

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

ANCORA TECHNOLOGIES, INC., Plaintiff, v. GOOGLE, Inc., Defendant.	CIVIL ACTION NO. 6:21-cv-00735-ADA JURY TRIAL DEMANDED
ANCORA TECHNOLOGIES, INC., Plaintiff, v. ROKU, Inc., Defendant.	CIVIL ACTION NO. 6:21-cv-00737-ADA JURY TRIAL DEMANDED
ANCORA TECHNOLOGIES, INC., Plaintiff, v. NINTENDO CO., LTD., and RETRO STUDIOS, INC., Defendants.	CIVIL ACTION NO. 6:21-CV-00738-ADA JURY TRIAL DEMANDED

**PLAINTIFF ANCORA TECHNOLOGIES, INC.’S
DISCLOSURE OF EXTRINSIC EVIDENCE**

Pursuant to the Court’s Standing Order Governing Proceedings – Patent Cases and the above-captioned Parties’ proposed scheduling orders, Plaintiff Ancora Technologies, Inc. (“Ancora”) discloses the following extrinsic evidence that Ancora may rely on with respect to claim construction or indefiniteness:

DOCUMENT	BEGINNING BATES NO.
Opinion, <i>Ancora Technologies, Inc. v. Apple, Inc.</i> , No. 2013-1378, -1414 (Fed. Cir. 2014)	ANCORA_00003015
Opinion, <i>Ancora Technologies, Inc. v. HTC America, Inc. et al.</i> , No. 2018-1404 (Fed. Cir. 2018)	ANCORA_00003030
Markman Order, <i>Ancora Technologies, Inc. v. Apple, Inc.</i> , No 11-cv-6357 (N.D. Cal. Dec. 31, 2012)	ANCORA_00003043
Decision Denying Institution of CBM Review, <i>HTC Corporation et al. v. Ancora Technologies Inc.</i> , CBM2017-00054 (P.T.A.B. Dec. 1, 2017)	ANCORA_00003064
Inter Partes Reexamination File History, No. 90/010,560	ANCORA_00003077
Declaration of Ian Jestice in <i>Ancora Technologies, Inc. v. HTC America, Inc.</i>	ANCORA_00003334
Declaration of Ian Jestice in <i>Ancora Technologies, Inc. v. Apple, Inc.</i> (with exhibits)	ANCORA_00000545
May 3, 2012 Deposition of Ian Jestice in <i>Ancora Technologies, Inc. v. Apple, Inc.</i> (with exhibits)	ANCORA_00000594 ANCORA_00000613 ANCORA_00000622 ANCORA_00000637
September 11, 2019 Deposition of Ian Jestice in <i>Ancora Technologies, Inc. v. HTC</i>	ANCORA_00002967
Merriam Webster's Collegiate Dictionary (10 th Ed.)	ANCORA_00003340
Microsoft Press Computer User's Dictionary	ANCORA_00003344
Microsoft Computer Dictionary (4 th Ed.)	ANCORA_00003353
Newton's Telecom Dictionary (16 th Ed.)	ANCORA_00003357
Encyclopedia of Computer Science (4 th Ed.)	ANCORA_00003360
Telecommunications Handbook	ANCORA_00003367
The American Heritage Dictionary (4 th Ed.)	ANCORA_00003373
The New Oxford American Dictionary (2001)	ANCORA_00003376
Garfinkle, <i>Forensic feature extraction and cross-drive analysis</i>	ANCORA_00049627
Petition for <i>Inter Partes</i> Review No. IPR2021-01338	ANCORA_00049357
Exhibit 1003 to IPR No. IPR2021-01338	ANCORA_00049158
Petition for <i>Inter Partes</i> Review No. IPR2021-01406	ANCORA_00049547
Exhibit 1003 to IPR No. IPR2021-01406	ANCORA_00049435
Markman Order, <i>Ancora Techs. Inc. v. LG Elecs. et al.</i>	ANCORA_00049105
Supp. Markman Order, <i>Ancora v. LG</i>	ANCORA_00049110
Declaration of Ian Jestice, <i>Ancora v. LG et al.</i>	ANCORA_00049084

Additionally, Ancora provides the following summaries of expected expert testimony from Ian Jestice:

CLAIM TERM	SUMMARY OF EXPECTED TESTIMONY
agent (Claim 1)	The expected expert testimony by Ian Jestice is summarized in the declaration of Ian Jestice in <i>Ancora v. HTC</i> (see, e.g., ¶¶ 5-14), and the deposition of Ian Jestice in <i>Ancora v. HTC</i> (see, e.g., p. 16-77). Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would understand the term “agent” to refer to a “software program or routine” and would not understand the term to be indefinite.
verification structure (Claim 1)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would not understand the term “verification structure” to be limited to a “data structure indicating that the program is licensed to operate on a specified computer” or “a software / data structure indicating that the program is licensed to operate on a specified computer.”
BIOS (Claim 1)	The expected expert testimony by Ian Jestice is summarized in the declaration of Ian Justice in <i>Ancora v. Apple</i> (see, e.g., ¶¶ 4-13), the deposition of Ian Jestice in <i>Ancora v. HTC</i> (<i>passim</i>), and the declaration of Ian Jestice in <i>Ancora v. LG et al.</i> (see, e.g., ¶¶ 5-9). Mr. Jestice is also expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would understand the plain and ordinary meaning of BIOS to refer to “An acronym for Basic Input / Output System. It is the set of essential startup operations that begin to run automatically when a computer is turned on, which test hardware, starts the operating system, and support the transfer of data among hardware devices” and would not understand the term “BIOS” to be limited to PC-compatible computers or to require that no file system is associated with the BIOS.
computer (Claim 1)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would understand the term “computer” to carry its plain and ordinary meaning. Mr. Jestice is also expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would understand “computer” to be limited to a “PC-compatible computer” or “PC-compatible device.”
memory of the BIOS /	The expected expert testimony by Ian Jestice is summarized in the

