

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STARZ ENTERTAINMENT, LLC,
STARZ, LLC,
STARZPLAY MANAGEMENT US, LLC
and STARZPLAY US, LLC

Plaintiffs/Counter-Defendants,

v.

VL COLLECTIVE IP, LLC and
VIDEOLABS, INC.,

Defendants/Counter-Plaintiffs.

C.A. No. 21-1448-JLH

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Scheduling Order entered in the above-captioned action (*see* D.I. 18, 61), Plaintiffs/Counter-Defendants Starz Entertainment, LLC, Starz, LLC, StarzPlay Management US, LLC and StarzPlay US, LLC (collectively, “Starz”), and Defendants/Counter-Plaintiffs VL Collective IP, LLC and VideoLabs, Inc. (collectively, “VideoLabs”), hereby submit this Joint Claim Construction Chart identifying the parties’ proposed claim construction positions with respect to claims 1, 2, 4, 5, 6, 7, 8, and 9 of U.S. Patent No. 7,233,790 (the “’790 patent”), claims 1, 2, and 4 of U.S. Patent No. 7,440,559 (the “’559 patent”), claims 1, 3, 5, 9, 12, 13, 15, 16, 17, 20, and 21 of U.S. Patent No. 8,605,794 (the “’794 patent”), and claims 1, 9, 10, 11, 13, 30, 31, and 34 of U.S. Patent No. RE43,113 (the “’113 patent”)

(collectively the “Asserted Claims of the Asserted Patents”), which have been asserted against Starz by VideoLabs, as set forth in VideoLabs’ Amended Disclosure of Asserted Claims and Infringement Contentions, served May 27, 2022.

Nothing contained herein should be understood or deemed to be an express or implied admission with respect to the alleged infringement or invalidity of any asserted claim.

Attached as Appendix A are tables identifying the claim terms in dispute. For each disputed term, the parties provide their respective proposed constructions and citations to the intrinsic evidence in support of their respective constructions.

The parties’ citations to passages from a particular Asserted Patent’s written description are intended to include all figures referenced therein, whether or not referenced.

The parties reserve the right to rely on additional intrinsic evidence to the extent it is necessary to provide additional context or to rebut arguments made by the other party during claim construction briefing. The parties further reserve the right to rely on any intrinsic evidence identified by the other party. The parties also reserve their rights to rely on extrinsic evidence. The parties reserve the right to update and/or supplement their proposed claim constructions with the Markman briefing in this case.

The parties intend to rely on the Asserted Patents, the claims of the Asserted Patents, the written descriptions of the Asserted Patents, the prosecution histories of the Asserted Patents, and patents and applications to which the Asserted Patents claim priority, including any related patents or patent applications related to the Asserted Patents.

Indefiniteness Arguments: Consistent with the parties' understanding of the Court's claim construction practice and the applicable rules, and pursuant to the parties' stipulation, the parties reserve—and do not waive—their respective arguments concerning the indefiniteness (or lack of indefiniteness) of any term, and intend to address such issues at a later stage. There are, however, certain terms for which the parties ask the court to address indefiniteness at this stage: “assignment rule for assigning each one of the content-related second data segments to one of the content-related first data segments,” “assignment rule for assigning each one of the content-related second data segments to each one of the content-related first data segment,” “assignment rule,” and “the assignment rule is not based on a timestamp,” in the '794 patent, the alleged indefiniteness of which is raised by certain requested claim constructions. For the Court's reference, and to avoid any waiver, Starz includes in Appendix B a list of terms it believes to be indefinite. VideoLabs opposes, and does not agree to or concede, any argument that such terms are indefinite.

Stipulated Constructions: The parties have stipulated to the following construction:

'794 Patent	
Claim Terms/Phrases	Agreed Upon Construction
“output” / “outputting” (Claims 1, 9)	“transmitted, stored together, or passed on to a processing unit” / “transmitting, storing together, or passing on to a processing unit”

Copies of Patents: Copies of the patents and portions of the prosecution histories relied upon by the parties are attached, as follows:

