

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

<p>I/P ENGINE, INC.</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>AOL, INC., <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. 2:11-cv-512</p>
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JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Plaintiff I/P Engine, Inc. (“Plaintiff”) and Defendants AOL, Inc., Google Inc., IAC Search & Media, Inc., Target Corp., and Gannett Company, Inc. (“Defendants”) collectively submit this Joint Claim Construction and Prehearing Statement. Plaintiff asserts claims 10, 14, 15, 25, 27, and 28 of U.S. Patent No. 6,314,420 (“the ‘420 Patent”) and claims 1, 5, 6, 21, 22, 26, 28, and 38 of U.S. Patent No. 6,775,664 (“the ‘664 Patent”) against Defendants.

I. AGREED CLAIM CONSTRUCTIONS

The parties agree on the construction of the following terms or phrases:

Term	Agreed Construction
“informon” (‘420 claims 10, 25)	information entity of potential or actual interest to the [individual/first] user
“user” (‘420 claims 10, 25; ‘664 claims 1, 26)	an individual in communication with the network (for the ‘420 claims) an individual in communication with a network (for the ‘664 claims)

Term	Agreed Construction
“relevance to the query” (‘420 claims 10, 25)	how well an informon satisfies the individual user’s information need in the query
“query” (‘420 claims 10, 25; ‘664 claims 1, 6)	request for search results

II. DISPUTED CLAIM CONSTRUCTIONS

Exhibit A lists the disputed terms or phrases of the asserted claims, Plaintiff’s proposed constructions, and Defendants’ proposed constructions. The charts attached as Exhibit B and Exhibit C respectively list Plaintiff’s and Defendants’ proposed constructions for each disputed term or phrase of the asserted claims and identifies the intrinsic and extrinsic evidence on which each party relies in support of their proposed constructions. The parties reserve the right to rely on any evidence cited (or admissions made) by any other party.

III. ANTICIPATED LENGTH AND ORDER OF CLAIM CONSTRUCTION HEARING

A. PLAINTIFF’S PROPOSAL

Plaintiff anticipates that the total time necessary for the claim construction hearing will be 1.25 hours per side, for a total of 2.5 hours. Plaintiff proposes that the arguments be presented in the order indicated below, with Plaintiff presenting first for each argument:

- 1) Technology and patent overview;
- 2) a. “scan[ning] a network” and
 - b. “a scanning system;”
- 3) a. “relevance to at least one of the query and the first user” and
 - b. “[informons/information] relevant to a query;”
- 4) “combining;”

- 5) “demand search;”
- 6) a. “collaborative feedback data” and
b. “[feedback system for] receiving information found to be relevant to the query by other users;”
- 7) “individual user” and “first user;”
- 8) Order of steps;
- 9) The separateness of the claimed systems;
- 10) Antecedent basis terms.

See Proposed Order, attached hereto.

B. DEFENDANTS’ PROPOSAL

Defendants anticipate that the total time necessary for the claim construction hearing will be 1.75 hours per side, for a total of 3.5 hours. Defendants propose that the arguments be presented in the following order:

- 1) Technology and patent overview (20 minutes per side); Plaintiff presents first.
- 2) “[Feedback system for] receiving information found to be relevant to the query by other users” and “collaborative feedback data;” Defendants present argument first.
- 3) “Scan[ning] a network” and “a scanning system;” Defendants present argument first.
- 4) “Combining;” Plaintiff presents argument first.
- 5) The separateness of the claimed systems; Defendants present argument first.
- 6) “Relevance to at least one of the query and the first user” and “[informons/information] relevant to a query;” Plaintiff presents argument first.
- 7) “Demand search;” Plaintiff presents argument first.
- 8) “Individual user” and “first user;” Defendants present argument first.
- 9) Antecedent basis terms; Defendants present argument first.
- 10) Order of steps; Defendants present argument first.

In the alternative, Defendants propose that Plaintiff presents argument first on Issue # 1 above, Defendants present argument first on Issue # 2 above, Plaintiff presents argument first on Issue #3 above, Defendants present argument first on Issue #4 above, etc., with the parties alternating who presents argument first for each numbered issue.¹ See Proposed Order, attached hereto.

IV. CLAIM CONSTRUCTION WITNESSES

The parties do not anticipate calling any witnesses at the claim construction hearing, including expert witnesses, either live or by video.

¹ In a May 17 email, Plaintiff objected that Defendants' original proposed ordering of arguments "would result in Defendants presenting both first and last on the vast majority of the claim terms. This would be plainly unfair." In fact, Defendants' proposed ordering does not mandate who speaks *last* on any term – *i.e.*, it does not limit each party's ability to offer rebuttal argument. Nonetheless, in an effort to address Plaintiff's concern that the order of arguments in Defendants' proposal was unbalanced, Defendants proposed the alternate ordering listed above, in which the parties would alternate, issue-by-issue, who presents argument first. Plaintiff rejected this alternate proposal in another May 17 email, stating without elaboration that it "fails to address all of Plaintiff's concerns." As shown above and in the Proposed Order attached hereto, Defendants still believe that this alternate proposal would be a fair and equitable way to conduct the Hearing.

V. CLAIM CONSTRUCTION PREHEARING CONFERENCE

The parties do not believe that a prehearing conference is necessary prior to the claim construction hearing.

Dated: May 17, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2012, the foregoing **JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**, was served via the Court's CM/ECF system, on the following:

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