

EXHIBIT A

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

Claim Language	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
<p>Claim 1</p> <p>[preamble] “A method of doing business over a global communications network comprising the steps:”</p> <p>1[a] “communicating to a buyer via the global communications network, a description of a product;</p> <p>1[b] “accepting a first request from the buyer to buy the product for a price to be determined within a price range.”</p>	<p>“description of a product” means “information sufficient to identify a product or service”</p> <p>“accepting a first request from the buyer to buy the product” means “receiving with consent or approval a request from the buyer to buy the product or service”</p> <p>“price range” means “upper and lower bounds within which the price may vary”</p> <p>“first” and “second”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms ‘first’ and ‘second’ do not refer to time sequence.”</p> <p>“accepting a second request from the buyer to allow the</p>	<p>“description of a product” means “information sufficient to identify a particular product”</p> <p>“accepting a first request from the buyer to buy the product” means “accepting from the buyer a selection of the product to buy”</p> <p>“price range” means “specified upper and lower bounds within which the price may vary”</p> <p>“first” and “second”: “the ‘first’ request must precede and is separate from the ‘second’ request”</p>	
<p>1[c] “accepting a second request from the buyer</p>	<p>“accepting a second request from the buyer to allow the</p>	<p>“accepting a second request from the buyer to allow the price to be</p>	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

<p>to allow the price to be determined based upon a performance of the buyer while participating in a Price-Determining-Activity (PDA);</p>	<p>price to be determined” means “receiving with consent or approval a second request from the buyer to allow the price to be determined”</p> <p>“performance of the buyer” means “the buyer’s actions or deeds in the Price-Determining Activity”</p>	<p>determined” means “accepting a request from the buyer that the price of the selected product be determined”</p>	
<p>“Price-Determining-Activity (PDA)” means Alternative 1: “any activity or combination of activities, other than offering or accepting a price, that is used to determine the price paid for the product or service”</p> <p>Alternative 2: “any form of competition or entertainment activity or combination of such activities, other than offering or accepting a price, that is used to determine the price paid for the product or service”</p>	<p>“performance of the buyer” means “the buyer’s level of success (at the Price-Determining-Activity)”</p>	<p>“performance of the buyer” means “the buyer’s level of success (at the Price-Determining-Activity)”</p>	
<p>“Price-Determining-Activity (PDA)” means “inherently entertaining activity, such as a game, puzzle or quiz, that is used to set the product’s price, but otherwise is collateral to its sale”</p>	<p>“Price-Determining-Activity (PDA)” means “inherently entertaining activity, such as a game, puzzle or quiz, that is used to set the product’s price, but otherwise is collateral to its sale”</p>	<p>“Price-Determining-Activity (PDA)” means “inherently entertaining activity, such as a game, puzzle or quiz, that is used to set the product’s price, but otherwise is collateral to its sale”</p>	
<p>“first” and “second”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms</p>	<p>“first” and “second”: “the ‘first’ request must precede and is separate from the ‘second’ request”</p>	<p>“ first” and “second”: “the ‘first’ request must precede and is separate from the ‘second’ request”</p>	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

	‘first’ and ‘second’ do not refer to time sequence.”		
I[d] “receiving data from the buyer over the global communications network, said data representing the performance of the buyer during the PDA.”	“ performance of the buyer ” means “the buyer’s actions or deeds in the Price-Determining Activity”	“ performance of the buyer ” means “the buyer’s level of success (at the Price-Determining-Activity)”	
I[e] “and determining the price of the product based at least partially upon the data received, said price being within the price range and scaled to the performance of the buyer. ”	“ price being ... scaled to the performance of the buyer ” means “price being adjusted to a standard (defined by a ratio, table, or other algorithm) according to the performance of the buyer, such that achieving a better performance level results in a lower price than would otherwise apply”	“ price being ... scaled to the performance of the buyer ” means “price being assigned from a predetermined set of graduated prices and corresponding performance levels, in which a lower price always corresponds to a better performance in the PDA and a higher price always corresponds to a worse performance in the PDA”	
Claim 11		“ price range ” means “upper and lower bounds within which the price may vary”	“ price range ” means “specified upper and lower bounds within which the price may vary”
“The method as in claim 10, wherein the at least one participant is a second buyer, and further comprising the steps of accepting a second request from the second buyer to buy the product for a second price to be determined within the	“ second ”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms ‘first’ and ‘second’ do not refer to time sequence.”		
	“ price range ” means “upper	“ price range ” means “specified	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

