

1 COUNSEL LISTED ON SIGNATURE PAGES

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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In re

Case No. 05-CV-1114 JW

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ACACIA MEDIA TECHNOLOGIES
CORPORATION

**PARTIES' STIPULATED
DEFINITIONS FOR CLAIM
TERMS FROM THE '863 AND '720
PATENTS**

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Date: September 7-8, 2006

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Time: 9:00 a.m.

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Courtroom: 8, 4th Floor

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Judge: Hon. James Ware

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1 The parties¹ to this action hereby submit the following constructions for claim terms of
 2 U.S. Patents 5,550,863 and 6,002,720 that are not disputed:²

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 4 1. The phrase “a plurality of subscriber (selectable) receiving stations coupled to the local
 5 distribution system”³ in Claims 14 and 17 of the ‘863 patent and Claims 8 and 11 of the
 6 ‘720 patent means that two or more “subscriber (selectable) receiving stations”⁴ must be
 7 “coupled to” the local distribution system.

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 10 ¹ For the purposes of the issues involving the ‘863 and ‘720 patents, the parties are the
 11 Round 2 Defendants, who are the Cable and Satellite defendants whom Acacia sued in the first
 12 two rounds of complaints, and the Round 3 defendants, who are two of the cable company
 13 defendants whom Acacia sued in New York in the third round of complaints: Time Warner Cable
 14 Inc. and CSC Holdings, Inc.. The Round 2 Defendants are: Comcast Cable Communications,
 15 LLC; The DIRECTV Group, Inc.; EchoStar Satellite LLC; EchoStar Technologies Corp.; Charter
 16 Communications, Inc.; Armstrong Group; Block Communications, Inc.; East Cleveland Cable TV
 17 and Communications LLC; Wide Open West Ohio LLC; Massillon Cable TV, Inc.; Mid-
 18 Continent Media, Inc.; US Cable Holdings LP; Savage Communications, Inc.; Sjoberg’s
 19 Cablevision, Inc.; Loretel Cablevision; Arvig Communications Systems; Cannon Valley
 20 Communications, Inc.; NPG Cable, Inc.; Cable One, Inc.; Mediacom Communications Corp.;
 21 Bresnan Communications; Cequel III Communications I, LLC (dba Cebridge Connections);
 22 Coxcom, Inc.; Hospitality Network, Inc., and Cable America, Inc. Although Defendants Insight
 Communications, Inc. and Bresnan Communications were sued in Round 3, they are joining the
 Rounds 1 and 2 Defendants’ proposed constructions. Acacia is not asserting the ‘863 and ‘720
 patents against the Round 1 defendants (the Internet defendants), which includes New Destiny
 Internet Group LLC; Audio Communications, Inc.; VS Media Inc.; Ademia Multimedia LLC;
 Adult Entertainment Broadcast Network; Cyber Trend Inc.; Lightspeed Media Group, Inc.; Adult
 Revenue Services; Innovative Ideas International; Game Link Inc.; Club Jenna Inc.; Global AVS
 Inc.; ACMP LLC; Cybernet Ventures Inc.; National A-1 Advertising Inc.; and AEBN, Inc;
 International Web Innovations, Inc., Offendale Commercial BV, AskCS.com. Accordingly, the
 Internet defendants have not participated in the preparation of this chart and have no position on
 the construction of any claim terms that pertain only to ‘863 and ‘720 patents. Likewise, the
 Rounds 2 and 3 Cable Defendants take no position on the construction of any claim terms that
 pertain only to the ‘720 patent since that patent has not been asserted against those parties.

23 ² Each defendant stipulates to the construction of terms or limitations which are recited in
 24 claims asserted against it. Acacia and each defendant reserves the right to seek construction of
 additional claim terms, or propose a new construction of terms and limitations listed herein,
 should Acacia be permitted to assert additional claims against each defendant in the future.

25 ³ Claims 14 and 17 of the ‘863 patent, and the construction thereof, use the phrase
 26 “subscriber receiving stations.” Claims 8 and 11 of the ‘720 patent, and the construction thereof,
 use the phrase “subscriber selectable receiving stations.”

27 ⁴ The Round 2 Defendants contend that the phrase “subscriber receiving stations” is
 28 otherwise indefinite.

