
From: Darryl Adams <dadams@sbgfirm.com>
Sent: Tuesday, January 4, 2022 5:38 PM
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Subject: IGT et al v. ZYNGA INC. (6:21-cv-00331-ADA) - Preliminary Constructions

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Counsel,

The Court provides the preliminary constructions below in advance of the Markman hearing. The purpose of preliminary constructions is to streamline the hearing by providing the parties an indication of the Court's current position for each term. Although the parties are, of course, free to argue for their originally proposed construction, it is generally unlikely that the Court will select a party's originally proposed construction over the preliminary construction. As such, the Court believes arguments to fine-tune the preliminary construction may be more helpful. The preliminary constructions are not final as the Court may change those constructions based on the arguments at the hearing.

Of the below terms, please let me know what terms each side would like to argue by midnight tonight (alternatively, the parties can mutually agree to an alternative time no later than 8:00 am CT tomorrow, in which case please let me know the agreed time). Each side may email their list separately (but please CC the other side) or jointly (please indicate which side, or both, wants to argue each term). Unless the Court directs otherwise, the terms will be addressed during the hearing in the same order as the Joint Claim Construction Statement.

Also, at least 30 minutes before the hearing, please submit any slides the parties wish to use at the Markman hearing (and CC the other side). To assist the court reporter (Kristie Davis, CC-ed), please email her a copy of your slides as soon as possible (it's okay if it's just a draft). When you email her, no need to CC the other side or the Court as it is purely to help her generate the transcript as quickly as possible.

Let me know if you have any questions.

Best regards,
Darryl Adams

Terms	Plaintiff IGT's Proposed Construction	Defendant Zynga's Proposed Construction	Court's Preliminary Construction
software authorization agent	No construction necessary (plain and ordinary meaning).	a device that authorizes (that is approves or rejects) specific transfers of gaming software based on applicable rules, and monitors (that is tracks) these transfers	a device that authorizes (that is approves or rejects) specific transfers of gaming software based on applicable rules, and monitors (that is tracks) these transfers

gaming software	No construction necessary (plain and ordinary meaning).	instructions that are executed to run a game or a component of a game, as distinct from [stand-alone] data	Plain and ordinary meaning. Note: data alone is not gaming software.
gaming machine	No construction necessary (plain and ordinary meaning).	a special purpose machine like a slot machine, not a general purpose computer	Plain and ordinary meaning.
website server	No construction necessary (plain and ordinary meaning).	server that provides websites to other devices wherein said server is a separate device from the first gaming server/apparatus and the second gaming server/apparatus	Plain and ordinary meaning. Note: the website server, first gaming server, and second gaming server are separate devices.
first gaming server	No construction necessary (plain and ordinary meaning).	a first gaming server wherein said server is a separate device from the second gaming server and the website server/website computing apparatus	Plain and ordinary meaning. Note: the website server, first gaming server, and second gaming server are separate devices.
second gaming server	No construction necessary (plain and ordinary meaning).	a second gaming server wherein said server is a separate device from the first gaming server and the website server/website computing apparatus”	Plain and ordinary meaning. Note: the website server, first gaming server, and second gaming server are separate devices.
publishing	No construction necessary (plain and ordinary meaning).	communicating information on a specific topic to one or more subscribers without needing to know any subscriber’s identity	Plain and ordinary meaning.
high-level function	Definite—i.e., [“a function that may be used or consumed by devices from more than one vendor”]	Indefinite	Plain and ordinary meaning.
node”	No construction necessary (plain and ordinary meaning).	a device that is connected as part of a computer network	a device that is connected as part of a computing network.

determine instances of probable collusion between players	No construction necessary (plain and ordinary meaning).	determining instances of likely unfair collaboration between human participants in a game”	Plain and ordinary meaning.
“establishing” and “re-established” “communications link”	No construction necessary (plain and ordinary meaning).	to set up an active communication link over which signals may be sent and received”/ “an active communication link that was set up and failed, and is then set up again and over which signals may be sent and received	Plain and ordinary meaning.

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