

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**AUDIOEYE, INC.,
Plaintiff,**

v.

**ACCESSIBE LTD.,
Defendant.**

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6:20-CV-00997-ADA

AMENDED CLAIM CONSTRUCTION ORDER

The Court provided its preliminary constructions of disputed term on November 15, 2021. The Court then held a *Markman* hearing on November 16, 2021. *See* ECF No. 65.

After careful consideration of the Parties' briefs, oral argument, and the applicable law, the Court enters its final constructions for each term as shown below.¹

SIGNED this 23rd day of November, 2021.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

¹ This Order **SUPERSEDES AND VACATES** the Claim Construction Order at ECF No. 68.

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
1	"headless browser"	10,423,709	19	No construction is necessary, the plain and ordinary meaning should apply.	"a web browser without a graphical user interface"	"a web browser without a graphical user interface"
		10,762,280	1, 19	To the extent the Court concludes a construction is necessary, it should be construed as follows: "a browser under the control of software rather than a human"		
		10,867,120	14			
2	"descriptive alt text" / "alt text description"	10,444,934	1	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "alternative text"	"descriptive text in an 'alt' HTML attribute"	"descriptive alternative text" / "alternative text description"
		10,866,691	3, 18			
	"ALT-text" / "alt text"	10,444,934	11		"text in an 'alt' HTML attribute"	"alternative text"
		10,867,120	15			
	"alt text tag[s]"	10,845,946	3, 19		"alt' HTML attribute tag[s]"	"alternative text tag[s]"
		10,845,947	14			

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
3	"crawling, by a computer system, the DOM associated with the web page"	10,444,934	1	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows:	Indefinite crawling: "spidering or analyzing a website to generate a list of individual web pages to be scanned"	"by a computer system, extracting URL links from the DOM associated with the web page"
	"crawling, by a computer system, associated with the web page"	10,444,934	11	"a structured navigation, by a computer system, of the DOM associated with the web page" "a structured navigation, by a computer system, associated with the web page"		Indefinite
	"crawl a user-requested web page"	10,762,280	1	"structurally navigate a user-requested web page"		"extract URL links from a user-requested web page"

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
4	"mapping"	10,444,934	1, 11	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "correlating" / "correlate"	"assign[ing] a correspondence between an element of one set with an element of another set"	Plain and ordinary meaning.
		10,809,877	1, 10			
		10,845,946	1, 14			
		10,845,947	20			
	"map"	10,762,280	1			
		10,867,120	5, 19			
5	"assigning . . . based on the determined file path"	10,444,934	1	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "assigning, by the computer system, an alt text description generated using the determined file path"	"assigning . . . based on the string of characters used to uniquely identify a file's name and location in a directory structure"	Plain and ordinary meaning.

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
6	"adequate alt text"	10,444,934	11	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "[alt text] / [descriptive attribute] that is more than a missing or default value" / "a missing or default [ALT-text]"	Indefinite	"alternative text describing a nature of the image"
	"adequate descriptive attribute"	10,809,877	1, 10			Indefinite
		10,845,946	1			"descriptive attribute describing a nature of the graphic"
		10,845,947	1, 10			Indefinite except for claims 3, 17, and 18: "descriptive attribute describing a nature of the image"
		10,860,173	1, 16			Indefinite except for: claims 7, 8, 20, 22, and 23: "descriptive attribute describing a nature of the [image/graphic/photograph]"
	"inadequate"	10,866,691	1, 16			Indefinite except for claims 8 and 23: "descriptive attribute describing a nature of the image"
		10,762,280	20			Indefinite
		10,867,120	15			

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
7	"heuristics engine"	10,444,934	6, 20	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "an engine that performs a task by approximating a solution to a problem"	Indefinite	Does not invoke § 112(f). Plain and ordinary meaning.
		10,867,120	5, 19			Invokes § 112(f) and indefinite.
8	"machine learning algorithm"	10,866,691	15, 30	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "[software/engine/system] that performs a task based on learning from input or samples"	Indefinite	Does not invoke § 112(f). Plain and ordinary meaning.
	"machine learning engine"	10,762,280	11, 12			
	"machine learning system"	10,867,120	1, 16			

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
9	"contextual cues"	10,809,877	1, 10	No construction is necessary, the plain and ordinary meaning should apply.	"information from nearby elements of the web page such as relative positions, types of attributes and particular words"	Plain and ordinary meaning.
		10,860,173	1, 16			
		10,866,691	10, 25			
10	"artificial intelligence algorithm"	10,809,877	1, 10	No construction is necessary, the plain and ordinary meaning should apply. To the extent the Court concludes a construction is necessary, it should be construed as follows: "software that performs a task by simulating human thinking"	Indefinite	Does not invoke § 112(f). Plain and ordinary meaning.
		10,845,946	1			
		10,845,947	7, 20			
		10,860,173	1, 16			
		10,866,691	14, 29			
		10,867,120	1, 16			
11	"the computer system"	10,809,877	10	"the remote server"	Indefinite	Indefinite

No.	Term	Patent	Claim(s)	AudioEye's Proposed Construction	accessiBe's Proposed Construction	Court's Construction
12	"assessing a validity of a descriptive attribute assigned to an element of a web page in a previous remediation process"	10,845,947	1	No construction is necessary, these phrases are part of the claims' preambles and are not limiting.	Preambles are limiting. Indefinite	Limiting and definite: "assessing whether an element of a web page, which was assigned a descriptive attribute by a previous remediation process, is still there or has been changed"
	"assessing a validity of a first descriptive attribute previously assigned to an untagged element of a web page using a remediation process"	10,845,947	10			Limiting and definite: "assessing whether an untagged element of a web page, which was previously assigned a first descriptive attribute by a previous remediation process, is still there or has been changed"