

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 22-6019-GW-PDx	Date	October 6, 2023
Title	<i>Playvuu, Inc. v. Snap, Inc.</i>		

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez

None Present

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

**PROCEEDINGS: IN CHAMBERS - FINAL ORDER REGARDING CLAIM
CONSTRUCTION**

A *Markman*/claims construction hearing was held on October 5, 2023 (ECF No. 82) where a tentative ruling regarding the *Markman* issues was provided to counsel on October 3 (ECF No. 81). After considering the parties' filings and the oral argument of counsel at the hearing, the Court adopts its tentative ruling as its final decision as to the *Markman*/claims construction. Additionally, for reasons stated in the ruling and at the hearing, Defendant is given until October 30, 2023 to file a renewed motion to dismiss for patent ineligible subject matter under 35 U.S.C. § 101, if it elects to do so.

Initials of Preparer JG

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**PROCEEDINGS: IN CHAMBERS - TENTATIVE ORDER REGARDING CLAIM
CONSTRUCTION**

Attached hereto is the Court's Tentative Order Regarding Claim Construction set for hearing on October 5, 2023 at 8:30 a.m.

Initials of Preparer JG

Playvuu, Inc. v. Snap, Inc., Case No. 2:22-cv-06019-GW(PDx)
Tentative Order Regarding Claim Construction

I. Introduction

Plaintiff Playvuu, Inc. brought this action against Snap, Inc., alleging infringement of U.S. Patent No. 10,931,911 (the “’911 Patent”). *See* Complaint, Docket No. 1; Exhibit A, Docket No. 3. The Court previously denied without prejudice Defendant’s motion to dismiss for patent ineligible subject matter under 35 U.S.C. § 101. *See* Docket Nos. 29 (tentative ruling), 31 (minutes adopting tentative ruling). In that order, the Court explained that whether Claim 1 “is directed to an improved user interface for computing devices,” like the type of “improved user interface” the Federal Circuit approved in *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018), “presents a claim construction issue that cannot be decided at the motion to dismiss stage.” Docket No. 29 at 8. The Court found that, “without construing the scope of the claimed ‘interface,’ it is unclear” whether “that interface is an improvement to computer technology or merely a generic black-box component.” *Id.* Further, “[w]ithout construing the nature of the claimed user interface, the Court [was] unable to determine whether the claim language . . . provides sufficient specificity to avoid ineligibility for being results-oriented.” *Id.*

The case has now reached the claim construction stage. The parties have filed their opening and responsive claim construction briefs. *See* Docket Nos. 60 (Plaintiff’s Opening Brief), 61 (Defendant’s Opening Brief), 63 (Plaintiff’s Responsive Brief), 64 Defendant’s Responsive Brief). Conspicuously, Plaintiff does not address the scope of the claimed interface.

The Court held a technology tutorial hearing on August 31, 2023, and held a claim construction hearing on September 21, 2023. The Court would construe the disputed terms as stated herein.

II. Background

Plaintiff alleges that Defendant’s SnapChat App infringes the ’911 Patent. Compl., ¶ 31. According to Plaintiff, after a meeting during which Plaintiff’s founder met with Defendant’s employees to discuss potential acquisition of Plaintiff’s invention, Defendant stole Plaintiff’s invention. *Id.* ¶¶ 24-28. The ’911 Patent, which discloses Plaintiff’s invention, was issued on February 23, 2021. *See* ’911 Patent at Cover. It is titled “creating and disseminating of user generated content over a network.” *Id.* The patent is a continuation of Application No. 12/953,350, which was filed on November 23, 2010, and is now abandoned. *Id.* It claims priority

to U.S. Provisional Patent Application No. 61/364,500, which was filed on July 15, 2010. *Id.* at 1:7-11.

The '911 Patent relates to “methods and systems for creating and disseminating of audio and video content generated by a user over a network.” *Id.* at Abstract. It explains that, traditionally, to record music, individuals had to use a music studio. *Id.* at 1:16-18. Given this dynamic, “[t]he intricacies of music production and the technology behind it innately create[d] immense difficulty and challenges to aspiring artists, musicians, and songwriters.” *Id.* at 1:25-28. Artists had to consider “the timing of the recording session, the location and environment of the recording studio.” *Id.* at 1:30-31. “Moreover, traveling to an established studio often entail[ed] effort, expense, and lost time, all of which may be unfavorable for the development of a burgeoning artist. The lack of technical expertise [was] also an obstacle which may impede the aspects of audio and video creation.” *Id.* at 1:32-37. Thus, the present invention sought to provide “systems and methods for enabling a user to generate audio content over a network” rather than going into a studio. *Id.* at 3:48-50.

