

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

WHEREVERTV, INC.,	§	
	§	
Plaintiff,	§	
v.	§	
	§	No. 2:18-cv-529-UA-CM
COMCAST CABLE COMMUNICATIONS,	§	
LLC,	§	
	§	
Defendants	§	

PLAINTIFF’S PROPOSED INTERPRETATIONS OF THE DISPUTED CLAIM TERMS

Pursuant to the Court’s Case Management and Scheduling Order in Patent Case (Dkt. #58), Plaintiff WhereverTV, Inc. (“Plaintiff” or “WTV”) serves on Defendant Comcast Cable Communications LLC (“Comcast”) this Proposed Interpretation of the Disputed Claim Terms, along with citations to the intrinsic evidence (e.g., patent prosecution history, dictionary definitions, etc.) that support its interpretation, along with a brief summary of any testimony that is expected to be offered to support that interpretation. WTV reserves its right to supplement the evidence and citations set forth herein if it discovery additional, relevant evidence in the future or in response to any evidence, citations, or argument that Comcast may present in support of Comcast’s own proposed definitions.

1. “**Multiple Cable System Operator**” or “**MSO**” means “a traditional cable or Internet television content consolidator that receives and rebroadcasts channels of video content.”

a. FIGS 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 1:35-53, 2:38-44; 3:5-4:10; 5:4-36; 6:4-13; 6:1-23; 6:39-45; 9:5-10:15; WTV-000498-513; WTV-000522-534; WTV-000577-589; WTV-000690-704; WTV-00746-60; WTV-000806-821; WTV-000861-871; COMPUTER & INTERNET

DICTIONARY, 3rd Ed. 1999. (“*Broadcast*. To send the same message simultaneously to multiple recipients.”); DICTIONARY OF COMPUTER NETWORKING, 1st Ed. 2011 (“Broadcast: To send a message to all users currently logging into the network.”); *Microsoft Computer Dictionary*, 5th Ed. 2002 (“Broadcast1 adv. Send to more than one recipient. In communications and on networks, a broadcast message is one distributed to all stations.” Broadcast2 n. As in radio or television, a transmission sent to more than one recipient.”); NEW WEBSTER’S NEW WORLD COMPUTER DICTIONARY, 10th Ed. 2003, (“Broadcast: To make a signal available to any receiver tuned to the correct channel.”); *Modern Cable Television Technology*, by Walter Ciciora, 2nd Ed. 2004 at 1016, Glossary (“MSO Multiple System Operator. A company that owns more than one separate cable system.”).

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present one or more witnesses (e.g., Michael Ian Shamos and/or Mark Cavicchia) to explain how the intrinsic record and evidence supports and relates to the proposed definition; discuss traditional cable systems and similar Internet-based content providers; and clarify differences between MSOs and non-MSOs. WTV reserves its right to supplement this disclosure as additional, relevant evidence is identified and will also offer rebuttal testimony, evidence and argument in response to any proposed definitions and arguments presented by Comcast. Plaintiff may also offer or cite to Cavicchia’s deposition testimony regarding the meaning of MSO and non MSO.

2. “**Non-MSO**” should receive its plain and ordinary meaning in light of the above definition and means a cable or Internet television content consolidator that does not receive and rebroadcasts channels of video content.

a. The same evidence, citations, and testimony described above in connection with “MSO” is equally applicable and may be relied on in connection with supporting the proposed definition of non-MSO.

3. The “**device**” should be given its plain and ordinary meaning, which is a collection of both hardware and software components.

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 7:62-67; 8:1-19; 8:27-35; 8:63-9:27; 9:28-10:20; 11:17-68; 12:1-68; 13:1-14:15; 14:48-68; 15:1-18; 16:8-15; 13:51-53.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed definition and may explain the technology contemplated by the claim term. WTV may also call either of these witnesses to respond to any evidence, citations, or argument from Comcast. Plaintiff may also cite to Cavicchia’s deposition testimony regarding this claim term.

4. “**Program guide**” never appears in any claim without the preceding word “interactive” and, therefore, should not be construed on its own.

