

Exhibit 5

Hamilton, Brett

From: David Perlson [davidperlson@quinnemanuel.com]
Sent: Tuesday, March 20, 2012 9:28 PM
To: Brothers, Kenneth; 'Noona, Stephen E.'
Cc: zz-IPEngine; 'dschultz@cwm-law.com'; 'W. Ryan Snow'; QE-IP Engine; 'cortney.alexander@finnegan.com'; 'robert.burns@finnegan.com'
Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

Ken, we have provided a reasonable set of issues to be addressed at this point, have compromised on that, have offered extensions to you, have articulated why your proposal is not acceptable, and yet Plaintiff has failed to meaningfully address our concerns. We reject your characterizations of our positions which we think have been clearly stated already and do not require further elaboration.

David

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]
Sent: Tuesday, March 20, 2012 2:55 PM
To: David Perlson; 'Noona, Stephen E.'
Cc: zz-IPEngine; dschultz@cwm-law.com; W. Ryan Snow; QE-IP Engine; cortney.alexander@finnegan.com; robert.burns@finnegan.com
Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

David:

You write that defendants "remain committed to working with Plaintiff to reduce the issues on claim construction." You have acknowledged in your letter of Friday and during our meet and confer yesterday that the Court will construe only 10 claim terms. During our meet and confer yesterday, we were able to identify only a single term (informon) on which the parties likely would agree on a construction, leaving us with the challenge of identifying 11 terms -- one on which there may be agreement, and the 10 disputed terms. Defendants, however, have refused to advise plaintiff of their top 10 or any other subset of claim terms that are of greatest concern or interest to defendants, even though you know that the court never will construe even half and probably less than a quarter of defendants' latest list of proposed terms. If defendants remain committed to working with Plaintiff to reduce the issues on claim construction, then why are defendants refusing to identify their top 10 claim terms?

As to your other assertions regarding the schedule, recall that I proposed an earlier exchange if defendants did not expand their identification of prior art. You refused, even though defendants not only did not expand their list of prior art, but wholly failed to supplement their invalidity contentions as they had promised. And in any event, we are discussing the Court's Scheduling Order that requires collective agreement by the parties on the identification of the claim terms. In plaintiff's view, defendants have failed to comply with both the letter and spirit of the Scheduling Order.

While I remain willing to engage in further negotiations, I interpret your email as a refusal to further engage, leaving the parties at an impasse. If this is not correct, please provide a substantive proposal that meaningfully reduces the issues on claim construction.

Regards, Ken

From: David Perlson [mailto:davidperlson@quinnemanuel.com]
Sent: Tuesday, March 20, 2012 5:01 PM
To: Brothers, Kenneth; 'Noona, Stephen E.'
Cc: zz-IPEngine; dschultz@cwm-law.com; W. Ryan Snow; QE-IP Engine; cortney.alexander@finnegan.com;

3/21/2012

robert.burns@finnegan.com

Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

Ken,

Your argument that Defendants' list of terms is "unworkable" under the agreed Scheduling Order fails to consider several important facts. First, you will recall that Defendants had previously proposed an earlier exchange of terms for construction, which would have given Plaintiff more time to craft its proposed constructions and marshal its supporting evidence. It was *Plaintiff's* decision to delay the term exchange, due to Plaintiff's belief that it needed to digest invalidity contentions. Thus, the compressed nature of the Markman schedule – which you now claim renders Defendants' list of terms "unworkable" (as to which contrary to your email we never agreed) – is a result of Plaintiff's own doing.

Moreover, to the extent Plaintiff still has concerns about the schedule, we recently proposed that the parties delay their exchange of proposed constructions until this Friday and delay their exchange of supporting evidence until next Wednesday. You rejected this proposal. And in my email last night I withdrew 8 terms from Defendants' list. Of course, eliminating asserted claims would be another way to reduce terms if Plaintiff is so concerned about it.

Further, the 9 terms that you listed in your email do not "fairly capture defendants' concerns" as you state. These terms are mostly isolated words taken from longer terms or phrases that Defendants have proposed for construction. For instance, Defendants have proposed the terms "combining the information from the feedback system with the information from the scanning system" and "combining the information found to be relevant to the query by other users with the searched information" for construction. You appear to have distilled these phrases down to the term "combining" and listed "combining" as one of your 9 terms. But merely offering constructions for the isolated word "combining" does not resolve the question of what these longer phrases mean, to the extent they even have meaning at all, in the context of the patents. Defendants selected their list of terms and phrases for a reason, and Plaintiff cannot simply pluck a single word from these terms or phrases and argue that construing this single word is tantamount to construing the broader term or phrase.

In sum, we have made reasonable and good-faith efforts to address your concerns and create a "workable" scenario for the exchange of proposed constructions and supporting evidence, and remain committed to working with Plaintiff to reduce the issues on claim construction. However, at this time, we plan to proceed with our submission of constructions and supporting evidence tomorrow. Should Plaintiff choose not to offer constructions for some or all of the terms on Defendants' list, Plaintiff does so at its own peril and we reserve the right to seek Court intervention ourselves.