According to the invention, to allow a user to “create[e] an audio content, a request is sent by a user to start the creation process.” *Id.* at 3:54-55. For example, “a user is asked to upload a pre-recorded audio content,” or a user is “prompted to create audio content.” *Id.* at 3:55-58. A user may select audio content by “view[ing] a list of compositions and to preview the sound of each pre-recorded composition.” *Id.* at 3:63-65. A user may create audio content by “click[ing] [] a button (*e.g.*, the ‘record button’) on the user interface, [which] trigger[s] a countdown to when the recording session will begin.” *Id.* at 4:9-14. “If the user record[s] over a pre-recorded composition or pre-recorded video recording, the user can listen to or view the results of the audio and video synchronization.” *Id.* at 4:36-38. Users who are not in the same location can use the disclosed invention to collaborate by creating audio content over a network. *Id.* at 4:61-5:3. After a file is permanently saved, a user can decide whether to share it or keep it private. *Id.* at 5:4-12.

Figure 1 illustrates how the claimed system works. Specifically, it depicts “a block diagram of client devices coupled to one another and server-side devices to facilitate [user] generation of audio and video content over a network.” *Id.* at 1:51-53.

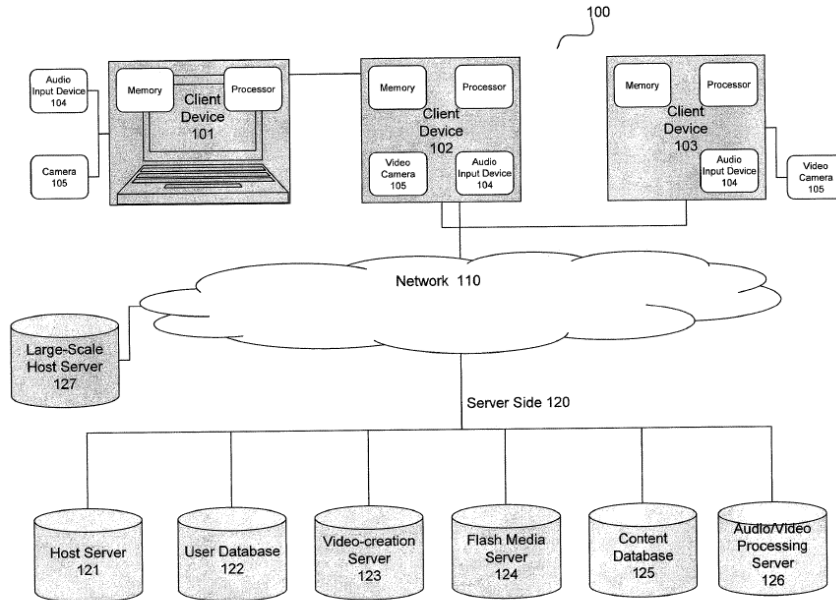


FIG. 1

'911 Patent, Fig. 1.

In this embodiment, the “client devices 101, 102, 103” “serve as the interface to a user.” *Id.* at 5:15-16. “A user may operate a computer, a server and/or any other device that is able to establish a connection with another device, to access the embodiment.” *Id.* at 5:16-28. “For example, the client devices and content providers can be, but are not limited to, a server desktop, a desktop computer, a computer cluster, a mobile computing device such as a notebook, a laptop computer, a handheld computer, a mobile phone, a smart phone, a PDA, a Blackberry device, a Treo, iPhone and/or an iPad, etc.” *Id.* at 5:18-23. “The client devices 101-103 typically include a display or another output functionality to present data exchanged between the devices to a user.” *Id.* at 5:24-26.

