

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BRIGHT RESPONSE, LLC,

Plaintiff,

vs.

GOOGLE INC., et al.,

Defendants.

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Civil Action No. 2:07-cv-371-CE

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Plaintiff Bright Response, LLC. (“Bright Response”) and Defendants Google, Inc., AOL LLC, America Online, Inc., and Yahoo! Inc. (collectively “Defendants”) hereby submit the parties’ Joint Claim Construction and Prehearing Statement pursuant to Patent Local Rule 4-3 and the Docket Control Order entered June 11, 2008.

I. CONSTRUCTION OF CLAIM TERMS AND PHRASES ON WHICH THE PARTIES AGREE

No.	Claim No. ¹	Claim Terms or Phrase	Agreed Construction
1.	39	Fixed data	Data in a predetermined arrangement.
2.	40	Variable data	Data in any arrangement.

II. THE PARTIES’ CONSTRUCTION OF DISPUTED CLAIM TERMS AND PHRASES AND IDENTIFICATION OF EVIDENCE

Pursuant to P.R. 4-3(b), and in the claim chart attached as Exhibit A, the parties designate disputed claim terms and phrases and state their positions on those terms and phrases.

¹ Terms and phrases are defined only once, where they first appear.

The parties also identify in Exhibit A the intrinsic and extrinsic evidence, if any, upon which they may rely to support their proposed constructions.

III. LENGTH OF CLAIM CONSTRUCTION HEARING

By its Docket Control Order, the Court set the claim construction hearing to begin at 9:00 a.m. on March 31, 2010. Pursuant to P.R. 4-3(c), the parties request two hours per side for the Markman hearing.

IV. SUMMARY OF OPINION TO BE OFFERED BY EXPERT WITNESSES

Neither party anticipates calling any witnesses at the Claim Construction Hearing.

V. OTHER ISSUES

Pursuant to P.R. 4-3(e), the parties state that at present they are unaware of any additional issues which might require the scheduling of a prehearing conference.

Respectfully submitted, this the 11th day of September, 2009.

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CERTIFICATE OF SERVICE

I hereby certify that the following counsel of record who are deemed to have consented to electronic service are being served this 11th day of September, 2009, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by first class U.S. mail on this same date.

By: /s/Stanley H. Thompson, Jr. _____
Stanley H. Thompson, Jr.