David

From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]

Sent: Tuesday, March 20, 2012 12:30 PM

To: 'Noona, Stephen E.'; David Perlson

Cc: zz-IPEngine; dschultz@cwm-law.com; W. Ryan Snow; QE-IP Engine; cortney.alexander@finnegan.com; robert.burns@finnegan.com

Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

Thanks, Steve, I did not intend to imply otherwise. My efforts likewise continue to be focused on reaching a good faith compromise. I called you this morning because it was before work hours in California, and I wanted to keep the ball rolling. I appreciate the parties' ongoing willingness to continue their dialog, and look forward to a substantive response. Ken

From: Noona, Stephen E. [mailto:senoona@kaufcan.com]

Sent: Tuesday, March 20, 2012 3:17 PM

To: Brothers, Kenneth; 'David Perlson'

Cc: zz-IPEngine; dschultz@cwm-law.com; W. Ryan Snow; QE-IP Engine; cortney.alexander@finnegan.com;

3/21/2012

robert.burns@finnegan.com

Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

Ken: To be clear, you called and proposed limited alternatives to proceeding on the claim construction exchange because you claimed that plaintiff could not gather the necessary material within the time allotted under the pretrial schedule. I did not agree or disagree but rather sought to find an alternative that would help move the parties avoid motion practice by allowing you to provide claim constructions this week and the backup material next week after the parties had a chance to review the constructions. This was in response to your claim that you could not provide the backup material in a timely fashion. You indicated that you had not worked through many of the terms and their constructions and therefore were not prepared to provide the constructions as I proposed. Your new proposal will be reviewed but I am not sure that it accomplishes what needs to be done.

Again, as discussed, you called me as an intermediary and my efforts were to reach a good faith compromise. Thanks,... SEN.

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From: Brothers, Kenneth [mailto:BrothersK@dicksteinshapiro.com]
Sent: Tuesday, March 20, 2012 3:06 PM
To: 'David Perlson'; Noona, Stephen E.
Cc: zz-IPEngine; dschultz@cwm-law.com; W. Ryan Snow; QE-IP Engine; cortney.alexander@finnegan.com; robert.burns@finnegan.com
Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

David and Steve:

Following up on my two telephone conversations with Steve this morning, I believe that we are making progress in focusing the parties' efforts to get to the 10 claim terms in dispute. I am hopeful that my proposal below will help advance the process.

David's list of last night still contains more than 40 distinct claim terms. Plaintiff continues to believe that such a large number of claim terms is inconsistent with the Court's scheduling order, which requires collective agreement on the claim terms to be construed tomorrow, and limits the total number of construed terms to no more than 10. I understood from my second conversation with Steve that Defendants acknowledge that the process of collecting and preparing all of the information required by paragraph 13(c) of the scheduling order for those 40-plus claim terms by tomorrow is unworkable. Plaintiff is not prepared to accept Steve's proposal that the parties exchange claim constructions for all 40-plus claim terms, because to do so without carefully examine all of the intrinsic and evidence evidence is not appropriate.

To focus the parties on what are really the key terms that will be in dispute, I proposed to Steve that Defendants identify the 10 claim terms that they believe to be most important to them, plus plaintiff's 4 terms, and the parties focus their initial construction on those, while reserving rights to all others. At Steve's request, I am putting in an email to all the proposal that Defendants identify their top 10 claim terms for construction by COB today.

To assist in the process, we have reviewed David's list from last night, and we believe that the following claim

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terms/concepts fairly capture defendants' concerns:

1. informon
2. relevance
3. query
4. scanning
5. network
6. demand search
7. user
8. collaborative feedback data
9. combining

In addition, defendants have raised three other issues that, strictly speaking are not construction of terms:

10. order of steps
11. antecedent basis
12. different systems

Please confirm that Defendants agree that tomorrow's construction focuses on these limitations, with all parties reserving rights to later assert other claims for construction as they may be identified during the meet and confer. To be clear, plaintiff does not agree to exchange claim constructions on all 40-plus of defendants' limitations tomorrow, and if we are unable to reach agreement, we will proceed with the forgoing list, while seeking judicial intervention. I would hope that such steps will not be necessary as we focus on identifying the 10 disputed claim terms.

Please provide a response as soon as possible, and by no later than 6 pm EDT today.

Regards, Ken

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From: David Perlson [mailto:davidperlson@quinnemanuel.com]

Sent: Monday, March 19, 2012 9:04 PM

To: Chagnon, Armands; QE-IP Engine; 'senoona@kaufcan.com'; 'cortney.alexander@finnegan.com';

3/21/2012

'robert.burns@finnegan.com'

Cc: zz-IPEngine

Subject: RE: I/P Engine v. AOL et. al. Plaintiff I/P Engine, Inc.'s Proposed Claim Terms for Construction

Following the parties' call this afternoon regarding the list of claim terms for construction, we write to explain our position on which terms the parties should offer constructions for on Wednesday and which terms may be omitted from Wednesday's exchange.