CLAIM TERM	SUMMARY OF EXPECTED TESTIMONY
erasable, non-volatile memory area of [a/the] BIOS (Claims 1, 7, 9, 12)	declaration of Ian Jestice in <i>Ancora v. Apple</i> , (see, e.g., ¶¶ 4-13, and the deposition of Ian Jestice in <i>Ancora v. HTC</i> (see, e.g., pp. 17-25, 31, 36, 57-68). Mr. Jestice is also expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would not understand the terms “memory of the BIOS” or “non-volatile memory of the BIOS” to refer to a memory “containing the BIOS” or a “dedicated area of memory where the BIOS is stored” as it includes memory accessed by BIOS and/or that BIOS uses.
program / licensed software program (Claims 1, 6, and dependents)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would understand the term “program” to mean “a set of instructions for a computer.” A summary of Mr. Jestice’s expected testimony is also included in the deposition of Ian Jestice in <i>Ancora v. Apple</i> , (see, e.g., p. 32). Mr. Jestice is also expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would not understand the term as being limited to: “operating system or application instructions, separate from the BIOS, that can be executed by a computer,” “a set of instructions in the volatile memory that can be executed by an operating system of a computer,” or “a set of instructions in the volatile memory that can be executed by an operating system of a computer.” Neither the specification nor the prosecution history supports Defendants’ construction and the constructions are contrary to prior courts’ constructions of this term.
license / license record (Claim 1)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims, the specification, and the prosecution history, he would understand the term “license” to carry its plain and ordinary meaning as an “authorization” or “permission” to run. A summary of Mr. Jestice’s expected testimony is also included in the deposition of Ian Jestice in <i>Ancora v. HTC</i> (<i>passim</i>). Mr. Jestice is also expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would understand “license” or “license record” as not being limited to: “permission authorizing operation of a program on a specified computer,” a “record of a license, where the record consists of author name, program name, and number of licensed users,” “a record of a license, where the record contains data associated with a licensed program with information for verifying

CLAIM TERM	SUMMARY OF EXPECTED TESTIMONY
	that a program is licensed for use on a specified computer,” or “a record of a license, where the record consists of author name, program name and number of licensed users, with information for verifying that a program is licensed for use on a specified computer.”
operation within a license (Claim 1)	Mr. Jestice is also expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would understand “operation within a license” as not being limited to: “restricting software operation to a licensed computer.”
first non-volatile memory area of the computer (claim 7)	Mr. Jestice is expected to opine that this term should be given its plain and ordinary meaning, and that a person of ordinary skill in the art, viewing the claim language in the context of the claims, the specification, and the prosecution history, would not understand “first non-volatile memory area of the computer” to be limited to a “non-volatile memory that is different from the erasable, non-volatile memory of the BIOS.”
the erasable second non- volatile memory area of the BIOS – No antecedent basis (claim 16)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would understand “the erasable second non-volatile memory area of the BIOS” as referring to “another (second) non-volatile section of the BIOS.” <i>See, e.g.</i> , ’941 Patent at 1:59–2:9; 2:10–11; 2:62–3:3; 3:18–42; 3:62–4:5; 4:49–54.
volatile memory (claim 1)	The expected expert testimony by Ian Jestice is summarized in the declaration of Ian Jestice in <i>Ancora v. Apple</i> , (<i>see, e.g.</i> , ¶¶ 4-8), and the deposition of Ian Jestice in <i>Ancora v. Apple</i> (<i>see, e.g.</i> , pp. 7-10, 12-13, 15, 21, 26-32). Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would understand “volatile memory” to mean “memory whose data is not maintained when the power is removed.
non-volatile memory (claim 1)	The expected expert testimony by Ian Jestice is summarized in the declaration of Ian Jestice in <i>Ancora v. Apple</i> , (<i>see, e.g.</i> , ¶¶ 4-8), and the deposition of Ian Jestice in <i>Ancora v. Apple</i> (<i>see, e.g.</i> , pp. 7-10, 12-13, 15, 21, 26-32). Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would understand “non-volatile memory” to refer to “memory whose data is maintained when the power is removed or voltage is too low.”
pseudo unique key (claim 7, 9, 12, and	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language

CLAIM TERM	SUMMARY OF EXPECTED TESTIMONY
dependents)	in the context of the claims and the specification, he would not understand “pseudo unique key” as being limited to a “key that uniquely identifies the computer to at least an acceptably low probability of a successful unauthorized transfer of licensed software between two computers” nor “an identification code for the host computer that uniquely identifies the computer to at least an acceptably low probability of a successful unauthorized transfer of licensed software between two computers.” Neither the specification nor the prosecution history supports Defendants’ construction.
accommodating data (Claim 1)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would not understand “accommodating data” as being indefinite.
license authentication bureau (Claim 2)	Mr. Jestice is expected to opine that as a person of ordinary skill in the art at the time of the invention, viewing the claim language in the context of the claims and the specification, he would not understand “license authentication bureau” to be limited to a “telecommunications accessible processor that verifies the license record” or “a telecommunications accessible processor that formats, encrypts, and verifies the license record.”

The above list of evidence and summary of expert testimony is based on information that is currently available to Ancora. Ancora reserves the right to supplement, amend, and/or modify this identification of extrinsic evidence and testimony, including as a result of Defendants’ extrinsic evidence and/or arguments or contentions.

Date: January 13, 2022

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