

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

Judge David Folsom

PA ADVISOR

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(

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(

V.

)

CIVIL NO. 2:07CV480

(

GOOGLE INC.

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ATTORNEY FOR PLAINTIFFS:

Andrew Spangler; David Pridham; Marc Fenster;
Patrick Anderson; John Bustamante; Ari Rafilson;

ATTORNEY FOR DEFENDANTS:

Brian Cannon; David Beck; Charles Verhoeven;
John Bufe; Jason White

LAW CLERK:

David Keyzer and John Lahad

COURTROOM DEPUTY:

Mel Martin

COURT REPORTER:

Libby Crawford

CLAIM CONSTRUCTION HEARING

September 17, 2009 @ 9:00 a.m.

OPEN:

8:58

ADJOURN: 11:36

8:58 ct opens; ct/ preliminary claim construction on 6 of the 10 terms;

8:59 recess;

9:19 ct resumes;

9:19 Fesnter/ agreement both sides on 1, 3, and 6; plf does agree to 2 and 4 as well;

9:20 ct/ what about 5 any room for agreement

9:20 Verhoeven/ agree with all except 2 and 4;

9:21 ct/ that should save us some additional time; prefer claim term or related term; response and then reply; is that how ptys anticipate going forward;

9:22 Fenster/ yes

9:22 ct/ don't need a lot of time on general claim construction principals;

9:22 Fenster/ 2 mins background of patent and inventor;

9:25 ct/ makes preliminary claim construction a part of the record as cts exh 1; 9:30 "**linguistic pattern**" first term;

9:40 Verhoeven/ response;

10:04 ct/ did you touch on term repeating

10:04 Verhoeven/ yes;

10:05 Fenster/ reply; first with respect to repeating; 10:13 Fenster/ next term is "**segment**" we agreed to cts preliminary construction;

10:14 Verhoeven/ responds;

10:17 Fenster/ reply;

10:21 Verhoeven/ reply;

10:27 Fenster/ sur-reply; 10:28 three profile terms; "**search request profile**"; proposed compromise

10:30 Verhoeven/ responds;

10:30 ct/ so we still have a disagreement;

10:31 Fenster/ difference between collection and file;

10:33 Verhoeven/ response;

10:34 Fenster/ next term "**user profile and user data profile**"

10:35 Verhoeven/ leaves out important aspect of proposed construction;

10:36 ct/ you think we need language about frequency;

10:36 Fenster/ claims don't require it;

10:47 Verhoeven/ response;

10:49 ct/ suggested compromise

10:50 Verhoeven/ responds;

10:59 Fenster/ reply;

11:03 recess

11:18 Fenster/ **“data item profile”**

11:21 Verhoeven/ response;

11:23 Fenster/ **“psychological profile”** on cts preliminary construction which plfs agree;

11:24 ct/ let’s hear from dfts

11:24 Verhoeven/ psychological profile;

11:26 ct/ can plf live with initial construction;

11:26 Fenster/ initial construction was offered before I joined the team;

11:28 Verhoeven/ reply;

11:29 ct/ new compromise

11:29 Fenster/ responds; last term **“text item”**

11:32 Canon/ responds;

11:33 Fenster/ reply;

11:35 Canon/ sur-reply;

11:35 ct/ what else

11:35 Fenster/ that is it;

11:35 ct/ will try to have order out in advance of me leaving for Marshall docket; is this case set for March 2010;

11:36 Fenster/ yes;

11:36 adjourned