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

ROCKSTAR CONSORTIUM US LP AND NETSTAR TECHNOLOGIES LLC,	)))	
Plaintiffs,	))	Civil Action No. 13-cv-00893-RG
v.	))	**JURY TRIAL DEMANDED**
GOOGLE INC.	))	
Defendant.	)))	

JOINT CLAIM CONSTRUCTION AND PRE-HEARING STATEMENT
PURSUANT TO PATENT RULE 4-3

Pursuant to Patent Rule 4-3 and the Court's Docket Control Order, Plaintiffs Rockstar

Consortium US LP and Netstar Technologies LLC ("Rockstar") and Defendant Google Inc.

("Google") hereby submit this Joint Claim Construction Statement.

A. CONSTRUCTION OF THOSE CLAIM TERMS, PHRASES, OR CLAUSES ON WHICH THE PARTIES AGREE

The Parties agree to the construction of the following terms:

Term	Claims	Agreed Construction
"compil[e|ing] user profile data"	'183 – claims 7, 20	collect user profile data
"display[ed|ing]"	'969 – claims 6, 13 '178 – claims 11, 12, 19 '183 – all claims	show[n|ing] visually
"link to a website"	'178 – claims 7, 16, 24 '183 – claims 2, 10, 15	a hyperlink to a website
"search request"	*all claims*	the request submitted to a search engine comprising at least a search argument
"select[] at least one advertisement from an advertisement database relating to the search argument using the user preference data"	'245 patent – claims 1, 9	select at least one advertisement from an advertisement database using the search argument and the user preference data
Order of steps of claim 1 of the '969 patent.		1[a] must occur before 1[b] and 1[c]. 1[d] must occur after 1[b] and 1[c].
Order of steps of claim 8 of '969 patent		8[a] must occur before 8[b] and 8[c]. 8[d] must occur after 8[b] and 8[c].
Order of steps of claim 1 of '245 patent		1[a] must occur before 1[b]. 1[c] must occur before 1[d] and 1[e]. 1[b] must occur before 1[e]. 1[d] and 1[e] must occur before 1[f].
Order of steps of claim 18 of '245 patent		18[a] and 18[b] must occur before 18[c].

Order of steps of claim 17 of '970 patent		17[a] must occur before 17[b] and 17[c].
		17[d] must occur after 17[b] and 17[c].
		17[e] must occur after 17[d].
		17[f] must occur after 17[e].
Order of steps of claim 26 of '970 patent		26[a] must occur before 26[b] and 26[c].
		26[d] must occur after 26[b] and 26[c].
		26[e] must occur after 26[d].
Order of steps of claim 41 of '970 patent		41[a] must occur before 41[b] and 41[c].
		41[d] must occur after 41[b] and 41[c].
Order of steps of claim 1 of '178 patent		1[a] must occur before 1[b] and 1[c].
		1[b] and 1[c] must occur before 1[d].
		1[d] must occur before 1[e].
		1[e] must occur before 1[f] and 1[g].
		1[f] and 1[g] must occur before 1[h].
Order of steps of claim 12 of the '178 patent		12[a] must occur before 12[b].
		12[b] must occur before 12[c].
		12[c] must occur before 12[d], 12[e], or 12[f].
		12[d], 12[e], and 12[f] must occur before 12 [g].
		12[g] must occur before 12[h].
Order of steps of claim 1 of the '183 patent		1[a] must occur before 1[b] and 1[c].
		1[b] and 1[c] must occur before 1[d].

Order of steps of claim 9 of the '183 patent		1[a] must occur before 1[b]. 1[b] must occur before 1[c]. 1[c] must occur before 1[d] and 1[e].
Order of steps of claim 1 of the '883 patent		1[a] must occur before 1[b]. 1[c] must occur before 1[d]. 1[e] must occur after 1[a]. 1[f] must occur after 1[d] and 1[e].
Order of steps of claim 11 of the '883 patent		1[a] must occur before 1[c]. 1[b] must occur before 1[c].

The Parties agree the following terms require the specified antecedent basis:

'969 antecedent basis constructions	
the advertising machine	Refers to "an advertising machine" in the preamble
the desired information	Claims 1, 8, and 17: refers to "desired information" in the preamble
the first database	Refers to "a first database" in the "searching" step for method claims, or earlier in the "database search engine" element for apparatus claims
the particular advertisement	Refers to "a particular advertisement in a second database" in the "correlating" step for method claims, or the "associative search engine" element for apparatus claims
the received search argument	Refers to "a search argument" that was received in the "receiving" step for method claims, or the "server computer" element for apparatus claims
the search results	Refers to "search results" in the "searching" step for method claims, or the "database search engine" element for apparatus claims
the second database	Refers to "a second database" in the "correlating" step for method claims, or earlier in the "associative search engine" element for apparatus claims

