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

MULTIMEDIA CONTENT MANAGEMENT LLC, Plaintiff	§ § § § § § § § § § §	Civil Action No.: 6:18-cv-00207-ADA
v.		JURY TRIAL DEMANDED
DISH NETWORK L.L.C., Defendant.		PATENT CASE

DEFENDANT'S RESPONSIVE CLAIM CONSTRUCTION BRIEF

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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.

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