

EXHIBIT 1017

**Excerpts from Rembrandt's
Opening Claim Construction Brief in
Rembrandt Social Media, L.P. v. Facebook, Inc.,
No. 13-cv-00158 TSE (E.D. Va.)**

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

REMBRANDT SOCIAL MEDIA, LP,

Plaintiff,

v.

FACEBOOK, INC. and
ADDTHIS, INC.,

Defendants.

Case No. 1:13cv158 (TSE/TRJ)

REMBRANDT'S OPENING CLAIM CONSTRUCTION BRIEF

goes on to provide, configuration information includes “privacy level information,” which the parties agree has the following construction:

<ul style="list-style-type: none"> • “privacy level information” 	“configuration information that describes or specifies which user(s) or categories of users are permitted to view particular content data on a cohesive diary page”
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The parties thus agree that when a user requests access to a diary owned by another user the diary system filters the content data in the owner’s diary so that the user seeking access can see only that portion of the content data consistent with the applicable privacy level. In slightly different language the competing constructions both describe this filtering function. So far the parties are in agreement. Also apparently not in dispute is the claim language “controlling the behavior” of the page. In addition to determining what is displayed on the page, the privacy level information is sent to the user system to allow the user-owner—and only the user-owner—to change the privacy level for the future, thus additionally controlling the behavior of the page. (*See, e.g.*, the ’316 patent at 2:39-46; 7:12-15; 9:62-64; 10:28-54; Fig. 4D.)

The only dispute is about where the filtering takes place. Defendants’ construction imposes a restriction that the configuration information must be “used at the user system” to carry out the filtering. Rembrandt disputes the imposition of such a restriction and proposes a construction that permits the filtering to happen at the user system or at the server.

Defendants’ proposed restriction is improper for the same reasons that its effort to restrict diary content to content added by the diary owner is improper. The proposal reads in from the specification a limitation nowhere suggested by the claim language, and further reads out an embodiment disclosed in the specification that falls within the language of the claims.

It is true that the main embodiment described in the specification carries out the filtering at the user system. But the specification goes on to discuss specific alternatives, one of which is that the filtering may be carried out at the server instead of the browser:

While the invention has been described in conjunction with a specific embodiment, it is evident that many alternative, modifications and variations will be apparent to those skilled in the art in light of the foregoing description.

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Moreover, some or all of the processing and selection of content could be performed on the diary server 104, thus saving the amount of data that must be transferred to the browser.

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Accordingly, it is intended to embrace all such alternatives, modifications and variations as fall within the scope and spirit of the appended claims and equivalents.

('316 patent, 18:44-67.)

The closing words of this passage underscore the established principles of claim construction. Restrictions not found in the claims are not to be read in. The alternatives described are all “embrace[d]” so long as they fall within the language of the claims.⁹

⁹ The scope of this principle is illustrated by another alternative described in this passage of the specification. The specification describes expressing the diary content data in a computer language called HTML. In the main embodiment the HTML is generated in the browser. However, the “alternatives” passage teaches that “all of the HTML generation could be performed by the diary server” but warns that, depending upon the size of the user population, this alternative could place an unacceptable burden on the server. Nevertheless, the claims leave open where the HTML is generated, just as they leave open where the filtering takes place, leaving the decision to those of ordinary skill who, in implementing what is claimed, can make the appropriate engineering choices in light of the current state of technology.