- 1 2. The term “remote from,” as used in the ‘863 and ‘720 patents, means “distant in space
2 from.”
- 3 3. The term “non-real time rate” means a rate (described in terms of time) that is different
4 than the actual rate (described in terms of time) during which a particular item (e.g., video
5 or audio) is listened to or viewed.
- 6 4. The term “real time rate” is a rate (described in terms of time) that is the actual rate
7 (described in terms of time) during which a particular item (e.g., video or audio) is
8 listened to or viewed.
- 9 5. In Claim 14 of the ‘863 patent, the “transmitting step” includes, but is not limited to, the
10 steps of:
- 11 (a) “inputting an item having information into the transmission system;”
 - 12 (b) “assigning a unique identification code to the item having information;”
 - 13 (c) “formatting the item having information as a sequence of addressable data
14 blocks;”
 - 15 (d) “compressing the formatted and sequenced data blocks;”
 - 16 (e) “storing, as a file, the compressed, formatted, and sequenced data blocks with
17 the assigned unique identification code ;” and
 - 18 (f) “sending at least a portion of the file at the non-real time rate to the local
19 distribution system.”

20 These steps are part of the step of “transmitting compressed, digitized data representing a
21 complete copy . . . from a central processing location.” While the parties disagree on the
22 meaning of “central processing location,”⁵ the parties agree that the transmission system is
23 located at the central processing location and that the transmitting steps, including steps
24 (a) - (f) listed above, are performed by the transmission system.

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27 ⁵ The Round 2 Defendants contend that the phrase “central processing location” is
28 indefinite.

1 6. In Claim 17 of the '863 patent, the "formatting step" includes, but is not limited to, the
2 steps of:

3 (a) "inputting an item having information into the transmission system;"

4 (b) "assigning a unique identification code to the item having information;"

5 (c) "formatting the item having information as a sequence of addressable data
6 blocks;"

7 (d) "compressing the formatted and sequenced data blocks."

8 These steps are part of the step of "formatting items of audio/video information as
9 compressed digitized data at a central processing location." While the parties disagree on
10 the meaning of "central processing location,"⁶ the parties agree that the transmission
11 system is located at the central processing location and that the formatting steps, including
12 steps (a) - (d) listed above, are performed by the transmission system.

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14 7. While the parties disagree on the construction of "local distribution system," in Claims 14
15 and 17 of the '863 patent and Claims 8 and 11 of the '720 patent, the parties agree that the
16 local distribution system is at a location that is distant in space from the location of the
17 central processing location,⁷ and is distant in space from the locations of the plurality of
18 subscriber receiving stations.⁸

19 8. The "means for receiving" in Claim 4 in the '720 patent recites the function of "receiving
20 compressed, digitized data representing at least one item of audio/video information at a
21 non-real time rate." The specification discloses that this function is performed by
22 transceiver 201. Therefore, the term "means for receiving" in claim 4 of the '720 patent
23 shall be construed as transceiver 201, and its equivalents.

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25 ⁶ The Round 2 Defendants contend that the phrase "central processing location" is
indefinite.

26 ⁷ The Round 2 Defendants contend that the phrase "central processing location" is
otherwise indefinite.

