

Function Media L.L.C. v. Google Inc. et al.  
Summary of Claim Construction Disputes Between Google and Function Media

<b>'045 Patent Means-Plus-Function Terms (Google Br. Sec. II.A)</b>			
<b>Claim</b>	<b>Term</b>	<b>Google</b>	<b>Function Media</b>
'045 Patent claim 1	<b>means for applying corresponding guidelines of the media venues</b>	<p>This claim is indefinite because it lacks sufficient structure in the written description.</p> <p><u>Structure:</u> a seller interface including a central processor, operating system, ROM, RAM, clock, communication port, video driver, video monitor, input devices (e.g., standard keyboard, mouse, or other replacement items), modem, network interface, data storage device, a presentation database including information related to the seller's choice of media or venues as well as the presentation of their products, goods, or services; a seller database; a presentation rules database including information from the internet media venue to control and limit the style and editing of the presentations; and a Presentation &amp; Configuration Program (which lacks any structural description).</p>	<p><u>Agreed Function:</u> applying corresponding guidelines of the media venues.</p> <p><u>Structure:</u> computer software executable on a processor capable of (1) identifying one or more selected media venues for publication; (2) accessing data representing each identified media venue's guidelines; (3) accessing data representing seller information; and (4) executing a systematic sequence of mathematical and/or logical operations upon the accessed seller information to create a presentation customized for each identified media venue in a form that complies with the accessed guidelines of that media venue, or equivalents.</p>
'045 Patent claim 1	<b>means for a seller to select the media venues</b>	<p>This claim is indefinite because it lacks sufficient structure in the written description.</p> <p><u>Structure:</u> a seller interface including a central processor, operating system,</p>	<p><u>Agreed Function:</u> enabling a seller to select the media venues.</p> <p><u>Structure:</u> computer software executable on a processor capable of presenting electronic forms allowing the selection of media venues,</p>

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		or equivalents.
		<p>ROM, RAM, clock, communication port, video driver, video monitor, input devices (e.g., standard keyboard, mouse, or other replacement items), modem, network interface, and data storage device and further including a Presentation &amp; Configuration Program (which lacks any structural description).</p>
'045 Patent claim 1	<p><b>means for the seller to input information; [whereby the seller may select one or more of the media venues, create a presentation that complies with said guidelines of the media venues selected, and transmit the presentation to the selected media venues for publication]**]</b></p> <p>***Google asks the Court to construe the bracketed phrase with the non-bracketed phrase, whereas Function Media contends that the</p>	<p>This claim is indefinite because it lacks sufficient structure in the written description.</p> <p><u>Function</u>: enabling the seller to input information to select one or more media venues, create a presentation that complies with said media guidelines of the selected media venues, and transmit the presentation to the selected media venues for publication.</p> <p><u>Structure</u>: a seller interface including a central processor, operating system, ROM, RAM, clock, communication port, video driver, video monitor, input devices (e.g., standard keyboard, mouse, or other replacement items), modem, network interface, and data storage device and a Presentation &amp; Configuration Program</p>
		<p><u>Function</u>: enabling a seller to input information.</p> <p><u>Structure</u>: computer software executable on a processor capable of presenting electronic forms allowing the seller to input information, or equivalents.</p>

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	(which lacks any structural description).	
'045 Patent claim 1	<p>'whereby' clause modifies more than just the non-bracketed phrase.</p> <p><b>whereby the seller may select one or more of the media venues, created a presentation that complies with said guidelines of the media venues selected, and transmit the presentation to the selected media venues for publication</b></p>	<p>whereby the seller may select one or more of the supported media venues, input information for use by the computer programming in creating customized advertisements in accordance with the controls set by each guideline of the media venue, and transmit customized presentation to each respective media venue for publication.</p>
'045 Patent claim 5	<p>This claim is indefinite because it lacks sufficient structure in the written description.</p> <p><u>Structure</u>: a media interface including a central processor, operating system, ROM, RAM, clock communication ports, video driver, video monitor, input devices (e.g., standard keyboard, mouse, or other replacement items), modem, network interface, and data storage device. See Fig. 2e.</p>	<p><u>Agreed Function</u>: enabling the media venues to input said guidelines and information.</p> <p><u>Structure</u>: computer software executable on a processor capable of presenting electronic forms allowing the media venue to input guidelines and information for that media venue, and equivalents.</p>
'045 Patent claim 1	<p><b>means for transmitting said presentations to a selected media venue of selected media venue of</b></p>	<p><u>Agreed Function</u>: transmitting said presentations to a selected media venue of the media venues.</p>

