

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

MULTIMEDIA CONTENT  
MANAGEMENT LLC,  
Plaintiff

v.

DISH NETWORK L.L.C.,  
Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No.: 6:18-cv-00207-ADA

JURY TRIAL DEMANDED

PATENT CASE

**DEFENDANT'S RESPONSIVE CLAIM CONSTRUCTION BRIEF**

**TABLE OF CONTENTS**

- I. CONSTRUCTION OF INDEPENDENT CLAIM TERMS..... 1
  - A. Term 1: “to generate controller instructions” (’468 Patent: Claim 1 / ’925 Patent: Claim 1) or “generating controller instructions” (’468 Patent: Claim 23 / ’925 Patent: Claim 29)..... 1
  - B. Term 2: “a controller node” (’468 Patent: Claims 1 and 23 / ’925 Patent: Claims 1 and 29) ..... 6
  - C. Term 3: “a service provider network” (’468: Claims 1 and 23 / ’925: Claims 1 and 29) ..... 10
  - D. Term 4: “selectively transmit[ting, by the plurality of gateway units,] the content requests to the service provider network in accordance with the controller instructions” (’468: Claims 1 and 23 / ’925: Claims 1 and 29)..... 14
  - E. Term 5: “gateway units” (’468 Patent: Claims 1 and 23)..... 18
  - F. Term 6: “network elements” (’925: Claims 1 and 29)..... 20
- II. CONSTRUCTION OF DEPENDENT CLAIM TERMS..... 21
  - A. Term 1: “if the gateway unit enters the inactive state” (’468: Claim 29)..... 23
  - B. Term 2: “registration information” (’468: Claim 33) ..... 24
  - C. Term 3: “uniquely” (’468: Claim 24) ..... 25
  - D. Term 4: “initial operating parameters” (’468: Claim 33) ..... 26
  - E. Term 5: “subscriber management system” (’925: Claim 25) ..... 27
  - F. Term 6: “authenticate subscribers or devices before allowing access into the service provider network” (’925: Claim 25)..... 27
- III. CONCLUSION..... 28

**TABLE OF AUTHORITIES**

<b>Cases</b>	<b>Page(s)</b>
<i>Altiris, Inc. v. Symantec Corp.</i> , 318 F.3d 1363 (Fed. Cir. 2003).....	22
<i>Am. Piledriving Equip., Inc. v. Geoquip, Inc.</i> , 637 F.3d 1324 (Fed. Cir. 2011).....	11
<i>Andersen Corp. v. Fiber Composites, LLC</i> , 474 F.3d 1361 (Fed. Cir. 2007).....	13
<i>Arendi S.A.R.L. v. Google LLC</i> , 882 F.3d 1132 (Fed. Cir. 2018).....	2
<i>Aylus Networks, Inc. v. Apple Inc.</i> , 856 F.3d 1353 (Fed. Cir. 2017).....	2, 11
<i>CAE Screenplates Inc. v. Heinrich Fiedler GmbH &amp; Co. KG</i> , 224 F.3d 1308 (Fed. Cir. 2000).....	20
<i>DSW, Inc. v. Shoe Pavilion, Inc.</i> , 537 F.3d 1342 (Fed. Cir. 2008).....	22
<i>Enzo Biochem Inc. v. Applera Corp.</i> , 780 F.3d 1149 (Fed. Cir. 2015).....	4
<i>Hill-Rom Servs., Inc. v. Stryker Corp.</i> , 755 F.3d 1367 (Fed. Cir. 2014).....	8, 9, 23, 25
<i>In re Johnston</i> , 435 F.3d 1381 (Fed. Cir. 2006).....	17
<i>In re Packard</i> , 751 F.3d 1307 (Fed. Cir. 2014).....	9
<i>InterDigital Commc'ns, LLC v. Int'l Trade Comm'n</i> , 690 F.3d 1318 (Fed. Cir. 2012).....	18
<i>Intervet Am., Inc. v. Kee-Vet Labs., Inc.</i> , 887 F.2d 1050 (Fed. Cir. 1989).....	5
<i>Markman v. Westview Instruments, Inc.</i> , 52 F.3d 967 (Fed. Cir. 1995).....	23
<i>Merck &amp; Co. v. Teva Pharm. USA, Inc.</i> , 395 F.3d 1364 (Fed. Cir. 2005).....	5

..

*Northern Telecom Ltd. v. Samsung Elecs. Co.*,  
215 F.3d 1281 (Fed. Cir. 2000).....22

*Phillips v. AWH Corp.*,  
415 F.3d 1303 (Fed. Cir. 2005).....8, 16, 22, 23, 28

*Seachange Int’l, Inc. v. C-COR, Inc.*,  
413 F.3d 1361 (Fed. Cir. 2005).....22

*Sorensen v. Int’l Trade Com’n*,  
427 F.3d 1375 (Fed. Cir. 2005).....2

*The Medicines Co. v. Mylan, Inc.*,  
853 F.3d 1296 (Fed. Cir. 2017).....15

*Toshiba Corp. v. Imation Corp.*,  
681 F.3d 1358 (Fed. Cir. 2012).....8

...

MCM’s opening brief proposes constructions for six independent claim terms and six dependent claim terms. For the independent claim terms, MCM cherry picks portions of the intrinsic record to support its proposed constructions while ignoring its own unequivocal disclaimers made during the prior Unified Patents IPR. As DISH explained in its opening brief, the public is entitled to rely on all statements found in the intrinsic record that inform and define the scope of the claims of the Asserted Patents, not just the ones MCM now deems relevant. For the dependent claim terms, MCM provides no reason why this Court should depart from the plain and ordinary meaning for those terms. MCM fails to establish that the Applicant acted as its own lexicographer or otherwise altered the ordinary definition of these easily understood terms.

## I. CONSTRUCTION OF INDEPENDENT CLAIM TERMS

### A. Term 1: “to generate controller instructions” (’468 Patent: Claim 1 / ’925 Patent: Claim 1) or “generating controller instructions” (’468 Patent: Claim 23 / ’925 Patent: Claim 29)

MCM’s Construction	DISH’s Construction
“generate computer processor-executable instructions, excluding merely a uniform resource locator (URL) or an internet protocol (IP) address”	“to create[ing] or bring[ing] into being computer executable instructions that determine whether to transmit or not transmit a content request from a user to the service provider network”

The dispute between the parties concerns two issues: (1) whether instructions must be created and not simply transmitted or relayed to qualify as the claimed “controller instructions” and (2) whether the claimed intrinsic evidence supports the understanding that “controller instructions” must decide whether or not to transmit content requests. As shown in DISH’s opening brief and below, the specification and MCM’s concessions in the prior IPR answer both of these questions in the affirmative. MCM’s construction does not address these issues and instead imports a characteristic of controller instructions, that they cannot be a URL or IP address.

# 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.