1) “informons relevant to a query” / “information relevant to a query” / “relevance to a query” / “relevance to at least one of the query and the first user”

Defendants believe that the parties should propose constructions for these four terms on Wednesday. However, given the common theme for these terms, Defendants believe that these terms can be grouped together for claim construction.

2) “scanning a network to make a demand search for informons relevant to a query from an individual user” / “a scanning system for searching for information relevant to a query associated with a first user in a plurality of users” / “wherein the searching step comprises scanning a network in response to a demand search for the information relevant to the query associated with the first user”

These three terms relate to the question of what the various “scanning” elements mean under the Asserted Patents. Defendants believe that the parties should offer proposed constructions for these three terms on Wednesday. However, given the common theme for these three terms, Defendants believe that these terms can be grouped together for purposes of claim construction.

3) “user”

Defendants believe that the parties should offer proposed constructions for this term.

4) “individual user” / “first user”

Defendants believe that these terms can be grouped together for claim construction.

5) “a feedback system for receiving collaborative feedback data from system users relative to informons considered by such users” / “feedback system for receiving information found to be relevant to the query by other users” / “receiving information found to be relevant to the query by other users” / “collaborative feedback data”

Defendants believe that the parties should offer proposed constructions for these terms on Wednesday. However, given the common theme for these terms, Defendants believe that they can be dealt with together for claim construction.

Please note that as we were looking at our list of terms based on our call we realized that our list inadvertently did not include “receiving information found to be relevant to the query by other users” (as used in ‘664 Claim 26) along with the longer phrase “a feedback system for receiving information found to be relevant to the query by other users” (as used in ‘664 Claim 1).

6) “combining the information from the feedback system with the information from the scanning

system”/“combining the information found to be relevant to the query by other users with the searched information” / “filtering the combined information for relevance to at least one of the query and the first user”

These three terms relate to the meaning of the “combining” limitations from the Asserted Patents. Defendants believe that the parties should offer proposed constructions for these terms on Wednesday. However, given the common theme for these terms, Defendants believe that these terms can be grouped together for purposes of claim construction. We indicated we had no objection to Plaintiff providing a construction for its proposed term “combining” as to these three terms on Wednesday and that we can discuss how to address any issues raised by the term phrasing after that.

7) The system for scanning, content-based filter system, and feedback system must all be different systems / The scanning system, feedback system, and content-based filter system must all be different systems

The issue of whether the claimed systems in the Asserted Patents must be different systems is an appropriate issue for claim construction. *See, e.g., Bristol Co. Ltd. P’ship v. Bosch Rexroth Inc.*, 684 F.Supp. 2d 1245, 1294 (D. Colo. 2010) (deciding at claim construction that the two claimed “signals” must be separate from each other). Therefore, Defendants believe that Wednesday’s exchange should include the parties’ contentions on whether ‘420 Claim 10 requires the claimed system for scanning, content-based filter system, and feedback system to be different systems. Similarly, Wednesday’s exchange should include the parties’ contentions on whether ‘664 Claim 1 requires the claimed scanning system, feedback system, and content-based filter system to be different systems.

8) Order of Steps for ‘420 Claim 25 and ‘664 Claim 26

Likewise, the issue of whether ‘420 Claim 25 and ‘664 Claim 26 require a specific order of steps is an appropriate issue to resolve at claim construction. *See Loral Fairchild Corp. v. Sony Corp.*, 181 F.3d 1313, 1322 (Fed. Cir. 1999) (“Although not every process claim is limited to the performance of its steps in the order written, the language of the claim, the specification and the prosecution history support a limiting construction in this case. Accordingly the claim was properly construed as only covering a fabrication process where insulation is formed prior to ion implantation.”) (emphasis added). Therefore, Defendants believe that Wednesday’s exchange should include the parties’ positions on whether ‘420 Claim 25 and ‘664 Claim 26 recite a order of steps – and, if so, what the required order is.

9) “informons” “the informons” / “users” “such users / “a query” “the query” / “a feedback system” “the feedback system” / “a scanning system” “the scanning system” / “a first user” “the first user” / “a content-based filter system” “the content-based filter system”

These terms all relate to the antecedent basis question: namely, the question of whether the second term in each must refer back to the first and that this is appropriate for claim construction. Given the common theme for these terms, Defendants believe that these terms can be grouped together for claim construction.

In addition to the various term groupings discussed above, Defendants believe that Wednesday’s exchange should contain proposed constructions for the terms 10) “demand search, and 11) “searching [for information relevant to a query associated with the first user].

We feel this a very reasonable list.

Given the Court’s directive regarding the breadth of claim construction at the hearing, Defendants believe that the following 14 terms may be omitted from Wednesday’s exchange. We understand based

on our call that this is without prejudice to raising these terms at some later time—please confirm:

content-based filter

content-based filter system

“content-based filter for receiving informons from the scanning system”

“receiving the informons in a content-based filter system from the scanning system”

“content profile”

“content profile data”

“passive feedback data”

“the scanning system”

We trust this should resolve Plaintiff’s purported concerns regarding the breadth of constructions at issue.

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