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<p><b>'045 Patent Means-Plus-Function Terms (Google Br. Sec. II.A)</b></p>	<p><b>the media venues</b></p>
<p><u>Structure:</u> on-demand, direct dial-up phone lines, network, or Internet connection between Seller Interface, Media Interface, and Central Controller and Presentation Processor; standard Internet connections between Buyer Interface and Central Presentation and Selection Server; and a high-speed network or Internet connection between Central Controller and Presentation Processor and Central Presentation and Selection Server. Connections between components may be accomplished by any combination of public switched phone network, cellular, Personal Communication System, dedicated data lines, microwave, private network, shared data network, or satellite network.</p>	<p><u>Structure:</u> computer software executable on a processor capable of initiating a data transmission to a specified electronic destination, or equivalents.</p>

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<b>Terms For Which the Parties Offer Constructions (Google Br. Sec. II.B)</b>		
<b>Claim</b>	<b>Term</b>	<b>Function Media</b>
'045, '025, and '059 Patents, <i>passim</i>	<b>media venue / internet media venue</b>	those physical or virtual locations / internet locations (e.g., web servers, domain names, internet addresses, websites) where presentations are placed or made available to present the information within the framework of the media so that it is accessible by the end users, consumers, viewers, or Buyers.
'025 Patent claims 1, 79, 90, 148, 179, 258, 269; '059 Patent claims 1, 27	<b>publishing the electronic advertisement to one or more of the selected internet media venues [publish the advertisement to the internet media venue]</b>	placing or making available the electronic advertisement at one or more of the selected internet media venue locations for public display.
'025 Patent claims 1, 179	<b>a second interface to the computer system through which a seller is prompted to input information to select one or more of the internet media venues</b>	software that enables the seller user to interact with the computer system through which the seller user is prompted to enter information to select one or more internet media venues.
'059 Patent claims 1, 27	<b>third interface to the computer system [through which the third party professional is prompted to input information to select one or more of the internet media venues]</b>	software that enables the third party professional user to interact with the computer system.

<sup>1</sup> The bracketed language in this limitation is the same as in the row above for the “second interface” and Google believes it should be similarly construed.

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<b>Claim</b>	<b>Term</b>	<b>Google</b>
'025 Patent claims 1, 179; '059 Patent claims 1, 27	<b>create an electronic advertisement (for the seller [ '059]) for publication to the selected internet media venues</b>	create an advertisement for placement at the internet media venue locations selected by the seller [ '025] / third party professional [ '059] for public display.
'045 Patent claim 1	<b>create a presentation that complies with said guidelines of the media venues selected</b>	create a presentation that complies with the guidelines of the selected media venues.
'025 Patent claims 1, 179; '059 Patent claims 1, 27	<b>processing ... the electronic advertisement ... in compliance with the presentation rules of the internet media venue</b>	executing a systematic sequence of mathematical and/or logical operations upon the electronic advertisement to process it compliance with the presentation rules of the internet media venues.
'025 Patent claims 1, 179	<b>first interface to the computer system</b>	software or hardware at the internet media venue location that enables a person working on behalf of the internet media venue to interact with the computer system.
'025 Patent claims 6, 185	<b>self-serve interface</b>	software or hardware at the [internet media venue / seller] location that a person working on behalf of the [internet media venue / seller] uses directly without the aid of anyone else.
		<b>Function Media</b>
		produce an electronic advertisement in a form customized to each of the selected media venue's presentation rules.
		produce a presentation customized to each of the selected media venue's presentation rules.
		executing a systematic sequence of mathematical and/or logical operations upon the inputted information to create an electronic advertisement customized for each selected Internet Media Venue in a form that complies with the presentation rules set by that Media Venue.
		software that enables the internet media venue user to interact with the computer system.
		interface that the [internet media venue user / seller] uses without requiring the aid of anyone else.

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<b>Terms For Which the Parties Offer Constructions (Google Br. Sec. II.B)</b>		
<b>Claim</b>	<b>Term</b>	<b>Function Media</b>
'045 Patent claim 1; '025 Patent claim 1; '059 Patent claim 1	<b>owned or controlled by other than the seller</b>	N/A (term does not require construction); FM's expert: ownership or control of the media venue refers to ownership or control in the legal sense.
'045 Patent claim 1; '059 Patent claim 27	<b>[ '045] A method of using a network of computers to contract for, facilitate and control the creating and publishing of presentations, by a seller, to a plurality of media venues owned or controlled by other than seller, comprising</b>  <b>[ '059] A method of using a computer system allowing a third party professional to manage, create and publish customized electronic advertisements, for a seller, to internet media venues owned or controlled by other than the seller and other than the third party professional, comprising</b>	<b>[ '045]</b> A method of using a computer network that facilitates and controls the creation and publication of presentations, by a seller, to multiple media venues owned or controlled by other than seller, that includes.  <b>[ '059]</b> A computer system that allows a third party professional to manage, create and publish customized electronic advertisements, for a seller, to internet media venues owned or controlled by other than the seller and other than the third party professional, comprising.