Plaintiff alleges that Defendant infringes Claims 1, 2, 4, 6, 7, 8, and 9 of the '911 Patent because Defendant's Snapchat application “allows users to add ... overlays, filters, and special effects to ... photos and videos created using the Snap[c]hat” application. Complaint, ¶ 27; *see also* Docket No. 60 at 1. Claim 1, which is representative, generally discloses a method for creating and sharing user-generated content over a network as follows:

1. A method for generating and sharing audio/video content to a social network, comprising:
 - initiating a content creation process in response to a request from a user;
 - prompting the user to record content;**
 - prompting the user to select an audio composition** from a list of compositions retrieved from a host server;

presenting the user with a record button;
 presenting the user with a selection of visual media content for use as a background, wherein upon selecting an instance of pre-recorded visual media content from the selection, the user is presented with **an interface to selectively edit the instance of pre-recorded visual media content**;
providing simultaneous aural playback of the audio composition during a recording session, thereby permitting the user to hear the composition during recording;
generating recorded content based on the recording session by **compositing** video captured during the recording session with the instance of pre-recorded visual media content, such that **the video captured during the recording session is selectively made transparent** to reveal the instance of pre-recorded visual media content;
 displaying a preview of the recorded content to the user, wherein **the preview of the recorded content enables the user to change the timing or latency of the recorded content to relative to the selected audio composition**;
 selecting a privacy attribute for the recorded content;
 sending the recorded content to the host server, wherein the host server is configured to store multimedia content to **facilitate access to other users** according to the selected privacy attribute;
 receiving a request to publish the recorded content;
 in response to the request to publish, processing and encoding individual components of the recorded content to create a streamable video; and
 publishing the streamable video by copying the streamable video to a media server.

'911 Patent, Claim 1 (emphasis added to illustrate disputed claim limitations).

Claim 7 discloses “[t]he method of Claim 1, **wherein the preview is stored in temporary memory and re-written to non-transient memory upon receiving a save request from the user.**” *Id.*, Claim 7 (emphasis added to illustrate disputed claim limitations).

III. Legal Standard

A. Claim Construction

Claim construction is an interpretive issue “exclusively within the province of the court.” *Markman v. Westview Instruments, Inc.*, 517 U.S. 370, 372 (1996). It is “a question of law in the way that we treat document construction as a question of law,” with subsidiary fact-finding reviewed for clear error pursuant to Fed. R. Civ. P. 52(a)(6). *Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 574 U.S. 318, 325–29 (2015). The claim language itself is the best guide to the meaning of a claim term. *See Vederi, LLC v. Google, Inc.*, 744 F.3d 1376, 1382 (Fed. Cir. 2014). This is because the claims define the scope of the claimed invention. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). But a “person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent.” *Id.* at 1313. Thus, claims “must be read in view of the specification,”

which is “always highly relevant to the claim construction analysis.” *Id.* at 1315 (internal quotations omitted).

Although claims are read in light of the specification, limitations from the specification must not be imported into the claims. *Abbott Labs. v. Sandoz, Inc.*, 566 F.3d 1282, 1288 (Fed. Cir. 2009). “[T]he line between construing terms and importing limitations can be discerned with reasonable certainty and predictability if the court’s focus remains on understanding how a person of ordinary skill in the art would understand the claim terms.” *Phillips*, 415 F.3d at 1323.

The prosecution history may lack the clarity of the specification, but it is “another established source of intrinsic evidence.” *Vederi*, 744 F.3d at 1382. “Like the specification, the prosecution history provides evidence of how the PTO and the inventor understood the patent.” *Phillips*, 415 F.3d at 1317 (citations omitted). “Furthermore, like the specification, the prosecution history was created by the patentee in attempting to explain and obtain the patent.” *Id.* “Yet because the prosecution history represents an ongoing negotiation between the PTO and the applicant, rather than the final product of that negotiation, it often lacks the clarity of the specification and thus is less useful for claim construction purposes.” *Id.*

Claim construction usually involves resolving disputes about the “ordinary and customary meaning” that the words of the claim would have had “to a person of ordinary skill in the art in question at the time of the invention.” *Id.* at 1312–13 (internal quotations and citations omitted). But in some cases, claim terms will not be given their ordinary meaning because the specification defines the term to mean something else. “[A] claim term may be clearly redefined without an explicit statement of redefinition,” so long as a person of skill in the art can ascertain the definition by reading the patent documents. *Id.* at 1320; *see also Trustees of Columbia Univ. in City of New York v. Symantec Corp.*, 811 F.3d 1359, 1364 (Fed. Cir. 2016).

