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

RFCyber CORP.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 6:22-cv-00697-ADA
	)	
VISA U.S.A. Inc.,	)	**JURY TRIAL DEMANDED**
	)	
Defendants.	)	
	)	
	)	
	)	

**DEFENDANT VISA U.S.A. INC.'S
<u>REPLY CLAIM CONSTRUCTION BRIEF</u>**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

PAGE(S)

CASES

STATUTES

Plaintiff RFCyber Corp.'s ("RFCyber's") Responsive Claim Construction Brief (Dkt. 43; "Response" or "Resp.") only confirms that Visa U.S.A. Inc.'s ("Visa's") proposed constructions are correct, and that several of the terms are indefinite. In advance of filing its Response, RFCyber dropped several claims essentially conceding that those claims are indefinite, as Visa long contended. The remaining terms fare no better. They are similarly indefinite, and their corresponding claims are invalid.

As to the "fund" terms, RFCyber's purported "plain and ordinary meaning" construction stretches the meaning of the word "fund" beyond any ordinary understanding, sweeping in unclaimed devices and functionality. RFCyber's construction is inconsistent with the intrinsic evidence and contemporaneous extrinsic evidence reflective of the plain and ordinary meaning of the term to a person having ordinary skill in the art ("POSA"). The Court should reject RFCyber's implicit, unsupportable construction and adopt Visa's proposed constructions.

I.   TERMS NO LONGER IN DISPUTE

Because RFCyber is no longer asserting infringement of claims 3 and 14 of the '218 Patent, claims 3 and 13 of the '787 Patent, and claims 6 and 15 of the '855 Patent against Visa, there is no longer a dispute as to the following claim terms:

- **"e-purse SAM originally used to issue the e-purse / existing security authentication module (SAM) originally used to issue the e-purse"**

- **"an appropriate transformed password based on the keys in the emulator"**

In addition, the parties stipulated to stay the case as to the '009 Patent (Dkt. 42), and RFCyber did not respond to arguments relating to the '009 Patent in its Response. Accordingly, Visa does not address those arguments here.

II.   "FUND" AND "FUND STORED IN AN EMULATOR"

Term and Claims	Visa's Construction	RFCyber's Construction
"fund" / "fund stored in the emulator" '855 Patent, Claim 9 '787 Patent, Claims 1 and 11	"money balance" / "money balance stored in the emulator"	Plain and ordinary meaning except for "emulator"
"fund" / "funded" / "funding" '218 Patent, Claims 10, 18 '855 Patent, Claims 1, 4, 13	"add" / "added" / "adding money balance to"	Plain and ordinary meaning

RFCyber argues that "[t]he 'fund' terms are readily understandable to a lay juror without construction." Resp. at 5. But the law is clear that "[w]hen the parties present a fundamental dispute regarding the scope of a claim term, it is the court's duty to resolve it." *02 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1361-62 (Fed. Cir. 2008); *see also Eon Corp. IP Holdings LLC v. Silver Spring Networks, Inc.*, 815 F.3d 1314, 1319-20 (Fed. Cir. 2016). Here, Visa's proposed construction of "money balance" or "adding money balance to" are consistent with both the specification and extrinsic dictionary evidence from the time of the alleged invention. Dkt. 41 ("Opening Br.") at 8-13.

In contrast, RFCyber's purported "plain and ordinary meaning" stretches the meaning of "fund" far beyond any ordinary understanding of the term to encompass a storage of "tokens, consumable keys, or other object [*sic*] which allow a user to make purchases." Resp. at 6. In support of this argument, RFCyber relies on disclosures and embodiments from the specification that lack any reference to the term "fund" or "funding." Moreover, RFCyber mischaracterizes Visa's proposed construction as requiring that the preamble be limiting, when in fact the terms "fund" and funding" are also recited in the body of the claims.

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