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<b>Claim</b>	<b>Term</b>	<b>Function Media</b>
'025 Patent claims 1, 179; '059 Patent claims 1, 27	<b>presentation rules</b>	controls to be set by a media venue for use by the computer system programming [sic] in creating advertisements for publishing on that media venue.
'025 Patent claims 79, 90-91, 258, 269-70	<b>distribution factors</b>	rules concerning whether advertising content may be published on a particular Media Venue.
'025 Patent claims 1, 179; '059 Patent claims 1, 27	<b>each of the internet media venues is prompted to input each of the internet media venues... to input presentation rules / prompting each of the internet media venues... to input presentation rules</b>	each internet media venue is prompted to input presentation rules.
'059 Patent claims 1, 27	<b>third party professional is prompted / prompting the third party professional to input information to select one or more the internet media venues</b>	the third party professional is prompted / prompting the third party professional to input information used to select one or more internet media venues.



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<b>Terms For Which the Parties Offer Constructions (Google Br. Sec. II.B)</b>		
<b>Claim</b>	<b>Term</b>	<b>Google</b>
'025 Patent claims 1, 179; '059 Patent claims 1, 27	<b>a computer controller of the computer system processing and publishing the electronic advertisement to one or more of the selected internet media venues in compliance with the presentation rules of the internet media venue, whereby the electronic advertisement is displayed on each of the one or more of the selected internet media venues in compliance with the presentation rules of the internet media venue</b>	<p>“publishing the <u>electronic advertisement to one or more of the selected internet media venues</u>” means placing the electronic advertisement at the internet media venue location for public display;</p> <p>“<u>whereby the electronic advertisement is displayed on each of the one or more internet media venues</u>” means the advertisement is displayed on every one of the internet media venue locations selected by the seller;</p>
'025 Patent claims 79, 90, 258, 269	<b>publish the advertisement to the internet media venue</b>	<p>a computer processor of the computer system obtaining and applying the presentation rules of the internet media venue from the first database to the seller-inputted information to create the electronic advertisement in compliance with the presentation rules of the internet media venue and placing or making available the customized electronic advertisement within the framework of each internet media venue so that it is accessible by the end users, consumers, viewers, or buyers so that the electronic advertisement is displayed on each internet media venue in a form customized to each internet media venue’s presentation rules.</p> <p>placing or making available the customized electronic advertisement within the framework of each internet media venue so that it is accessible by the end users, consumers, viewers, or Buyers.</p>

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<b>Terms For Which the Parties Offer Constructions (Google Br. Sec. II.B)</b>		
<b>Claim</b>	<b>Term</b>	<b>Google</b>
'025 Patent claim 148	<b>publishes the modified or reformatted advertisement through the computer controller to the one or more of the selected internet media venues for display by an advertisement generation program in compliance with the internet media venue presentation rules</b>	“publishes the <u>modified or reformatted advertisement to the one or more selected internet media venues for display</u> ” means places the modified or reformatted advertisement at the one or more internet media venue locations for public display.
		<b>Function Media</b> the computer processor places or makes available the modified or reformatted advertisement within the framework of each internet media venue so that it is accessible by the end users, consumers, viewers, or buyers for display by an advertisement generation program in compliance with the internet media venue presentation rules.

<b>Terms Which Cannot be Construed Due To Indefiniteness (Google Br. Sec. II.C)</b>		
<b>Claim</b>	<b>Term</b>	<b>Google</b>
'025 Patent claims 47, 62, 63, 226, 241, 242, 269, 270	<b>automatically applying or compare/ing the internet media venue design or style standards to the information input by the seller or the advertisement</b>	These terms are indefinite at least because of the multiple, cascading “or” in the claims themselves, and particularly because the “information” must be input by the seller “or” the [text] advertisement.
'025 Patent claims 79, 90, 91, 258, 269, 270	<b>automatically apply/ing or compare/ing the internet media venue distribution factors to the information input by the seller or the advertisement</b>	These terms are indefinite at least because of the multiple, cascading “or” in the claims themselves, and particularly because the “information” must be input by the seller “or” the [text] advertisement.
		<b>Function Media</b> execute/ing a systematic sequence of mathematical and/or logical operations to apply or compare the internet media venue’s design or style standards to the information input by the seller or to the advertisement. execute/ing a systematic sequence of mathematical and/or logical operations to apply or compare the internet media venue’s distribution factors to the information input by the seller or to the advertisement.