Where the patent itself does not make clear the meaning of a claim term, courts may look to “those sources available to the public that show what a person of skill in the art would have understood disputed claim language to mean,” including the prosecution history and “extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art.” *Phillips*, 415 F.3d at 1314 (internal quotations omitted). Sometimes, the use of “technical words or phrases not commonly understood” may give rise to a factual dispute, the determination of which will precede the ultimate legal question of the significance of the facts to the construction “in the context of the specific patent claim under review.” *Teva*, 574 U.S. at 332. “In some cases,

the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Phillips*, 415 F.3d at 1314. “In such circumstances, general purpose dictionaries may be helpful.” *Id.*

B. Indefiniteness

A patent’s specification must conclude “with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.” 35 U.S.C. § 112(b); *see also* 35 U.S.C. § 112 ¶ 2 (2006). In order to meet this “definiteness” requirement, “a patent’s claims, viewed in light of the specification and prosecution history, [must] inform those skilled in the art about the scope of the invention with reasonable certainty.” *Nautilus, Inc. v. Biosig Instruments, Inc.* (“*Nautilus I*”), 572 U.S. 898, 910 (2014). The Supreme Court in *Nautilus I* emphasized that patents must be precise enough to afford clear notice of what is claimed, thereby “appris[ing] the public of what is still open to them,” while recognizing that absolute precision is unobtainable given “the inherent limitations of language.” *Id.* at 899, 910 (*quoting Markman*, 517 U.S. at 373).

General claim construction principles apply to indefiniteness challenges, but the burdens are different. *See Enzo Biochem, Inc. v. Applera Corp.*, 599 F.3d 1325, 1332 (Fed. Cir. 2010) (“In the face of an allegation of indefiniteness, general principles of claim construction apply”) (internal quotations and citations omitted). Although courts construing claim language sit in relative equipoise, a patent is “presumed valid under 35 U.S.C. § 282.” *Biosig Instruments, Inc. v. Nautilus, Inc.* (“*Nautilus II*”), 783 F.3d 1374, 1377 (Fed. Cir. 2015). “[C]onsistent with that principle, a fact finder is instructed to evaluate . . . whether an invalidity defense has been proved by *clear and convincing evidence*.” *Id.* (*quoting Microsoft Corp. v. i4i Ltd. P’ship*, 564 U.S. 91, 111 (2011)) (emphasis added and brackets removed); *Young v. Lumenis, Inc.*, 492 F.3d 1336, 1345 (Fed. Cir. 2007) (“Because a patent is presumed to be valid, the evidentiary burden . . . is one of clear and convincing evidence.”).

IV. **Analysis**

A. Agreed Claim Terms

The parties agree that the claim limitation “to relative to” should be construed as “relative to.” *See* Docket No. 54 (“Amended JCCPS”) at 1. The Court accepts the parties’ agreed construction, and this construction will bind them. *See MyMail, Ltd. v. Am. Online, Inc.*, 476 F.3d

1372, 1377–78 (Fed. Cir. 2007) (rejecting appellate challenge to claim construction agreed to by party in district court).

B. Disputed Claim Terms

i. “*facilitate access to other users*” (Claim 1)

Playvuu’s Proposed Construction	Snap’s Proposed Construction
“facilitate access by other users”	Plain and ordinary meaning

The parties primarily dispute whether this limitation contains a typographical error that should be corrected. Plaintiff contends that use of the word “to” in this limitation is “an obvious clerical error” that “can be corrected by the Court.” Docket No. 60 at 3. Plaintiff contends that the claim language makes clear that “[i]t is not the users to which access is facilitated, but the recorded content.” *Id.* (citing ’911 Patent at 4:54-56 (“[t]he user can make the completed product of the audio or video content accessible to other users via the network interface and provide comments and/or ratings”)). Therefore, because the error is “clear from the face of the patent,” Plaintiff argues the Court can correct it. *Id.* at 4; *see also* Docket No. 63 at 15 (“As written, this phrase suggests that it is ‘other users’ which are being accessed, rather than the ‘multimedia content.’”).

