

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

SOFTWARE RIGHTS ARCHIVE, LLC	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
	§	Civil Action No. 2:07-CV-511 (CE)
GOOGLE INC., YAHOO! INC.,	§	
IAC SEARCH & MEDIA, INC., AOL LLC,	§	
and LYCOS, INC.	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED
	§	
	§	
	§	

---

**PARTIES' LOCAL PATENT RULE 4-3  
JOINT CLAIM CONSTRUCTIONS AND SUPPORTING EVIDENCE**

Pursuant to Patent Rule 4-3 of the Rules of Practice for Patent Cases and the Court's Docket Control Order as amended by the Court's Order Granting Unopposed Motion to Further Extend Certain Scheduling Deadline dated June 23rd, 2010, the parties hereby submit this Joint Claim Construction and Prehearing Statement.

**A. PATENT L.R. 4-3(a): UNDISPUTED CLAIM TERMS, PHRASES, OR CLAUSES**

The parties have agreed that certain phrases (identified by the phrase "AGREED CONSTRUCTION") should be construed as proposed by the parties in the chart attached hereto as **Exhibit A**. The parties further agree that any claim terms, phrases, or clauses for which no construction is provided should be given their ordinary meaning as understood by a person of ordinary skill in the respective art of each patent and do not require construction by the Court.

**B. PATENT L.R. 4-3(b): PROPOSED CONSTRUCTION OF DISPUTED CLAIM TERMS, PHRASES, OR CLAUSES**

**Exhibit B** details disputed patent claim terms, phrases, or clauses for which Plaintiff and Defendants propose different constructions. The parties request construction of these claim terms, phrases, or clauses by the Court. The parties have set forth in **Exhibits C and D** the intrinsic and extrinsic evidence they each may rely on in support of their respective proposed constructions.<sup>1</sup> Plaintiff may submit expert declarations in support of its claim construction positions or in rebuttal to Defendants' claim construction evidence, and Defendants are considering submitting rebuttal expert declarations in support of their claim construction positions. The parties reserve their right to depose any expert who provides a declaration.

**C. PATENT L.R. 4-3(c): ANTICIPATED LENGTH OF CLAIM CONSTRUCTION HEARING**

Plaintiff proposes that the parties receive 180 minutes per side for oral argument on claim construction issues, or no more than 6 hours total for the Claim Construction Hearing on November 10, 2010. Defendants suggest that approximately 4 hours, or 2 hours per side, will be needed for the hearing.

---

<sup>1</sup> Each party also reserves the right to rely on the intrinsic and/or extrinsic evidence cited by any other party in support of its proposed constructions. In addition, because Plaintiff has requested from Defendants, but have not yet received, specific categories of materials that may be relevant to claim construction. Plaintiff reserves the right to revise, supplement, and/or amend this Claim Construction and Prehearing Statement after these materials have been produced. In addition, because Defendants have requested, and have not yet received, certain discovery from Plaintiff, Defendants also reserve the right to revise, supplement, and/or amend this Claim Construction and Prehearing Statement after these materials have been produced.

**D. PATENT L.R. 4-3(d): WITNESSES TO BE CALLED AT THE CLAIM  
CONSTRUCTION HEARING**

The parties anticipate that witnesses, including, but not limited to, expert witnesses, will not be called at the Claim Construction Hearing.

**E. PATENT L.R. 4-3(e): ISSUES FOR A PREHEARING CONFERENCE**

The parties agree that there are no other issues that need to be taken up at a prehearing conference prior to the Claim Construction Hearing.

DATED: July 16, 2010

Respectfully Submitted,

/s/ Andrew G. DiNovo  
Lee L. Kaplan  
LEAD ATTORNEY  
State Bar No. 11094400  
SMYSER KAPLAN & VESELKA, L.L.P.  
700 Louisiana, Suite 2300  
Houston, TX 77002  
(713) 221-2323  
(713) 221-2320 (fax)  
[lkaplan@skv.com](mailto:lkaplan@skv.com)

Victor G. Hardy  
State Bar No. 00790821  
(Admitted *Pro Hac Vice*)  
Andrew G. DiNovo  
State Bar No. 00790594  
Adam G. Price  
State Bar No. 24027750  
Jay D. Ellwanger  
State Bar No. 24036522  
DINOVO PRICE ELLWANGER & HARDY  
LLP  
7000 N. MoPac Expressway, Suite 350  
Austin, Texas 78731  
(512) 539-2626  
(512) 539-2627 (fax)  
[adinovo@dpelaw.com](mailto:adinovo@dpelaw.com)

*Of counsel:*

S. Calvin Capshaw  
State Bar No. 03783900  
Elizabeth L. DeRieux  
State Bar No. 05770585  
**BROWN MCCARROLL, LLP**  
1127 Judson Road, Suite 220  
P.O. Box 3999  
Longview, TX 75606-3999  
(903) 236-9800  
(903) 236-8787 (fax)  
[ccapshaw@mailbmc.com](mailto:ccapshaw@mailbmc.com)

Robert M. Parker  
State Bar No. 15498000  
Robert C. Bunt  
State Bar No. 00787165  
Charles Ainsworth  
State Bar No. 0078352  
**PARKER, BUNT & AINSWORTH, P.C.**  
100 East Ferguson, Suite 1114  
Tyler, Texas 75702  
(903) 531-3535  
(903) 533-9687 (fax)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record via electronic mail on this 16th day of July, 2010.

/s/ Andrew G. DiNovo  
Andrew G. DiNovo