IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

UNILOC 2017 LLC,
 	
                Plaintiff,
 	
v.
 	
GOOGLE LLC,
                Defendant.
	Civil Action No.: 2:18-cv-00553-JRG
	
	PATENT CASE
	
	JURY TRIAL DEMANDED

UNILOC 2017'S REPLY BRIEF ON CLAIM CONSTRUCTION

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I. CONSTRUCTION OF DISPUTED TERMS

1.   "keyfact" (all claims)

Google's attorney argument concerning the term "keyfact" is based on a "gotcha." Google contends that a construction of "keyfact" should include the word "important" and then "gotcha," inclusion of that word would render the claim indefinite. Dkt. 132 at 2-5. Google bases its argument on a single snippet from the specification of the '908 patent using the word "important," but fails to show how a person of ordinary skill in the art would understand the term "keyfact" from the context of the specification of the '908 patent. And despite Google's burden to demonstrate indefiniteness by clear and convincing evidence, Google provides no evidence or testimony that a person of ordinary skill in the art would be unable to understand what a "keyfact" is after reading the '908 patent.

Google is also incorrect in limiting the construction of a "keyfact" to documents. Demonstrating Google's error, Google exclusively relies on the sentence, "A keyfact means an important fact contained in sentences which constitute a document." Dkt. 134 at 2 (citing '908 patent, 1:15-16). But the '908 patent makes clear that a "keyfact" can be extracted from a user query as well as a "document." Accordingly, Google's "gotcha" construction cannot be correct as it improperly relies on a sentence from the specification that excludes exemplary disclosed "keyfacts," in particular those extracted from user queries.

Indeed, a "keyfact," as that term is used in the '908 patent, applies to both analyzing a document collection as well as user queries into the document collection. *See* '908 patent, Abstract ("a document collection and a query"). A particular keyfact in a document becomes important in the context of the entire system of analyzing a document collection, parsing queries, and generating results. A "keyfact" does not, however, possess an intrinsic "importance." When considering the retrieval system described in the '908 patent, Uniloc properly construes a "keyfact" as a "fact contained in sentences" of a document in a document collection or a user query. A particular "keyfact" in that collection becomes "important" when a user constructs a query to search for the document and that query contains a similar "keyfact." '908 patent, Fig. 6;

8:25-34. Further, the frequency of how many times a "keyfact" can be found in a document can show its relative importance. '908 patent, Table 2.

Even the prior work of the inventors concerning "keyfacts" (cited by Google as extrinsic evidence, Ex. A of Dkt. 132) shows that the word "important" is not part of how a person ordinary skill would understand a "keyfact." The inventor's other explanation of the concept of a "keyfact" did not rely on the notion of "important." *See* Ex. A at Abstract ("We shall show how to extract a fact from a document using an extended concept of keyword, called keyfact which can contain syntactic patterns and semantic information."). Given the full context of the '908 patent and the prior use of the term "keyfact" in Ex. A, there is simply no reason to think a person of ordinary skill would find the term "keyfact" indefinite.

Google attempts to criticize Uniloc's construction of "keyfact" as overly broad, but Uniloc does not construe "keyfact" as a "fact." *See* Dkt. 132 at 7. Uniloc's construction—a "fact contained in sentences"—relies on the semantic nature of a sentence to distinguish from bare "facts," and Uniloc's construction should be read in the context of the remaining elements of the claims to perform the claimed method. Incidentally, if Google contends that "key" means "important," then that notion runs contrary to Google's proposed construction of "keyword," which does not rely on the concept of "important."

2.   "keyword" (claim 6)

Like its incorrect construction of "keyfact," Google's construction of "keyword" also fails to recognize that a "keyfact" can be based on words in a document or words within a query used to retrieve documents. Dkt. 128 at 8. Google's recent removal of the words "within a query" from its construction (Dkt. 134 at 8 n.5) does nothing to resolve the problem that keywords can be found in documents themselves. *See, e.g.*, '908 patent, 5:15-18; 8:26-29. Claim 6, in fact, recites "extracting keywords … *from said document collection* and said user query." (emphasis added). Accordingly, Google's attempt to define a "keyword" as "used to retrieve documents" should fail.

Turning to the parties' dispute of whether a "keyword" is limited to a "noun," Google contends that the specification provides a clear definition of "keyword." More specifically, Google contends that the '908 patent's background refers to "keywords, which are nouns" and therefore that the patentee acted as a lexicographer to define the word "keyword." Dkt. 134 at 8. But this discussion in the background reflects no clear intent to restrict "keywords" to nouns, and the specification, not the background, shows that "keywords" of the '908 patent are in fact not restricted to "nouns."

Claim 6 of the '908 patent requires "extracting keywords without part-of-speech ambiguity." As discussed in the '908 patent regarding a document in a document collection:

> A document is supplied at stage 31 and morphological analysis is performed at stage 32. A sentence in the document is divided into words and the morphological analysis is performed with dictionaries 36 at stage 32. The morphological variation is considered in order to recover prototypes. The dictionaries 36 include a noun dictionary, a verb dictionary, an adjective dictionary, an adverb dictionary, a preposition dictionary, a conjunction dictionary, and a stop-word lexicon. In some cases, a part-of-speech of a word is determined by rules without dictionaries.

'908 patent, 5:19-28. It could not be clearer from this passage that the "words" extracted are not only nouns. Moreover, those extracted words are used to form parts of the keyfact. '908 patent, 5:29-36. Indeed, while the specification states an object is a "noun or compound nouns represented by a keyword," other portions of the keyfact are also represented by keywords. *See, e.g.*, '908 patent, 6:33-37 (associating tag MP1 with adjective keyword "fast" and tag MP2 with verb keyword "distributed"). Google's brief focuses on how the preferred embodiment constructs keyfacts using the key tag KEY and appears to contend that all KEY key tags are nouns or compound nouns. Dkt. 134 at 10-11. But Google's analysis fails because the preferred embodiment uses other tags, and other parts of speech, and those other tags are also represented by keywords. Google's construction is thus improperly narrow.

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