Defendant argues that no construction is necessary because this limitation “is easily understandable as describing something the host server is configured to do—*i.e.*, store the content and provide access to other users based on the privacy settings.” Docket No. 61 at 23 (citing ’911 Patent at 4:54-56 (“The user can make the completed product of the audio or video content accessible to other users via the network interface and provide comments and/or ratings.”)). Defendant acknowledges that the parties’ proposed constructions are facially similar, but explains the difference it perceives: “‘Facilitating access to other users’ is server-to-user facilitation (*e.g.*, making content accessible), while ‘facilitating access by other users’ is user-to-server facilitation (*e.g.*, providing an interface the user may use to access the content).” *Id.* Defendant also argues there is no typographical error to correct. Docket No. 64 at 18.

A step of the claimed method for generating and sharing audio/video content to a social network comprises “sending the recorded content to the host server, wherein the host server is configured to store multimedia content *to facilitate access to other users* according to the selected privacy attribute.” ’911 Patent, Claim 1 (emphasis added). When read in the context of the claim

language and specification as a whole, the plain and ordinary meaning of this disputed limitation is to facilitate access *to the stored multimedia content*, not to facilitate access to other users. *See, e.g., id.* at 5:4-12 (“the user can determine whether the work is accessible by other users”). Nothing in the claim language or specification suggests that the claimed method facilitates access to other users, but rather storing the user-generated content on the host server makes that content accessible to other users. The Court finds that the plain and ordinary meaning of “facilitate access to other users” is “facilitate access to the stored multimedia content by other users.” Because the plain and ordinary meaning of this limitation is evident, the Court finds no clerical error, let alone one the Court can (or need bother to) correct.

- ii. “*an interface to selectively edit the instance of prerecorded visual media content*” (Claim 1)

Playvuu’s Proposed Construction	Snap’s Proposed Construction
“a graphical user interface by which a user can edit all or a portion of the instance of pre-recorded visual media content”	Indefinite; alternatively, “interface, provided by the server, to selectively edit, on the server, the instance of pre-recorded visual media content”

The parties primarily dispute whether “selectively” is indefinite, and if not, whether the graphical user interface must be provided by the server. Plaintiff argues that Figure 18 shows an example graphical user interface, and as used in the claim, “selectively” means “all or a portion of,” so a POSA would understand this term with reasonable certainty. Docket No. 60 at 5. As to the proposed alternative construction, Plaintiff argues that the specification teaches that the claimed method can be carried out on “client devices” that “serve as an interface” (*e.g.*, a desktop computer, notebook computer, laptop computer, a mobile phone). *Id.* at 6 (citing ’911 Patent at 5:16-24), and all of the steps from recording, playing, editing, and saving content can be performed on this interface. *Id.* (citing ’911 Patent at 14:38-41); *see also* Docket No. 63 at 6 (a POSA would understand what it means to “edit” something).

Defendant argues that “selectively” is indefinite because the claim provides no guidance regarding “how many frames of ‘pre-recorded visual media content’ (where the content is video) must be edited, and how much of the viewable area of the ‘pre-recorded visual media content’ (either video or a frame thereof) must be edited, to meet the claim language.” Docket No. 61 at 10. Defendant contends that the specification provides no specific guidance concerning what

editing is claimed. *Id.* at 10. Defendant also argues that Figure 18 is irrelevant to the dispute because it relates to editing prerecorded video, not editing a background. Docket No. 64 at 5. In any event, Defendant argues that Plaintiff’s proposed construction does not resolve the ambiguity. Docket No. 61 at 11. Alternatively, Defendant argues the claimed editing must take place through an interface on the server.¹ *Id.*

A step of the claimed method for generating and sharing audio/video content to a social network comprises “presenting the user with a selection of visual media content for use as a background, wherein upon selecting an instance of pre-recorded visual media content from the selection, the user is presented with *an interface to selectively edit the instance of pre-recorded visual media content.*” ’911 Patent, Claim 1 (emphasis added). The Court finds that Defendant has not demonstrated by clear and convincing evidence that this term, and in particular use of the word “selectively,” is indefinite. Rather, the Court finds that, when read in the context of the claim language and specification as a whole, a POSA would understand that the plain and ordinary meaning of “selectively” conveys user preference or discretion to edit the selected background content as the user likes. *See, e.g.*, ’911 Patent at 3:12-15 (“The terms used in this specification generally have their ordinary meanings in the art, within the context of the disclosure, and in the specific context where each term is used.”).