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<b>Terms Which Cannot be Construed Due To Indefiniteness (Google Br. Sec. II.C)</b>		
<b>Claim</b>	<b>Term</b>	<b>Function Media</b>
'025 Patent claim 319	<b>automatically... applying or comparing the internet media venue presentation rules to the information input by the seller or the advertisement</b>	Google This term is indefinite at least because of the multiple, cascading “or” in the claim itself, and particularly because the “information” must be input by the seller “or” the [text] advertisement.
'025 Patent claims 47, 62, 63, 226, 241, 242	<b>design or style standards</b>	Google This term is indefinite because it is unclear what the claims mean or do not mean.
'025 Patent claims 47, 62, 63, 226, 241, 242	<b>control look and feel of the advertisement</b>	Google This term is indefinite because it is unclear what the claims mean or do not mean.
'025 Patent claims 47, 62, 63	<b>computer program design filter</b>	Google This term is indefinite because it has no ordinary meaning nor support in the written description.
'025 Patent claims 79, 90, 91	<b>computer program distribution filter</b>	Google This term is indefinite because it has no ordinary meaning nor support in the written description.
'025 Patent claim 148	<b>advertisement generation program</b>	Google This term is indefinite because it has no ordinary meaning and no support in the written description.
'025 Patent claim 81	<b>blocked URLs</b>	Google [agreed]
		Function Media execute a systematic sequence of mathematical and/or logical operations to apply or compare the internet media venue’s presentation rules to the information input by the seller or the advertisement.  presentation rules which control the look and feel of an advertisement.  control the appearance of an advertisement.  software that processes design or style standards.  software that processes distribution factors.  software that displays an electronic advertisement.  internet locations that are precluded from displaying a presentation.

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<b>Claim</b>	<b>Term</b>	<b>Google</b>
'025 Patent claims 1, 179	<b>A computer system / A method of using a computer system for creating and publishing customized electronic advertisements, for a seller, to internet media venues owned or controlled by other than the seller, comprising:</b>	Claims 1 and 179 of the '025 patent and their dependent claims are indefinite because they mix different statutory classes of inventions by claiming a system and a user using the system.
'025 Patent claim 140	<b>computer controller processes the advertisement by automatically applying or comparing the internet media venue presentation rules to the information input by the seller or the advertisement</b>	computer processor executes a systematic sequence of mathematical and/or logical operations upon the inputted information or advertisement to create an advertisement customized for each selected internet media venue in a form that complies with the presentation rules set by that internet media venue by applying or comparing the presentation rules of the internet media venue to the information input by the seller or the advertisement.

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<b>Terms Which Cannot be Construed Due To Indefiniteness (Google Br. Sec. II.C)</b>	
<b>Claim</b>	<b>Google</b>
<b>Term</b>	<b>Function Media</b>
'059 Patent claim 1	<p>A computer system that allows a third party professional to manage, create and publish customized electronic advertisements, for a seller, to internet media venues owned or controlled by other than the seller and other than the third party professional, comprising.</p>
<p><b>A computer system allowing a third party professional to manage, create and publish customized electronic advertisements, for a seller, to internet media venues owned or controlled by other than the seller and other than the third party professional, comprising</b></p>	<p>Claim 1 of the '059 patent and its dependent claims are indefinite because they mix different statutory classes of inventions by claiming a system and a user using the system.</p>
<p><b>a computer controller of the computer system processing and publishing the electronic advertisement to one or more of the selected internet media venues in compliance with the presentation rules of the internet media venue, whereby the electronic advertisement is displayed on each of the one or more of the selected internet media venues in compliance with the presentation rules of the internet media venue</b></p>	<p>“in compliance with the presentation rules of the internet media venue” is indefinite because the language does not specify which internet media venue’s presentation rules must complied with.</p>
<p>'025 Patent claims 1, 179;                  '059 Patent claims 1, 27</p>	<p>a computer processor of the computer system obtaining and applying the presentation rules of the internet media venue from the first database to the seller-inputted information to create the electronic advertisement in compliance with the presentation rules of the internet media venue and placing or making available the customized electronic advertisement within the framework of each internet media venue so that it is accessible by the end users, consumers, viewers, or buyers so that the electronic advertisement is displayed on each internet media venue in a form customized to each internet media venue’s presentation rules.</p>