<p>price range, and determining said second price based at least partially upon the competition.”</p>	<p>and lower bounds within which the price may vary”</p>	<p>upper and lower bounds within which the price may vary”</p>	
<p>Claim 12</p>			
<p>“The method of claim 1, wherein the steps of accepting the first request from the buyer, accepting from the second request from the buyer, and receiving the performance data from the buyer, are performed by a master controller.”</p>	<p>“first” and “second”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms ‘first’ and ‘second’ do not refer to time sequence.”</p>	<p>“first” and “second”: “the ‘first’ request must precede and is separate from the ‘second’ request”</p>	
	<p>“master controller” means “a device or subsystem that has overall control of other devices or systems”</p>	<p>“master controller” means “centralized server”</p>	
<p>Claim 13</p>			
<p>“The method of claim 1, wherein the price is determined at least partially upon participation of the buyer in an auction.”</p>	<p>“auction” means “process for selling a product or service by taking bids and selling to the winning bidder; an auction is not a PDA”</p>	<p>“auction” means “a public sale of property to the highest bidder (as by successive increased bids)”</p>	
<p>Claim 18</p>			
<p>[preamble] “A method of determining a price of a product using a global communications network,</p>			

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

<p>comprising the steps:” 18[a] “communicating to a buyer via the global communications network, data representing a plurality of products available, said plurality of products including a first product,”</p>	<p>“data representing a plurality of products” means “data sufficient to identify two or more products or services” “first” and “second”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms ‘first’ and ‘second’ do not refer to time sequence.”</p>	<p>“data representing a plurality of products” means “data sufficient to identify two or more particular products”</p>	
<p>18[b] “accepting acknowledgement from the buyer representing an intent of the buyer to buy the first product at a price to be determined upon a performance of the buyer while participating in a Price-Determining-Activity (PDA), said acknowledgement being communicated over the global communications network;”</p>	<p>“accepting acknowledgement from the buyer representing an intent of the buyer to buy the first product” meaning “receiving with consent or approval an acknowledgment from the buyer representing an intent of the buyer to buy the first product or service” “performance of the buyer” means “the buyer’s actions or deeds in the Price-Determining Activity”</p>	<p>“accepting acknowledgement from the buyer representing an intent of the buyer to buy the first product” meaning “accepting from the buyer a selection of the first product to buy”</p>	
	<p>“Price-Determining-Activity (PDA)” means Alternative 1: “any activity or combination of activities, other than offering or accepting a price, that is used to determine the</p>	<p>“performance of the buyer” means “the buyer’s level of success (at the Price-Determining-Activity)” “Price-Determining-Activity (PDA)” means “inherently entertaining activity, such as a game, puzzle or quiz, that is used to set the product’s price, but otherwise is collateral to its sale”</p>	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

	<p>price paid for the product or service”</p> <p>Alternative 2: “any form of competition or entertainment activity or combination of such activities, other than offering or accepting a price, that is used to determine the price paid for the product or service”</p>		
<p>18[c] “determining the performance of the buyer; and assigning a price to the product, said price being scaled to the performance of the buyer.”</p>	<p>“performance of the buyer” means “the buyer’s actions or deeds in the Price-Determining Activity”</p> <p>“price being scaled to the performance of the buyer” means “price being adjusted to a standard (defined by a ratio, table, or other algorithm) according to the performance of the buyer, such that achieving a better performance level results in a lower price than would otherwise apply”</p>	<p>“performance of the buyer” means “the buyer’s level of success (at the Price-Determining-Activity)”</p> <p>“price being scaled to the performance of the buyer” means “price being assigned from a predetermined set of graduated prices and corresponding performance levels, in which a lower price always corresponds to a better performance in the PDA and a higher price always corresponds to a worse performance in the PDA”</p>	
Claim 22			
<p>The method as in claim 18, wherein the price is determined at least partially upon results of</p>	<p>“auction” means “process for selling a product or service by taking bids and selling to the winning bidder; an auction is</p>	<p>“auction” means “a public sale of property to the highest bidder (as by successive increased bids)”</p>	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

