

EXHIBIT 1

Summary of Claim Construction and Infringement Theories

<i>Claims at issue</i>	<i>Claim Construction</i>	<i>HyperPhrase Infringement Positions</i>	<i>Google Doesn't Infringe Because</i>
All asserted claims	<p><u>“data reference” or “DR”</u></p> <p><u>HyperPhrase: “a unique phrase or word which may be used in a record to refer to another record or record segment, and a data reference may refer to one or more than one record, <i>and the “data reference” is the text in a record normally displayed for a typical user to read and not hidden computer codes”</i></u></p>	<p><u>New theory: changed claim construction driven by invalidity issues; HyperPhrase adds new limitations to the claim to avoid the prior art, then concludes, without analysis or evidence, that the Federal Circuit found that Google had a “data reference” even though HyperPhrase now uses a different claim construction than the Federal Circuit used.</u></p>	<p><u>Under new theory: AutoLink modifies a separate, hidden DOM file, so it cannot infringe under HyperPhrase’s new construction. HyperPhrase offers no evidence that the data reference in the DOM is in fact “the text in a record normally displayed for a typical user to read and not hidden computer codes.” It is not.</u></p>

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'889 patent (all claims)	<p><u>“standardized format for addressing said data records”</u></p> <p><u>Google</u>: “a standardized format for addressing records in the plurality of databases.”</p> <p><u>HyperPhrase</u>: “a data request is placed into a format that is a standard, such as a URL, for retrieving a data record from a database,” or “a standard convention for addressing.”</p>	<p><u>Old theory</u>: the format of the second URL used in the AutoLink process satisfies the limitation.</p>	<p><u>Under old theory</u>: the second URLs, used to redirect the user’s browser to various servers containing distinct information, are all different, thus they are not a standardized format for addressing data records.</p>
		<p><u>New theory</u>: any URL satisfies the limitation, because (according to HyperPhrase) all URLs are a “standard convention for addressing”.</p>	<p><u>Under new theory</u>: not infringed because claim construction is incorrect; but even under the new construction, the first URL also isn’t the address of any data records (it is a command to a Google server, from which information is extracted to build the second URL) and HyperPhrase offers no evidence that it is.</p>
	<p><u>“create an address of the referenced record”</u></p> <p><u>Google</u>: “the address of the referenced record in the database.”</p> <p><u>HyperPhrase</u>: no construction offered; presumably any URL is the address of the referenced record.</p>	<p><u>Old theory</u>: the first URL is the address of the referenced the record.</p>	<p><u>Under old theory</u>: the first URL points to a process on Google’s AutoLink server and not any records, and HyperPhrase offers no evidence to the contrary.</p>
		<p><u>New theory</u>: any URL is the address of the referenced record.</p>	<p><u>Under new theory</u>: HyperPhrase offers no evidence that the second URL is the address of the alleged referenced record.</p>

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<p>'889 patent (all claims)</p>	<p><u>“modify said reference to said second data record”</u></p> <p><u>Google</u>: “modifying the data record that was retrieved and parsed – in other words the same data record is operated on in all steps.”</p> <p><u>HyperPhrase</u>: “modifying the token”</p>	<p><u>Old theory</u>: the token (the alleged reference) in the webpage (the data record) was modified.</p>	<p><u>Under old theory</u>: The token in the webpage is not modified at all, but rather AutoLink inserts the first URL into a separate file, called a DOM file; nor does HyperPhrase offer any evidence under its validity expert’s construction that the webpage in any database is modified.</p>
		<p><u>New theory</u>: the first URL, not the webpage, is the data record, and the first URL, not the token, is modified.</p>	<p><u>Under new theory</u>: the first URL is not itself a data record, is not an address to any data record, and is not stored in any database. HyperPhrase offers no evidence that any claim limitations are satisfied under this theory.</p>

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<p>'321 patent, claim 1</p>	<p>“<u>when</u>” means real-time, without user intervention</p> <p>No claim construction dispute.</p>	<p><u>Old theory</u>: the second URL identified the referenced record</p>	<p><u>Under old theory</u>: the second URL is not even created until after the user manually intervenes and selects the hyperlink with the first URL.</p>
		<p><u>New theory</u>: the first URL identifies the referenced record</p>	<p><u>Under new theory</u>: the first URL doesn't identify the referenced record, but a process on the AutoLink server, which has no records. HyperPhrase offers no evidence that the first URL refers to any records. It instead refers to what happens after a user has manually intervened and selected the hyperlink corresponding to the first URL.</p>

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<p>'321 patent, at least claims 1 and 24 (and possibly claim 86, depending on court's construction of "specifying reference")</p>	<p><u>"modifier reference" or "MR"</u></p> <p>Google: "a word or phrase that further specifies a specific record or record segment."</p>	<p><u>Old theory:</u> the trigger (the alleged modifier reference) made the token refer to something more specific.</p>	<p><u>Under old theory:</u> the trigger (the alleged modifier reference) does not make the token (the alleged data reference) any more specific than it already was.</p>
	<p><u>HyperPhrase: (validity construction)</u> "a word or phrase that further specifies a specific record or record segment when a DR is identified;"</p> <p><u>(infringement construction)</u> "a word or phrase that further specifies a specific record, record segment, <u>or records referred to by a data reference; the modifier reference is the text in a record normally displayed for a typical user to read and not hidden computer codes.</u>"</p>	<p><u>New theory:</u> Changes the construction of the term "modifier reference" so that it does not have to refer to something more specific.</p>	<p><u>Under new theory:</u> the combination of the data reference and the modifier reference does not refer to a specific record or record segment, and HyperPhrase offers no evidence that it does. It is also not satisfied because HyperPhrase offers no evidence that there is a "DR/MR combination" of the token and trigger in the "text of the record normally displayed for a typical user to read and not in hidden computer codes."</p>

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<p>'321 patent, claim 86</p>	<p><u>“seemingly general”</u> and <u>“relatively specific”</u></p> <p>Parties dispute application of claim terms.</p>	<p>An AutoLink token is both seemingly general and relatively specific.</p>	<p>AutoLink tokens cannot be both seemingly general and relatively specific, nor does an AutoLink trigger make an alleged seemingly general token relatively specific.</p>
	<p><u>“specifying reference”</u></p> <p><u>Google</u>: “a combination of (1) a first DR, a second DR, and a MR, or (2) a combination of a DR, a first MR, and a second MR.”</p> <p><u>HyperPhrase</u>: (<i>validity construction</i>) “each of a DR and a DR/MR combination or a DR/MR/MR combination;” (<i>infringement construction</i>) means the same thing as “data reference” (see above)</p>	<p><u>Old theory</u>: an AutoLink token is a specifying reference.</p>	<p><u>Old theory</u>: the specifying reference requires a combination of at least one data reference and at least one modifier reference, but the <u>combination</u> of these alleged two items (a token and a trigger) is not visually distinguished – HyperPhrase does not even allege that the trigger (the alleged MR) is visually distinguished. This limitation is also not satisfied for the same reasons that the “modifier reference” in claim 1 is not satisfied.</p>
		<p><u>New theory</u>: AutoLink token is a “data reference” under the HyperPhrase’s new construction for data reference (see above).</p>	<p><u>New theory</u>: not infringed for the same reasons as explained in Google’s response to HyperPhrase’s new theory regarding the construction of the term “data reference.”</p>