

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

INGENIOSHARE, LLC,

Plaintiff,

v.

EPIC GAMES, INC.,

Defendant.

**Civil Action No. 6:21-cv-00663-ADA
JURY TRIAL DEMANDED**

EPIC GAMES INC.'S OPENING CLAIM CONSTRUCTION BRIEF

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I. INTRODUCTION

IngenioShare alleges Epic Games infringes sixty-nine claims from four patents relating to systems, methods, and apparatuses for managing electronic communications. The asserted claims contain a jumble of technical jargon mixed with confusing terms. It is clear from IngenioShare's infringement contentions and Epic Games' invalidity contentions that a dispute exists about the meaning (to the extent one is discernible) of certain claim terms. IngenioShare tries to side-step claim construction by advocating "plain and ordinary meaning" for all the terms at issue, without any elucidation of what it believes that meaning is. But where, as here, the parties have a dispute, a "plain and ordinary meaning" construction should be rejected because it would effectively submit legal questions to the jury. The court, not the jury, must resolve these disputes.

The Court should adopt Epic Games' proposals, finding terms that are insolubly ambiguous to be indefinite, and applying the proposed constructions for the remaining terms, which constructions are grounded in the claim language, patent specifications, and extrinsic evidence.

II. OVERVIEW OF THE PATENTS

IngenioShare alleges Epic Games infringes U.S. Patent Nos. 8,744,407 (the "'407 Patent"); 10,142,810 (the "'810 Patent"); 10,492,038 (the "'038 Patent"); 10,708,727 (the "'727 Patent") (the "Asserted Patents"). The claims in the Asserted Patents overlap significantly and share largely identical specifications and figures. *See generally*, '407 Patent; '810 Patent; '038 Patent; '727 Patent (attached as Exs. J–M). Each Asserted Patent derives from the same provisional application (U.S. Provisional Patent Application No. 60/689,686) and has the same priority date of April 27, 2005.

The Asserted Patents' claims are all directed to managing person-to-person communications from multiple devices such as "desk phones, fax, cell phones, electronic mails,

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