5. “**Interactive program guide**” should be given its plain and ordinary meaning, namely a program guide that enables user interaction.

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 1:54-65; 5:36-45; 3:46; 7:50-54; 9:5-10:10; 10:21-13:7; 14:15-68; Claim 1, and 8.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed

definition and offer some examples of the kinds of interaction that the claim language covers. Plaintiff may also cite to Cavicchia's deposition testimony regarding this claim term.

6. **"Interactive program guide application"** should be given its plain and ordinary meaning, namely software that implements an interactive program guide.

a. The same citations and evidence for "program guide" also apply to this claim term.

7. **"Channel"** should be given its plain and ordinary meaning, namely a video content source.

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 1:47; 2:29-35; 1:35; 1:58, 3:46; 4:45-5:60; 6:19; 6:25; 6:59-63; 8:19-35; 10:21-11:15; 11:17-13:9; 13:12-14:5; 15:13-20; 15:21-30; WTV-001173-1218; WTV-000498-513; WTV-000522-534; WTV-000577-589; WTV-000690-704; WTV-00746-60; WTV-000806-821; WTV-000861-871.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed definition and offer some examples of channels that would fall within the scope of the claim. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

8. **"Virtually entirely streaming video programming"** should receive its plain and ordinary meaning, which is "almost exclusively video programming."

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 1:43-50; 2:53-3:35; 2:19-25; 2:53-3:5; 9:5-10:5; 11:23-30; 14:27-15:5; claim 5, 9, 11, 12, 15, 16, 20, 21, 22, 24; WTV-000499-512; WTV-000915-925. COMPUTER & INTERNET DICTIONARY, 3rd Ed. 1999. (*"Video*. 1. Refers to recording, manipulating, displaying moving images, especially in a format that can be displayed on a

television. 2. Refers to displaying images and text on a computer monitor. The video adapter, for example, is responsible for sending signals to the display device.”).

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed definition and how this claim language would be understood by a person of ordinary skill in the art. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

9. **“Only or virtually entirely streaming video programming”** should receive its plain and ordinary meaning, which is “exclusively or almost exclusively video programming.”

a. The same evidence, citations, and testimony relating to “virtually entirely streaming video programming” are also relevant here.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed definition and how this claim language would be understood by a person of ordinary skill in the art. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

10. **“wherein each of the channels is selectable for receiving only or virtually entirely streaming video programming”** should be given its plain and ordinary meaning, which is that “each of the channels, when selected, provides only or virtually entirely streaming video programming.”

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 1:43-50; 9:5-10:5; 11:23-68; 14:27-15:5; WTV-000498-513; WTV-000522-534; WTV-000577-589; WTV-000690-704; WTV-00746-60; WTV-000806-821; WTV-000861-871. Additionally, the same evidence and citations above regarding “channel” and “only virtually entirely . . . ” or “virtually entirely streaming video programming” are relevant here.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed definition; to discuss and explain the video technology referenced by this claim language; and how this claim language would be understood by a person of ordinary skill in the art. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

11. **“wherein the server is distinct from at least one of the one or more MSOs and one or more non-MSOs”** means “the server does not stream digital television content from at least one of the MSOs and does not stream digital television content from at least one of the non-MSOs.”

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 2:36-44; 4:10-24; 6:5-25; 8:31-36; 9:5-10:4; 14:28-15:13; 15:50-56; WTV-001173-1218; WTV-000498-513; WTV-000522-534; WTV-000577-589; WTV-000690-704; WTV-00746-60; WTV-000806-821; WTV-000861-871; WTV-000522-534; WTV-000498-513; *Modern Cable Television Technology*, by Walter Ciciora, 2nd Ed. 2004 at 14-16, Cable Network Design.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed

definition; to discuss and explain the technologies referenced by this claim language; and how this claim language would be understood by a person of ordinary skill in the art. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

12. **“adding or deleting channels from any of the one or more MSOs or the one or more non-MSOs”** should receive its plain and ordinary which is “adding or deleting from the IPG at least one of the MSO channels or at least one of the non-MSO channels.”

