

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

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

PLAINTIFF’S REPLY CLAIM CONSTRUCTION BRIEF

In accordance with the Court’s Initial Scheduling Order, Plaintiff Multimedia Content Management LLC (“Plaintiff” or “MCM”) submits the following brief in reply to Defendant Dish Network L.L.C.’s (“Defendant” or “Dish) responsive claim construction brief, D.I. 52.

Contents

- I. Introduction 1
- II. Disputed Terms of the Independent Claims 1
 - A. Disputed Term No. 1 – “to generate controller instructions” 1
 - B. Disputed Term No. 2 – “a controller node” 3
 - C. Disputed Term No. 3 – “a service provider network” 4
 - D. Disputed Term No. 4 – “selectively transmit[ting, by the plurality of gateway units,] the content requests to the service provider network in accordance with the controller instructions” 6
 - E. Disputed Term No. 5 – “gateway units” 7
 - F. Disputed Term No. 6 – “network elements” 8
- III. Disputed Terms of the Dependent Claims 8
 - A. Disputed Term No. 7 – “if the gateway unit enters the inactive state” (’468 Patent, Claim 29) 9
 - B. Disputed Term No. 8 – “registration information” (’468 Patent, Claim 33) 9
 - C. Disputed Term No. 9 – “uniquely” 10
 - D. Disputed Term No. 10 – “initial operating parameters” (’468 Patent, Claim 33) 10
- IV. Conclusion 11

Exhibit List

Exhibit No.	Description
2001	Declaration of Mr. Joel R. Williams
2002	File History of U.S. Patent Application No. 13/369,174
2003	Decision Denying Institution of <i>Inter Partes</i> Review, IPR2017-01934, Paper No. 10
2004	U.S. Patent No. 8,799,468
2005	U.S. Patent No. 9,465,925
2006	Patent Owner's Preliminary Response in <i>Inter Partes</i> Review, IPR2017-01934, Paper No. 9

I. INTRODUCTION

Plaintiff Multimedia Content Management LLC (“Plaintiff” or “MCM”) submits the following brief in reply to Dish’s responsive claim constructions brief submitted to the Court on April 5, 2019, D.I. 52. As detailed below, Dish continues to seek constructions that are not supported by, and are inconsistent with, the specifications and file histories of the Patents-in-Suit.

In accordance with the Court’s Scheduling Order, D.I. 33 (Jan. 4, 2019), and the parties’ Joint Stipulation Regarding Proposed Amended Scheduling Order, D.I. 42 (March 12, 2019), the parties have not scheduled any exchange of extrinsic evidence regarding claim construction. MCM does not believe any extrinsic evidence is necessary for the Court to properly construe the disputed terms, and therefore MCM has not cited to any extrinsic evidence in support of its proposed constructions.

II. DISPUTED TERMS OF THE INDEPENDENT CLAIMS

A. Disputed Term No. 1 – “to generate controller instructions”

Plaintiff’s Construction	Defendant’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”
Plaintiff’s Amended Construction	
“generate computer processor-executable instructions, excluding merely a uniform resource locator (URL) or an internet protocol (IP) address, <u>excluding operations in which the controller instructions are only transmitted or are relayed by a device</u> ”	

As a threshold matter, MCM notes that its proposed construction is identical to the construction offered in the file history of the ’468 Patent. Specifically, MCM’s proposed construction is identical to the construction MCM offered in Patent Owner’s Preliminary Response,

IPR2017-01934, Paper 9, at 4–8 (attached hereto as EX2006) (“POPR”). Dish has not provided any reason why the Court should deviate from the intrinsic evidence of the ’468 Patent—which includes the POPR—in construing the terms of the ’468 Patent.

In an effort to reduce the number of issues, MCM offered to narrow its construction, explicitly excluding operations in which the controller instructions are only transmitted or are relayed by a device. Despite this, Dish continues to argue that “whether instructions must be created and not simply transmitted or relayed” is in dispute. Dish Responsive Brief at 1. MCM disagrees that this is in dispute.

Further, in an effort to further reduce the number of issues, MCM is willing to accept the construction: “create or bring into being computer processor-executable instructions, excluding merely a uniform resource locator (URL) or an internet protocol (IP) address.”

Despite the fact that MCM’s proposed construction matches the claim construction that is explicitly part of the intrinsic evidence, *see* POPR, EX2006 at 8, Dish also argues that the intrinsic evidence supports “the understanding that ‘controller instructions’ must decide whether or not to transmit content requests.” *Id.* While MCM agrees that this is one function controller instructions can support, Dish’s construction unnecessarily limits controller instructions to just that one function. Dish’s argument is premised on combining the “generate controller instructions” and “selectively transmit” limitations into a single limitation. Reply at 3–5. As MCM noted, controller instructions can instruct a gateway unit to do more than just “determine whether to transmit or not transmit a content request,” as Dish’s construction would require. *E.g.*, ’468 Patent, 18:61–63, 18:64–67 (Claim 4) (“wherein the controller instructions comprise instructions configured to generate a notification to the controller node if a content request designates a network server of the service provider network.”).

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