an auction .	not a PDA”		
Claim 30			
<p>[preamble] “A system for conducting e-commerce over a global communications network, comprising: a computer server having access to the global communications network, and being programmed to.”</p>			
<p>30 [a] “communicate to a buyer via the global communications network, data representing a plurality of products, said plurality of products including a first product;”</p>	<p>“data representing a plurality of products” means “data sufficient to identify two or more products or services” “first” and “second”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms ‘first’ and ‘second’ do not refer to time sequence.”</p>	<p>“data representing a plurality of products” means “data sufficient to identify two or more particular products”</p>	
<p>30 [b] “accept acknowledgement from the buyer representing an intent of the buyer to buy the first product at a price to be determined dependent on a performance of the</p>	<p>“first” and “second”: “the terms ‘first’ and ‘second’ are used to distinguish one instance of the same thing from another. For example, the phrase ‘second request’ means a request other than the ‘first request.’ The terms ‘first’ and ‘second’ do not</p>		

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

<p>buyer while participating in a Price-Determining-Activity (PDA), said acknowledgement being the global communications network;”</p>	<p>refer to time sequence.”</p>	<p>“accept acknowledgement from the buyer representing an intent of the buyer to buy the first product” meaning “receiving with consent or approval an acknowledgment from the buyer representing an intent of the buyer to buy the first product or service”</p> <p>“performance of the buyer” means “the buyer’s actions or deeds in the Price-Determining Activity”</p> <p>“Price-Determining-Activity (PDA)” means Alternative 1: “any activity or combination of activities, other than offering or accepting a price, that is used to determine the price paid for the product or service”</p> <p>Alternative 2: “any form of competition or entertainment activity or combination of such activities, other than offering or accepting a price, that is used to determine the price paid for the product or service”</p>	<p>“accept acknowledgement from the buyer representing an intent of the buyer to buy the first product” meaning “accepting from the buyer a selection of the first product to buy”</p> <p>“performance of the buyer” means “the buyer’s level of success (at the Price-Determining-Activity)”</p> <p>“Price-Determining-Activity (PDA)” means “inherently entertaining activity, such as a game, puzzle or quiz, that is used to set the product’s price, but otherwise is collateral to its sale”</p>
<p>30 [c] “determining the</p>	<p>“performance of the buyer”</p>	<p>“performance of the buyer”</p>	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

<p>performance of the buyer based upon data received over the global communications network; and?</p>	<p>means “the buyer’s actions or deeds in the Price-Determining Activity”</p>	<p>means “the buyer’s level of success (at the Price-Determining-Activity)”</p>	
<p>30[d] “assign a price to the product, said price being scaled to the performance of the buyer.”</p>	<p>“price being scaled to the performance of the buyer” means “price being adjusted to a standard (defined by a ratio, table, or other algorithm) according to the performance of the buyer, such that achieving a better performance level results in a lower price than would otherwise apply”</p>	<p>“price being scaled to the performance of the buyer” means “price being assigned from a predetermined set of graduated prices and corresponding performance levels, in which a lower price always corresponds to a better performance in the PDA and a higher price always corresponds to a worse performance in the PDA”</p>	

Ordering of the Steps			
Claim Number	Plaintiff’s Proposal	Defendant’s Proposal	Court’s Construction
Claim 1	The steps of claim 1 may be performed before, at the same time as, or after any other step, except that steps [b], [c], and [d] must occur before step [e]. [AGREED]	“the steps of the asserted claims must be performed in order”	
Claim 18	[AGREED]	[AGREED]	The steps of claim 18 must be performed in order.
Claim 30	Claim 30 is not a method claim and has no steps that need ordering.	The steps of Claim 30 must be performed in order.	

Rule 4.5(d) - Comparative Claim Chart for US Patent 6, 978 253

Agreed Claim Language			
Claim Language	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
"product"	[AGREED]	[AGREED]	"product or service"
"a second price"	[AGREED]	[AGREED]	"price for the product to be paid by the second buyer"
"the price," "said price"	[AGREED]	[AGREED]	"the price of the product"
Construction of certain nouns preceded by "the" and "a":	[AGREED]	[AGREED]	The following phrases use the articles "a" and "the" to indicate a repeated instance of the same thing: <ul style="list-style-type: none"> • "a price range" and "the price range" refer to the same price range • "a product" and "the product" refer to the same product
"bid"	[AGREED]	[AGREED]	"offer of a price in an auction"