

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

WAG ACQUISITION, L.L.C.,

Plaintiff,

– against –

GOOGLE LLC and
YOUTUBE, INC.,

Defendants.

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No. 6:21-cv-00816-ADA
Patent Case

PLAINTIFF’S RESPONSIVE CLAIM CONSTRUCTION BRIEF

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 A. “as required to maintain about a predetermined number of media data elements”
 (’594 Patent, claims 1, 6, 11) (alleged indefinite) 7

 B. “a predetermined number of media data elements” (’594 Patent, claims 1, 6, 11)9

 C. “the media source” (’594 Patent, claims 1, 6, 11) 11

 D. “each sending is at a transmission rate as fast as the data connection between the
 server system and each requesting user system allows” (’824 Patent, claims 1, 5,
 9; ’636 Patent, claims 1, 5, 9) (alleged indefinite) 13

 E. “all of the media data elements that are sent by the server system to the
 requesting user systems are sent from the data structure under the control of the
 server system as the media data elements were first stored therein” (’824 Patent,
 claims 1, 5, 9; ’636 Patent, claims 1, 5, 9) (alleged indefinite)..... 16

 F. “supplying, at the server system, media data elements representing the program”
 (’824 Patent, claims 1, 5, 9; ’636 Patents, claims 1, 5, 9) 17

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I. INTRODUCTION

U.S. Patent Nos. 9,742,824 (Compl. Ex. A) (the “’824 Patent”); 9,729,594 (Compl. Ex. B) (the “’594 Patent”); and 9,762,636 (Compl. Ex. C) (the “’636 Patent”) to Harold Price (collectively, the “Asserted Patents”), disclose and claim systems and methods for distributing audio-visual media over the Internet. The Asserted Patents each claim priority to provisional application no. 60/231,997, dated September 12, 2000. They share similar disclosures, but claim different aspects of the disclosure.

WAG holds full title to the Asserted Patents and accuses Defendants Google LLC and YouTube, Inc. (“Defendants” or “Google”) of infringing (1) claims 1-17 of the ’594 Patent; (2) claims 1-12 of the ’636 Patent; and (3) claim 1-12 of the ’824 Patent (collectively, the “Asserted Claims”). WAG believes that the language of the claims is clear and that the Disputed Terms require no construction.

II. BACKGROUND

A. *Technological Overview*

The Asserted Claims address the problem of how to achieve the perception of immediate startup (“Instant-On”) of Internet streaming when the user clicks on an audio-visual media stream, as well as thereafter maintaining uninterrupted delivery. *See, e.g.*, ’594 Patent, 3:45-58 (“respond on demand without objectionable buffering delay”); *see also id.*, 6:15-18 (“Immediate playing on a user’s computer is afforded”).

Audio and visual media transmitted over a computer network are simply streams of data – sets of time-sequenced data elements. *Id.*, 6:30-32. When delivered over the network, the data stream flows from the source (server) to the player (client) for playback. *Id.*, 6:59-65.

A problem arises when the aim is to distribute a media program via streaming over the Internet, as opposed to transferring (downloading) an entire recorded version of the program and

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