties agreed to this construction. Ex. 2020 (*Markman* Hr’g Tr.) at 5:22–7:8.

If invited to, Realtime is willing to submit additional briefing on whether Judge Wu’s construction of “access profile” should be adopted in view of the Board’s comments at oral argument.

**UPDATED EXHIBIT LIST**

<b>Exhibit</b>	<b>Description</b>
<b>2001</b>	Amended Complaint of June 6, 2017, in E.D. Tex. Case No. 17-cv-84
<b>2002</b>	Stipulated Motion in D. Colorado Case No. 17-cv-2097
<b>2003</b>	Proof of Service of Amended Complaint re: DISH Network LLC
<b>2004</b>	Proof of Service of Amended Complaint re: Sling TV LLC
<b>2005</b>	Proof of Service of Amended Complaint re: EchoStar Techs. LLC
<b>2006</b>	Proof of Service of Amended Complaint re: Sling Media LLC
<b>2007</b>	Defendants' Supplemental Rule 7.1 Disclosure Statement
<b>2008</b>	Defendants' Unopposed Application for Extension of Time to Answer Complaint
<b>2009</b>	Defendants' Invalidity Contentions
<b>2010</b>	Expert Declaration of Kenneth A. Zeger
<b>2011</b>	Transcript of Deposition of Scott Acton on May 10, 2019
<b>2012</b>	Expert Declaration of Alan Bovik, <i>Realtime Adaptive Streaming v. Sling, et al.</i> , Civil Action No. 1:17-CV-02097-RBJ, Dkt. 135-1 (D. Colo. Nov. 7, 2018),
<b>2013</b>	Markman Order, <i>Realtime Adaptive Streaming v. Sling, et al.</i> , Civil Action No. 1:17-CV-02097-RBJ, Dkt. 151 (D. Colo. Jan. 11, 2019),
<b>2014</b>	U.S. Patent App. Pub. US 2002/0144271 A1 for Appl. No. 09/197,441 ("Behagen")
<b>2015</b>	Transcript of Deposition of Scott Acton on May 10, 2019 in IPR2018-01331 on U.S. Patent No. 8,867,610.
<b>2016</b>	RFC 2435, RTP Payload Format for JPEG-compressed Video, October 1998
<b>2017</b>	<i>Realtime Adaptive Streaming LLC v. Google LLC, et al.</i> , Civil Action No. 2:18-CV-03629-GW-JC, Dkt. 67 (C.D. Cal. Oct. 25, 2018), Scheduling Order
<b>2018</b>	Patent Owner's Demonstratives
<b>2019</b>	Final Ruling on <i>Markman</i> /Claim Construction, <i>Realtime Adaptive Streaming LLC v. Google LLC et al.</i> , Case No. 2:18-cv-03629-GW-(JCx), Dkt. 84 (C.D. Cal. Jul. 25, 2019); <i>Realtime Adaptive Streaming LLC v. Adobe Systems Inc.</i> , Case No. 2:18-cv-09344-GW-(JCx), Dkt. 92 (C.D. Cal., Jul. 25, 2019) ("Google and Adobe CDCal Cases")
<b>2020</b>	Excerpts of Transcript of <i>Markman</i> Hearing on July 18, 2019 in Google and Adobe CDCal Cases

IPR2018-01342 ('535 Patent)  
PATENT OWNER'S NOTICE REGARDING DISTRICT COURT CONSTRUCTION

Respectfully submitted,

Dated: December 9, 2019

/Philip X. Wang/  
Philip X. Wang (Reg. No. 74,621)  
Neil A. Rubin (Reg. 67,030)  
Attorneys for Patent Owner  
Russ August & Kabat  
12424 Wilshire Blvd., 12th Fl.  
Los Angeles, CA 90025  
Phone: (310) 826-7474  
Fax: (310) 826-6991  
[pwang@raklaw.com](mailto:pwang@raklaw.com)  
[nrubin@raklaw.com](mailto:nrubin@raklaw.com)  
[rak\\_realtimedata@raklaw.com](mailto:rak_realtimedata@raklaw.com)

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.