27 ⁸ The Round 2 Defendants contend that the phrase "subscriber receiving stations" is
otherwise indefinite.
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- 1 9. The “means for storing” in Claim 4 of the ‘720 patent recites the function of “storing a
2 complete copy of the received compressed, digitized data.” The specification discloses
3 that this function is performed by storage 203 and 200c. Therefore, the term “means for
4 storing” in claim 4 of the ‘720 patent shall be construed as storage 203 or 200c, and their
5 equivalents.
- 6 10. The “compression means” in Claim 7 of the ‘720 patent recites the function of
7 “compressing the formatted data.” The specification discloses that this function is
8 performed by compressor 116. Therefore, the term “compression means” in claim 7 of
9 the ‘720 patent shall be construed as compressor 116, and its equivalents.
- 10 11. The “receiving means” in Claims 8 and 11 of the ‘720 patent recite the function of
11 “receiving compressed, digitized data representing at least one item of audio/video
12 information at a non-real time rate.” The specification discloses that this function is
13 performed by transceiver 201. Therefore, the term “receiving means” in claims 8 and 11
14 of the ‘720 patent shall be construed as transceiver 201, and its equivalents.
- 15 12. The “storing means” in Claims 8 and 11 of the ‘720 patent recite the function of “storing a
16 complete copy of the received compressed, digitized data.” The specification discloses
17 that this function is performed by storage 203 and 200c. Therefore, the term “storing
18 means” in claims 8 and 11 of the ‘720 patent shall be construed as storage 203 or 200c,
19 and their equivalents.
- 20 13. The parties disagree as to whether the steps of Claims 14 and 17 of the ‘863 patent and
21 Claims 8 and 11 of the ‘720 patent begin and occur only after a prior step or steps have
22 been completed. This is the same issue that was argued to the Court during the last round
23 of *Markman* briefing with respect to the steps of method claims in the ‘992 and ‘275
24 patents.
- 25 14. The parties disagree as to whether the “compressing the formatted and sequenced data
26 blocks” step of Claims 14 and 17 of the ‘863 patent requires that the sequence of the
27 formatted data blocks be maintained by the compression process. This is the same issue
28 that was argued to the Court during the last round of *Markman* briefing with respect to the

1 “compressing the formatted and sequenced data blocks” step of claim 41 of the ‘992
2 patent.

3 15. The steps of Claim 14 of the ‘863 patent must be performed in the following order:

- 4 1) “transmitting compressed, digitized data representing a complete copy . . .
5 from a central processing location”;
- 6 2) “receiving the transmitted compressed, digitized data . . .”;
- 7 3) “storing the received compressed digitized data representing the complete copy
8 . . .”;
- 9 4) “decompressing the compressed, digitized data . . .”
- 10 5) “in response to the stored compressed, digitized data, transmitting a
11 representation . . .”

12 The steps which follow the clause “wherein the transmitting step comprises” are
13 performed as part of the step of “transmitting compressed, digitized data . . .”, and must be
14 performed in the following sequential order with respect to each other:

- 15 1) “inputting an item . . .”
- 16 2) “assigning a unique identification code . . .”
- 17 3) “formatting the item . . .”
- 18 4) “compressing . . .”
- 19 5) “storing, as a file . . .” and
- 20 6) “sending at least a portion . . .”

21 16. The steps of Claim 17 of the ‘863 patent must be performed in the following order:

- 22 1) “formatting items . . . at a central processing location.”
- 23 2) “transmitting . . . from the central processing location”;
- 24 3) “receiving the transmitted compressed, digitized data. . .”;
- 25 4) “storing the received compressed, digitized data representing the complete
26 copy. . .”; and
- 27 5) “using the stored compressed, digitized data to transmit . . .”

1 The steps which follow the clause “wherein the formatting step comprises” are performed
2 as part of the step of “formatting items ... at a central processing location” and must be performed
3 in the following sequential order with respect to each other:

- 4 1) “inputting an item. . .”
- 5 2) “assigning a unique identification code. . .”
- 6 3) “formatting the item . . .” and
- 7 4) “compressing . . .”

8 17. The steps of Claim 8 of the ‘720 patent must be performed in the following order:

- 9 1. “transmitting compressed, digitized data . . .”;
- 10 2. “receiving, into a receiving means, . . .”;
- 11 3. “storing, in a storing means, . . .”; and
- 12 4. “. . . transmitting, using a transmitting means, . . .”

13 18. The steps of Claim 11 of the ‘720 patent must be performed in the following order:

- 14 1. “formatting items of audio/visual information. . . .”
- 15 2. “transmitting compressed, digitized data . . .”;
- 16 3. “receiving, into a receiving means, . . .”;
- 17 4. “storing, in a storing means, . . .”; and
- 18 5. “using the stored compressed, digitized data to transmit, using a
19 transmitting means, . . .”

20 19. The term “sending” in claim 14 of the ‘863 patent and Claim 7 of the ‘720 patent, as well
21 as in claims 2 and 5 of the ‘275 patent, means “transmitting electronically or optically.”⁹

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27 ⁹The stipulated construction of “sending” in claims 2 and 5 of the ‘275 patent was
28 inadvertently omitted from the stipulation filed on April 17, 2006.

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