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 4:49-53; 1:47; 2:29-35; 1:35; 1:58, 3:46; 6:15;6:59-63; 10:21-11:15; WTV-000498-513; WTV-000522-534; WTV-000577-589; WTV-000690-704; WTV-00746-60; WTV-000806-821; WTV-000861-871; WTV-000477; WTV-001173-1218. Additionally, the citations and evidence relating to channels, MSOs, and non-MSOs are relevant here.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to explain how the intrinsic record and evidence supports and relates to the proposed definition; regarding the user experience contemplated by this claim language; and to generally testify how this language would be understood by a person of ordinary skill in the art. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

13. **“digital rights management module.”** should be given its plain and ordinary meaning, which is software and hardware that determines whether a user has the right to access a specific program or channel.

a. FIG 1, 2a, 2b, 3, 4, 5 (e.g., 402, 452, 454, 456, 404); FIG 6, 7 (702, 704, 706, 708), 8 (e.g., 802, 802a, 802b, 802c, 804a, 804b, 806); Abstract; 6:23-30; 6:52-63; 7:25-27; 8:1-25; 9:5-28; 11:44-58, 12:15-60; 13:16-25, 13:36-40; 14:27-48, 15:22-58.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to testify how the intrinsic record and evidence supports and relates to the proposed definition; to explain how this language would be understood by a person of ordinary skill in the art and that this claim language would denote sufficient definite meaning as the name for structure. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

14. “**filtering module**” should be given its plain and ordinary meaning, which means software that blocks access to content based on geographical location.

a. FIG 1, 2a, 2b, 3, 4, 5 (e.g., 402, 452, 454, 456, 404); FIG 6, 7 (702, 704, 706, 708), 8 (e.g., 802, 802a, 802b, 802c, 804a, 804b, 806); Abstract; 6:23-30; 7:35-38, 12:24-39; FIG 5 (e.g., 402, 452, 454, 456, 404); 6:52-63; 7:25-27; 8:1-25; 9:5-28; 11:44-58, 12:15-60; 13:16-25, 13:36-40; 14:27-48, 15:22-58.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to testify how the intrinsic record and evidence supports and relates to the proposed definition; to explain how this language would be understood by a person of ordinary skill in the art and that this claim language would denote sufficient definite meaning as the name for structure. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

15. “**voice recognition module [that accepts verbal commands and converts them to digital form]**” should be given its plain and ordinary meaning.

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; 11:23-65; *Microsoft Computer Dictionary*, 5th Ed. 2002 (“voice recognition n. The capability of a computer to understand the spoken word for the purpose of receiving commands and data input from the speaker. Systems that can recognize limited vocabularies as spoken by specific individuals have been developed, but developing a system that deals with a variety of speech patterns and accents, as well as with the various ways in which a request or a statement can be made, is more difficult, although advances are being made in this area.”). *COMPUTER & INTERNET DICTIONARY*, 3rd Ed. 1999 (Voice recognition).

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to testify how the intrinsic record and evidence supports and relates to the proposed definition; to explain how this language would be understood by a person of ordinary skill in the art and that this claim language would denote sufficient definite meaning as the name for structure. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

16. “**relay module**” ” should be given its plain and ordinary meaning which is communications software and hardware components.

a. FIG 1, 2a, 2b, 3, 4, 5, 6, 7, 8; Abstract; 6:63-7:2; 7:62-67, 8:13-19 (display devices); 9:5-65; 11:58-62; 13:8-14:2.

b. Plaintiff will primarily rely on the intrinsic record and above evidence, but may also present testimony in support of this proposed interpretation. Plaintiff may present Michael Ian Shamos to testify how the intrinsic record and evidence supports and relates to the proposed

definition; to explain how this language would be understood by a person of ordinary skill in the art and that this claim language would denote sufficient definite meaning as the name for structure. Plaintiff may also cite to deposition testimony from Mark Cavicchia regarding his discussion of this claim term.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 1st day of August 2020, the foregoing document was served on Defendant's lead counsel of record via electronic mail in accordance with the Federal Rules of Civil Procedure and the parties' agreement to receive service by electronic mail.

/s/ Adam Sanderson
Adam Sanderson