

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

RF Cyber CORP.,

Plaintiff,

v.

VISA U.S.A. INC.,

Defendant.

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Case No. 6:22-cv-00697-ADA

JURY TRIAL DEMANDED

**PLAINTIFF RFCYBER CORP.'S
RESPONSIVE CLAIM CONSTRUCTION BRIEF**

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Pursuant to the Court’s Scheduling Order (Dkt. 27), Plaintiff RFCyber Corp. (“RFCyber”) hereby submits its Responsive Claim Construction Brief in response to Visa’s Opening Claim Construction Brief (Dkt. 41, “Visa Br.”). The asserted patents are U.S. Patent Nos. 8,118,218 (Dkt. 1-1, hereinafter the “’218 Patent”), 8,448,855 (Dkt. 1-2, hereinafter the “’855 Patent”), and 9,189,787 (Dkt. 1-3, hereinafter the “’787 Patent”), (together, the “Asserted Patents”).

I. INTRODUCTION

RFCyber is a pioneer in mobile and electronic payment technology. The Asserted Patents embody RFCyber’s technology and are directed to various aspects of a mobile payment system.

Visa proposes a construction for only the group of terms “fund” / “funded” / “funding” / “fund stored in an emulator.” Visa’s construction seeks to limit the ’855 and ’787 Patents to a disclosed embodiment requiring a “balance” in order to manufacture a non-infringement defense. But the intrinsic evidence demonstrates that the terms are not so narrow and cover things other than a mere balance.

Visa further asks the Court to find every asserted system claim indefinite for allegedly claiming both an apparatus and method of using that apparatus. But the clauses that Visa complains about clearly set out the functionality and capability of the claimed apparatuses, and do not impose method steps or require user action.

Finally, Visa misunderstands the plain language of claims 1 and 11 of the ’218 Patent to argue that a contactless interface that facilitates communications over a wired network is indefinite. But as the specification of the ’218 Patent makes clear, the term merely means that the claimed device uses a contactless interface, such as RFID, to communicate with a server connected to the other end of the RFID connection via a wired network.

Accordingly, the Court should reject Visa’s constructions and further find the claims not indefinite.

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