

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

AUDIOEYE, INC.,

Plaintiff,

v.

ACCESSIBE LTD.,

Defendant.

Case No. 6:21-cv-726-ADA

JOINT CLAIM CONSTRUCTION STATEMENT

AudioEye, Inc. and accessiBe Ltd. respectfully submit this Joint Claim Construction Statement. The table in Attachment A lists the terms proposed by accessiBe for construction, along with the parties' competing constructions. As outlined in the briefing, AudioEye contends that one of accessiBe's identified "terms" is improper because accessiBe identified entire claims for construction rather than a claim term. accessiBe contends that its disclosure of claim terms for construction properly identified the most relevant limitations that render the claim indefinite. AudioEye has identified no terms for construction.

Also, the parties in this case are also parties in a co-pending case that was previously in this Court (No. 6:20-cv-997-ADA) ("the Related Case"). While the Related Case was recently transferred to the Western District of New York, the Court in the Related Case construed certain terms before it was transferred. The parties in this case have outlined their understanding on how the Court's constructions from the Related Case would apply in this case. A table outlining the terms and the parties' understanding is included in Attachment B. Both parties expressly reserve all right to challenge and appeal the constructions from the Related Case.

March 30, 2022

Respectfully submitted,

/s/ Jared C. Bunker

Brian C. Nash

Texas Bar No. 24051103

Austin Schnell

Texas Bar No. 24095985

Pillsbury Winthrop Shaw Pittman LLP

401 Congress Ave., Suite 1700

Austin, Texas 78701

T: (512) 580-9600 F: (512) 580-9601

E: brian.nash@pillsburylaw.com

E: austin.schnell@pillsburylaw.com

Steven Jensen (*Pro Hac Vice*)

CA Bar No. 149894

Brian Horne (*Pro Hac Vice*)
CA Bar No. 205621
Jared Bunker (*Pro Hac Vice*)
CA Bar No. 246946
Knobbe Martens
2040 Main Street, Fourteenth Floor
Irvine, CA 92614
T: (949) 760-0404
E: steve.jensen@knobbe.com
E: brian.horne@knobbe.com
E: jared.bunker@knobbe.com

Attorneys for Plaintiff AudioEye, Inc.

/s/ Amadou Kilkeny Diaw (with permission)

Cabrach J. Connor
cab@connorkudlaclee.com
CONNOR KUDLAC LEE PLLC
609 Castle Ridge Road, Suite 450
Austin, Texas 78746
Phone: (512) 777-1254

Neel Chatterjee
NChatterjee@goodwinlaw.com
Jesse Cheng
JCheng@goodwinlaw.com
GOODWIN PROCTER LLP
601 Marshall Street
Redwood City, CA 94063
Phone: (650) 752-3100

Amadou Kilkeny Diaw
ADiaw@goodwinlaw.com
GOODWIN PROCTER LLP
1900 N St. NW
Washington, DC 20036
Phone: (202) 346-4000

Attorneys for Defendant accessiBe Ltd.

No.	Term	Patent	Claim(s)	AudioEye’s Proposed Construction	access
1	“untagged image”	10,997,361	1, 14, 16	<p>No construction is necessary, the plain and ordinary meaning should apply.</p> <p>To the extent the Court concludes a construction is necessary, it should be construed as follows:</p>	
	“untagged element”	10,997,361 11,029,815 11,061,532	11 1 1	<p>“an image/element lacking an alternative text tag”</p>	
2	“subject matter of the untagged image”	10,997,361	1	<p>No construction is necessary, the plain and ordinary meaning should apply.</p> <p>To the extent the Court concludes a construction is necessary, it should be construed as follows:</p>	
	“subject matter associated with the [untagged] element”	11,029,815	1, 11	<p>“subject matter of the image/element lacking an alternative text tag.”</p>	

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	access
3	“image recognition algorithm”	10,997,361	1	No construction is necessary, the plain and ordinary meaning should apply.	
“an erroneous tag”	10,997,361	15			
“one or more descriptive HTML attributes of the image are erroneous”	11,029,815	7, 17			
“one or more descriptive attributes of the untaged element are erroneous”	11,061,532	6, 16			

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.