the server computer	Refers to "a server" in the "searching" step for method claims, or "a server computer" in the "server computer" element for apparatus claims
'245 antecedent basis constructions	
the advertising machine	Refers to "an advertising machine" in the preamble
the at least one advertisement	Refers to "at least one advertisement" in the "selecting" step of claim 1, the "select" element of claim 9, or the "receiving" step of claim 18.
the communications link	Refers to "a communications link" in the preamble
the data processing device	Refers to "a data processing device of a user" in the preamble
the refined search results	Refers to "the search results" after the application of the "refining" or "refine" step
the search argument	Refers to "a search argument" in the second "receiving" step of claim 1, the first "receive" element of claim 9, or the "transmitting" element of claim 18
the search refinement input	Refers to "search refinement input" that is received in claims 8 and 17, or transmitted in claim 25.
the search results	Refers to "search results" in the "searching" step of claim 1, the "search" element of claim 9, or the "receiving" element of claim 18
the user preference data	Refers to "user preference data" in the "creating" step of claim 1, the "create" element of claim 9, or the "interacting" element of claim 18
the user preference edit input	Refers to "user preference edit input" that is received in claims 5 and 14, or transmitted in claim 22.
the user preference input	Refers to "user preference input" in the first "receiving" step of claim 1, the second "receive" element of claim 9, or the "interacting" element of claim 18
the user preference re-prioritization input	Refers to "user preference re-prioritization input" that is received in claims 8 and 15, or transmitted in claim 23.
'970 antecedent basis constructions	

the advertisement database	Refers to "an advertisement database" in the "select" or "selecting" limitations
the advertisement selection	Refers to the "selection of an advertisement" in the prior "receive" or "receiving" limitation
the advertising machine	Refers to "an advertising machine" in the preambles
the at least one advertisement	Refers to "at least one advertisement" in the "select" or "selecting" limitations, or to "an advertisement" in the second "interacting" limitations
the at least one differing advertisement	Refers to "at least one differing advertisement" in the prior "select" or "selecting" limitations
the communications link	Refers to "a communications link" in the preambles
the data processing device [of the user]	Refers to "a data processing device of a user" in the preamble, or "a data processing device" in the first element of claim 41.
the fee record	Refers to "a fee record" in the last limitation of the corresponding independent claim
the non-selection of the at least one advertisement	Refers to "non-selection of the at least one advertisement" in the prior "receive" or "receiving" limitation
the search argument	Refers to "a search argument" in the "receive" or "receiving" limitations
the search results	Refers to "search results" in the "search," "searching," or first "interacting" limitations
the selection of the advertisement	Refers to the "selection of an advertisement" in the prior "receive" or "receiving" limitation
the server computer	Refers to "a server computer" in the preamble
the user	Refers to "a user" in the preamble (excepting that Google contends that this term as it appears in claim 45 is indefinite for lack of antecedent basis)
'178 antecedent basis constructions	
the advertisement database	Refers to "an advertisement database" in the first "selecting" limitation of claim 1
the advertising machine	Refers to "an advertising machine" in the preambles

the at least one advertisement	Refers to "at least one advertisement" in the first "selecting" limitation of claim 1, or the first "receiving" limitation of claim 12
the at least one other advertisement	Refers to "at least one other advertisement" in the second "selecting" limitation of claim 1, or the third "receiving" limitation of claim 12
the communications link	Refers to "a communications link" in the preambles
the data processing device [of the user]	Refers to "a data processing device of a user" in the preambles
the display of the data processing device	Refers to "a display of the data processing device" in the first "displaying" limitation of claim 12
the modified search results	Refers to "modified search results" in the "producing" limitation of claim 1, or the third "receiving" limitation of claim 12
the search argument	Refers to "a search argument" in the first "receiving" limitation of claim 1, or "creating" limitation of claim 12
the search refinement input	Refers to "search refinement input" in the second "receiving" limitation of claim 1, or the second "receiving" limitation of claim 12
the search request	Refers to "a search request" in the "creating" limitation of claim 12
the search results	Refers to "search results" in the "searching" limitation of claim 1, or the first "receiving" limitation of claim 12
'183 antecedent basis constructions	
the advertisement	Refers to "at least one advertisement" in the "selecting" limitation of claim 1, the "receiving" limitation of claim 9, or the "select" limitation of claim 14
the advertising machine	Refers to "an advertising machine" in the preambles
the at least one advertisement	Refers to "at least one advertisement" in the "selecting" limitation of claim 1, the "receiving" limitation of claim 9, or the "select" limitation of claim 14
the at least one computer	Refers to "at least one computer" in the preamble
the communications link	Refers to "a communications link" in the preambles

the data processing device [of the user]	Refers to "a data processing device of a user" in the preambles
the display of the data processing device	Refers to "a display of the data processing device" identified in the same claim limitation of claims 1 and 14, or in the first "displaying" limitation of claim 9
the search argument	Refers to "a search argument" in the "receiving" limitation of claim 1, the "creating" limitation of claim 9, or the "receive" limitation of claim 14
the search results	Refers to "search results" in the "searching" limitation of claim 1, the "receiving" limitation of claim 9, or the "search" limitation of claim 14
'883 antecedent basis constructions	
the advertising machine	Refers to "an advertising machine" in the preambles
the at least one advertisement	Refers to "at least one advertisement" in the "selecting" limitation of claim 1, the "receiving" limitation of claim 11, or the "select" limitation of claim 20
the communications link	Refers to "a communications link" in the preambles
the data processing device [of the user]	Refers to "a data processing device of a user" in the preambles
the search argument	Refers to "a search argument" in the "receiving" limitation of claim 1, the "transmitting" limitation of claim 11, or the "receive" limitation of claim 20
the search results	Refers to "search results" in the "searching" limitation of claim 1, the "receiving" limitation of claim 11, or the "search" limitation of claim 20
the user profile data	Refers to "user profile data" in the "creating" limitation of claim 1, the "interacting" limitation of claim 11, or the "create" limitation of claim 20