Exhibit No.	Document Description
1	U.S. Patent No. 7,233,790
2	U.S. Patent No. 7,440,559
3	U.S. Patent No. 8,605,794
4	U.S. Patent No. RE43,113
5	'794 Patent File History: 2012/04/11 Amendment & Request for Reconsideration
6	'794 Patent File History: 2012/06/29 Final Rejection
7	'794 Patent File History: 2012/11/29 Response After Final Rejection
8	'794 Patent File History: 2013/05/08 Final Rejection
9	'794 Patent File History: 2013/08/01 Notice of Allowance
10	'113 Patent File History: 12/16/2010 Response After Non-Final Rejection
11	Panis G. et al., “Bitstream Syntax Description: A Tool for Multimedia Resource Adaptation within MPEG-21. Signal Processing, Image Communication, Elsevier Science Publishers, Amsterdam, NL, Volume 18, No. 8, Sep. 2003, pages 721-747, ISSN: 0923-5965

APPENDIX A

I. TERMS NEEDING CONSTRUCTION AND PROPOSED CONSTRUCTIONS

The parties identify the following terms, phrases, or clauses, as well as phrases and clauses including such term, phrase, or clause, that should be construed, along with their corresponding proposed constructions and citations to intrinsic support therefor as follows:

a. '790 Patent

Claim Terms/Phrases	VideoLabs' Proposed Construction and Intrinsic Evidence	Starz's Proposed Construction and Intrinsic Evidence
"wireless communication devices" / "wireless device" (Claims 1, 2, 4, 5, 6, 7, 8, 9)	No construction necessary Alternatively, if the Court decides to construe the term, "an electronic or electrical device capable of remote wireless communication, including Internet access" <u>Intrinsic Evidence:</u> '790 patent at Abstract; 1:22-59, 3:53-56, 4:1-8; Claims 1, 2, 4, 5, 6, 7, 8, 9	"Personal mobile communication and computing devices, such as cellular telephones, personal digital assistants (PDAs) and two-way pagers" <u>Intrinsic Evidence:</u> '790 patent at Title, Abstract; 1:22-2:10, 4:9-11, 6:60-66, 8:37-51; FIGS. 1, 2, 11, 13; Claims 1, 2, 4, 5, 6, 7, 8, 9

“implementation” (Claims 1, 2, 4, 8, 9)	No construction necessary Alternatively, if the Court decides to construe the term, “one or more binary files (or “binaries”), software files, software applications, and/or executable files representing a product” <u>Intrinsic Evidence:</u> ’790 patent at Abstract; 2:7-16, 3:45-60, 9:37-62, 13:22-24, 15:1-7; FIGS. 5-6; Claims 1, 2, 4, 8, 9	“A software application or executable file operable in a specific device environment” <u>Intrinsic Evidence:</u> ’790 patent at Abstract; 2:7-16, 3:45-60, 9:37-62, 13:22-24, 15:1-7; FIGS. 5-6; Claims 1, 2, 4, 8, 9
“content” / “digital content” / “product” / “digital product” (Claims 1, 2, 4, 5, 6, 8, 9)	No construction necessary Alternatively, if the Court decides to construe the term, “software and/or data embodying a file for delivery or purchase by a customer” <u>Intrinsic Evidence:</u> ’790 patent at Title; Abstract; 1:40-2:16, 3:45-4:33, 4:41-43, 5:50-62, 6:46-55, 7:4-22; FIGS. 1, 11; Claims 1, 2, 4, 8, 9	“Software and/or data embodying a file for purchase by a wireless services subscriber and/or telecommunications subscriber” <u>Intrinsic Evidence:</u> ’790 patent at Title, Abstract; 1:40-45, 3:45-60, 6:60-7:3, 13:16-24; FIGS. 1, 2, 5, 11, 13; Claims 1, 2, 4, 5, 6, 8, 9

b. '559 Patent

Claim Terms/Phrases	VideoLabs' Proposed Construction and Intrinsic Evidence	Starz's Proposed Construction and Intrinsic Evidence
"download" (Claims 2, 4)	No construction necessary Alternatively, if the Court decides to construe the term, "transfer to the terminal" <u>Intrinsic Evidence:</u> '559 patent at Abstract; 1:30-36, 6:51-65, 7:12-26, 10:25-44, 10:45-59, 11:6-30, 11:31-53, 11:54-12:3, 12:4-12:30, 13:4-10, 13:51-64, 13:65-14:23; FIGS. 2, 3, 5, 6; Claims 3, 7, 8, 10, 12	Plain and ordinary meaning, i.e., "Copy and store in memory of the terminal for subsequent use" <u>Intrinsic Evidence:</u> '559 patent at 6:57-65, 7:60-67, 12:18-30, 13:38-64; FIG. 6; Claims 2, 3, 4

c. '794 Patent

Claim Terms/Phrases	VideoLabs' Proposed Construction and Intrinsic Evidence	Starz's Proposed Construction and Intrinsic Evidence
Preambles	The preambles are construed to be limiting. The first data file and the second data file are distinct from each other.	The preambles are construed to be limiting.

