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6 Attorneys for Defendant  
 COMCAST CABLE COMMUNICATIONS LLC

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

11 ACACIA MEDIA TECHNOLOGIES  
 CORPORATION,  
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 Plaintiff,  
 13  
 v.  
 14 NEW DESTINY INTERNET GROUP, et al.  
 15  
 Defendants.  
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Case No. C-05-01114 JW  
 MOTION TO CLARIFY JUNE 21, 2005  
 ORDER FOLLOWING CASE  
 MANAGEMENT CONFERENCE  
 (CIVIL L.R. 7-11)  
 Judge: Honorable James Ware

17 AND ALL RELATED AND/OR  
 18 CONSOLIDATED CASE ACTIONS

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1 Defendants<sup>1</sup> bring this motion to clarify one statement in the Court’s Order Following  
 2 Case Management Conference. That Order invites the parties to bring a “Motion for  
 3 Reconsideration of the Court’s Markman Order issued on July 12, 2004[.]”<sup>2</sup> In the next  
 4 sentence, however, the Order directs the parties to identify in the Motion not just terms to be  
 5 reconsidered from the July 12, 2004 Markman Order, but also “any *additional* terms in the 992  
 6 and 702 patents that should be defined.”<sup>3</sup>

7 This is inconsistent with what defendants’ counsel recall the Court’s saying during the  
 8 June 14 Case Management Conference, and with what counsel understood in agreeing to the  
 9 September 8 and 9 hearing date. Counsel recall the Court’s saying that the Motion for  
 10 Reconsideration specifically should *not* address any additional terms in the 992 and 702 patents.  
 11 Instead, those terms would be addressed in separate proceedings, once the Motion for  
 12 Reconsideration was resolved. After that, terms in the three other patents-in-suit would be  
 13 addressed.<sup>4</sup>

14 The Minute Order that the Court issued immediately after the Case Management  
 15 Conference seemed to confirm defendants’ understanding. It identified the September 8 and 9  
 16 hearing dates as being for “the Motion for Reconsideration of the July 2004 Claim Construction  
 17 Order,” with no indication that the parties should also address new claim-construction issues.<sup>5</sup>  
 18 The June 21 Order Following Case Management Conference has created some ambiguity,  
 19 however. On the one hand, it continues to refer to the upcoming proceedings as a “Motion for  
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21 <sup>1</sup> The following defendants have notified Comcast’s counsel that they join in this motion: The  
 22 DirecTV Group, Inc.; Echostar Satellite LLC; Echostar Technologies Corporation; Echostar  
 23 Communications Corporation; Coxcom, Inc.; Mediacom Communications, Corp.; Charter  
 24 Communications, Inc.; Armstrong Group; Wide Open West Ohio LLC; East Cleveland Cable  
 25 TV and Communications, LLC; Massillon Cable TV, Inc.; Mid-Continent Media, Inc.; US Cable  
 26 Holdings LP; Sjoberg’s Cablevision, Inc.; Loretel Cablevision; Arvig Communications  
 27 Systems; Cannon Valley Communications, Inc.; NPG Cable, Inc.; AP Net Marketing, Inc.; and  
 28 ICS, Inc. *See* Declaration of David J. Silbert (“Silbert Decl.”) ¶ 5.

<sup>2</sup> Silbert Decl. Ex. 1 (Order Following Case Management Conference dated June 21, 2005) at 2:5-7.

<sup>3</sup> *Id.* at 2:7-8 (emphasis added).

<sup>4</sup> Silbert Decl. ¶ 2.

<sup>5</sup> Silbert Decl. Ex. 2 (Minute Order).

1 Reconsideration of the Court's Markman Order issued on July 12, 2004[.]” But it also directs  
2 the parties to address new claim-construction issues as well.

3 As noted, when defendants agreed to the September 8 and 9 hearing dates, counsel  
4 understood that the issues would be limited to reconsideration of the July 12, 2004 Markman  
5 Order. We respectfully ask the Court to clarify now that this is all that the parties should  
6 address. Defendants believe that addressing these issues alone will require a considerable effort  
7 under the current schedule.

8 For these reasons, defendants respectfully request that the Court enter the accompanying  
9 [Proposed] Order Clarifying Order Following Case Management Conference. Defendants’  
10 counsel have asked Acacia to stipulate to this clarification, but Acacia has declined to do so.<sup>6</sup>

11  
12 Dated: June 24, 2005

KEKER & VAN NEST, LLP

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15 By: \_\_\_\_\_/s/\_\_\_\_\_

16 DAVID J. SILBERT  
17 Attorneys for Defendant  
18 COMCAST CABLE COMMUNICATIONS, LLC  
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28 <sup>6</sup> Silbert Decl. ¶ 6.