B. EACH PARTY'S PROPOSED CONSTRUCTION OF EACH DISPUTED CLAIM TERM, PHRASE, OR CLAUSE, TOGETHER WITH AN IDENTIFICATION OF INTRINSIC AND OTHER EVIDENCE

Exhibits A and B, attached hereto, identify the disputed claim terms. Exhibit A contains Rockstar's proposed constructions for each disputed claim term and intrinsic and other evidence in support; Exhibit B contains Google's proposed constructions for each disputed claim term and intrinsic and other evidence in support.

C. THE ANTICIPATED LENGTH OF TIME NECESSARY FOR THE CLAIM CONSTRUCTION HEARING

Rockstar's position:

Rockstar anticipates that two hours per side will be more than sufficient time to present the parties' respective positions. Google complains that the number of asserted claims demands a full day of argument. Google's logic is flawed. Reducing the number of claims prior to the hearing will not significantly reduce the claim construction issues to be resolved by the Court because the overwhelming majority of the disputes implicate several claims. For example, the construction of "advertising machine" implicates nearly fifty claims, and the construction of "database" implicates three dozen claims. Eliminating some of these claims does not obviate the need to construe these terms. Construing these terms does, however, resolve the parties' dispute as to all claims where the terms are found. Thus, there is no merit to Google's complaint about the number of claims.

Moreover, as discussed in Rockstar's Response in Opposition to Google's Motion For The Court To Enter Its [Model] Order Focusing Patent Claims And Prior Art To Reduce Costs, To Limit The Number Of Asserted Claims, And To Extend The Deadline For The Parties To Comply With P.R. 4-2 (Dkt. 116) and in Rockstar's Motion to Strike Defendant Google Inc.'s Deficient Obviousness Disclosure Under Patent Rule 3-3(b), (Dkt. 117), reduction of claims under the Model Order is premised on the parties meeting their disclosure obligations. Until

Google cures its deficient obviousness disclosures, entry of the Model Order is inappropriate and prejudicial to Rockstar.

Google's position:

At present Rockstar asserts 132 claims from six patents, having recently dropped nine of its 141 claims. As explained in Google's pending Motion For The Court To Enter Its [Model] Order Focusing Patent Claims And Prior Art To Reduce Costs, To Limit The Number Of Asserted Claims, And To Extend The Deadline For The Parties To Comply With P.R. 4-2 (Dkt. 105), Rockstar refuses to commit to reduce its asserted claims under the timeline of this Court's Model Order, or under any timeline at all. Notably, Rockstar did not dispute that there is no practical way for the Court to meaningfully address all the claim construction issues that will inevitably arise from so many asserted claims. (*See* Dkt. 119 at 1.) Accordingly, until Rockstar is ordered to limit the number of its asserted claims, the Claim Construction Hearing may be expected to take seven hours.[1] On the other hand, if Rockstar is ordered to comply with this Court's Model Order, Google anticipates that the Claim Construction Hearing will take approximately four hours, or two hours per side.

Rockstar's contention that the number of claims it asserts does not significantly impact the number of terms at issue is demonstrably false. For example, in the process of meeting and conferring for this joint claim construction statement, Rockstar informed Google that it was dropping 9 claims: claims 4, 12, 13, and 21 of the '245 Patent; claims 6 and 22 of the '970 Patent; and claims 4, 17, and 19 from the '183 Patent. Eliminating these 9 claims made construction of five terms unnecessary. A further reduction in asserted claims would no doubt result in a further reduction in the remaining disputed terms for construction. Indeed, while Rockstar suggests that most of the disputed terms implicate dozens of claims, that is incorrect. At least 19 of the 56

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[1] Furthermore, in the event Rockstar is not ordered to limit the number of its asserted claims before briefing begins, the parties may likely seek additional pages for briefs.

disputed terms—more than one third of them-- each appear in no more than no more than 4 of

the 132 asserted claims.

D.   POSSIBLE WITNESSES AT THE CLAIM CONSTRUCTION HEARING

The Parties do not presently intend to call any witnesses at the Claim Construction

Hearing.

E.   OTHER ISSUES WHICH MIGHT APPROPRIATELY BE TAKEN UP AT A PREHEARING CONFERENCE PRIOR TO THE CLAIM CONSTRUCTION HEARING

The Parties are not aware of any other issues that should be taken up at a pre-hearing

conference before the Claim Construction Hearing.

DATED: August 5, 2014

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic services on this the 5th Day of August, 2014.

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/s/ Antonio Sistos
Antonio Sistos

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