(Claims 1, 9)		
“assignment rule for assigning each one of the content-related second data segments to one of the content-related first data segments” / “assignment rule for assigning each one of the content-related second data segments to each one of the content-related first data segment” / “assignment rule” / “the assignment rule is not based on a timestamp” (Claims 1, 3, 9, 16, 17, 20, 21)	“assignment rule for assigning each one of the content-related second data segments to one of the content-related first data segments, wherein the assignment is not performed by using exact timing information for the data segments (e.g., by using data segment timestamp information)” <u>Intrinsic Evidence:</u> ’794 patent at Abstract; 1:23-2:20, 2:28-3:37, 3:67-4:53, 5:5-7:26; FIGS. 1-5; Claims 1-4, 6-11, 13-15, 18-19, 22 File History: 2012/04/11 Amendment & Request for Reconsideration; 2012/06/29 Final Rejection; 2013/05/08 Final Rejection; 2013/08/01 Notice of Allowance Panis G. et al., “Bitstream Syntax Description: A Tool for Multimedia Resource Adaptation within MPEG-21. Signal Processing, Image Communication,	Indefinite

	Elsevier Science Publishers, Amsterdam, NL, Volume 18, No. 8, Sep. 2003, pages 721-747, ISSN: 0923-5965	
“content-related ... data segments” (Claims 1, 3, 7-9)	“data segments ordered in a file such that they will present the file’s contents in their intended presentation order when rendered sequentially” <u>Intrinsic Evidence:</u> ’794 patent at Title, Abstract; 1:23-2:20, 2:28-46, 2:55-3:3, 3:20-39, 3:67-7:20; FIGS. 1-5; Claims 1, 5-9, 12-15, 20-22 File History: 2012/06/29 Final Rejection; 2012/11/29 Response After Final Rejection Panis G. et al., “Bitstream Syntax Description: A Tool for Multimedia Resource Adaptation within MPEG-21. Signal Processing, Image Communication, Elsevier Science Publishers, Amsterdam, NL, Volume 18, No. 8, Sep. 2003, pages 721-747, ISSN: 0923-5965	“segments of content data that have a syntactical meaning within the respective data file” <u>Intrinsic Evidence:</u> ’794 patent at Title, Abstract; 4:14-22, 2:28-35, 4:49-53; FIG. 1; Claims 1, 3, 7-9 File History: 2012/06/29 Final Rejection; 2012/11/29 Response After Final Rejection

d. '113 Patent

Claim Terms/Phrases	VideoLabs' Proposed Construction and Intrinsic Evidence	Starz's Proposed Construction and Intrinsic Evidence
"wireless communication devices" / "wireless device" (Claims 1, 30, 34)	No construction necessary Alternatively, if the Court decides to construe the term, "an electronic or electrical device capable of remote wireless communication, including Internet access" <u>Intrinsic Evidence:</u> '113 patent at Abstract; 1:30-65, 3:53-56, 3:64-4:8; FIGS. 2, 3, 5, 6; Claims 1, 30, 31, 34	"Personal mobile communication and computing devices, such as cellular telephones, personal digital assistants (PDAs) and two-way pagers" <u>Intrinsic Evidence:</u> '113 patent at 1:30-2:15, 4:7-9, 6:49-56, 8:25-39; FIGS. 2, 11, 13; Claims 1, 30, 34 File History: 12/16/2010 Response After Non-Final Rejection
"content" / "digital content" / "product" / "digital product" (Claims 1, 9, 10, 13, 30, 34)	No construction necessary Alternatively, if the Court decides to construe the term, "Software and/or data embodying a file for delivery or purchase by a customer" <u>Intrinsic Evidence:</u>	"Software and/or data embodying a file for purchase by a wireless services subscriber and/or telecommunications subscriber" <u>Intrinsic Evidence:</u> '113 patent at Title, Abstract; 1:30-2:22, 3:44-59, 4:7-9, 13:1-7; FIGS. 1, 10, 11; Claims 1, 9, 10, 13, 30, 33, 34

	'113 patent at Title; Abstract; 1:30-2:22, 3:45-4:33, 4:41-43, 5:50-62, 6:46-55, 7:4-22; FIGS. 1, 11; Claims 1, 9, 10, 13, 30, 34	
“domain” (Claims 1, 9, 10, 11, 30, 34)	“An entity describing a subset of customers for content delivery, purchasing, billing, and/or other purposes” <u>Intrinsic Evidence:</u> '113 patent at Title; Abstract; 4:7-23, 4:43-5:56, 11:10-28; FIGS. 3, 9, 10; Claims 1, 9, 10, 11, 30, 34	“An entity that describes the billing relationship between a partner and a set of subscribers, as well as describing a partitioning of product space and administrative responsibilities.” <u>Intrinsic Evidence:</u> '113 patent at Title, Abstract; 4:45-5:29, 11:1-28, 11:50-12:3; FIGS. 3, 9; Claims 1, 2, 9, 10, 11, 23, 30, 34
“digital products suppliers / digital product providers” (Claims 1, 10, 30, 34)	No construction necessary Alternatively, if the Court decides to construe the term, “An entity that provides digital products for delivery or purchase” <u>Intrinsic Evidence:</u> '113 patent at Title; Abstract; 1:47-65, 4:7-23, 4:31-42, FIG. 1; Claims 1, 10, 30, 34	Plain and ordinary meaning, i.e., “A person or business that provides digital products to a separate person or entity” <u>Intrinsic Evidence:</u> '113 patent at Title; 3:66-4:23, 5:38-40, 5:44-56; FIGS. 1, 8; Claims 1, 10, 30, 34

Appendix B

Consistent with the parties’ understanding of the Court’s claim construction practice and the applicable rules, and pursuant to the parties’ stipulation, the parties reserve—and do not waive—their respective arguments concerning the indefiniteness (or lack of indefiniteness) of any term and intend to address such issues at a later stage. Accordingly, the parties respectfully submit that the Court need not address indefiniteness at this stage. There are, however, certain terms for which the parties ask the court to address indefiniteness at this stage: “assignment rule for assigning each one of the content-related second data segments to one of the content-related first data segments,” “assignment rule for assigning each one of the content-related second data segments to each one of the content-related first data segment,” “assignment rule,” and “the assignment rule is not based on a timestamp,” in the ’794 patent, the alleged indefiniteness of which is raised by certain requested claim constructions. Solely, for the Court’s reference, and to avoid any waiver, the parties include in this Appendix B a list of terms that Starz believes to be indefinite. VideoLabs opposes, and does not agree to or concede, any argument that such terms are indefinite.

a. '790 Patent

Claim Terms/Phrases
“provisioning model” / “provisioning models” (Claims 5, 6, 7)

b. '559 Patent

Claim Terms/Phrases
“a content status including terminal status information” (Claim 1)

c. '794 Patent

Claim Terms/Phrases
“each of the content-related second data segments is output together with an associated one of the content-related first data segments on the basis of an assignment rule for assigning each one of the content related second data segments to one of the content-related first data segments”

(Claim 1)	
(Claim 9)	“each of the content-related second data segments being output together with an associated one of the content-related first data segments based upon of an assignment rule for assigning each one of the content-related second data segments to each one of the content-related first data segment”
(Claims 1, 9, 17, 21)	“device for synchronizing” / “synchronization device” / “device”
(Claim 3)	“for each of the content-related second data segments, the content-related first data segments are assigned by specification of a number”
(Claim 16, 17)	“predefinable”

d. '113 Patent

Claim Terms/Phrases	
	“data defining a plurality of domains”

(Claims 1, 10, 11, 30, 34)	
“data defining an association between each of the subscribers and one of the domains” (Claim 11)	
“digital merchant offerings” (Claims 30, 34)	
“the associated wireless communication devices include cellular telephones that are configured for functions in addition to telephony, the functions including one or more of playing games, accessing World Wide Web pages, exchanging email, exchanging and downloading files, exchanging short messaging service (SMS) messages, and sending and receiving video” (Claim 31)	

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