Nothing in the patent supports Defendant’s suggestion that numerically precise instructions, such as how many frames must be edited, would be required for a POSA to understand this term with reasonable certainty. Accordingly, the term is not indefinite and it shall have its plain and ordinary meaning.

iii. *“the video captured during the recording session is selectively made transparent”* (Claim 1)

Playvuu’s Proposed Construction	Snap’s Proposed Construction
“all or a portion of the video captured during the recording session is made transparent”	Indefinite

As with the prior term, the parties primarily dispute whether “selectively” makes this term indefinite. Similar to its arguments above, Plaintiff contends that a POSA would understand this term to mean “all or a portion of the video captured during the recording session is made

¹ Defendant’s argument (that the claimed editing must take place through an interface on the server) is addressed in the Court’s construction of the “prompting” terms, *infra*.

transparent.” Docket No. 60 at 13.

Defendant argues this term “is ambiguous at least because is unclear just what must be ‘selectively made transparent’” (*e.g.*, the video as a whole, a subset of individual frames, a single frame); how much of the viewable area must be transparent (*e.g.*, 50%, 10%, 1%, .01%); and how transparent must it be (*e.g.*, 100%, .01%). Docket No. 61 at 8-9.

A step of the claimed method comprises “generating recorded content based on the recording session by compositing video captured during the recording session with the instance of pre-recorded visual media content, such that *the video captured during the recording session is selectively made transparent* to reveal the instance of pre-recorded visual media content.” ’911 Patent, Claim 1 (emphasis added). As with the other “selectively” term, the Court finds that Defendant has not demonstrated by clear and convincing evidence that this term is indefinite. Rather, the Court finds that, when read in the context of the claim language and specification as a whole, a POSA would understand that the plain and ordinary meaning of “selectively” conveys user preference or discretion to edit the selected background content as the user likes.

Nothing in the patent supports Defendant’s suggestion that numerically precise instructions, such as how many frames must be made transparent and how transparent they must be, would be required for a POSA to understand this term with reasonable certainty. This is especially true where this step describes compositing, which was already well-known in the art. *See id.* at 17:22-25 (“In one embodiment, the user interface allows for a technique of compositing two frames together, wherein one image is selectively made transparent to reveal the other image, as well known in the prior art.”). Accordingly, the term is not indefinite and it shall have its plain and ordinary meaning.

iv. “*Prompting*” Terms (Claim 1)

Term	Playvuu’s Proposed Construction	Snap’s Proposed Construction
“prompting the user to record content”	“encouraging the user, through a user interface, to record audio/video content by presenting a “record” button”	“initiating, by the server, display of a prompt for the user to record content”
“prompting the user to select an audio composition”	“encouraging the user, through a user interface, to select an audio composition from a list”	“initiating, by the server, display of a prompt for the user to select an audio composition”

The parties dispute what “prompting” requires, and whether a server must provide the prompting, or the prompting may be done by either a server or client device. Plaintiff argues that its server-or-client proposed construction is supported by the claim language and specification. Docket No. 60 at 8. Plaintiff contends there is no support for Defendant’s proposed limiting construction of “initiating, by the server” because the specification’s reference to “a machine,” and the non-limiting list of examples provided for the machine, including “a server computer, a client computer, a personal computer (PC), a tablet PC, a laptop computer, a set-top box (STB), a personal digital assistant (PDA), a cellular telephone, an iPhone, a Blackberry,” demonstrates that carrying out the steps on a server is not required. *Id.* at 8-9 (citing ’911 Patent, 18:10-13).

Defendant argues that “prompting” requires a “display of a prompt” rather than “some undefined general ‘encouragement.’” Docket No. 61 at 12; *see also id.* at 15 (arguing “encouragement” is indefinite and Plaintiff’s other language creates redundancies). Defendant also argues that the claimed invention is “clearly server-based.” *Id.* at 11. Since the claim language does not address “prompting” or where it is initiated, Defendant examines the specification, which states that a user may be “prompted to create audio content” (’911 Patent at 3:56-58); repeatedly references “prompts” and “queries” (*id.* at 3:67-4:2, 13:62-65); and depicts a “lyric generation prompt” (*id.* at Fig. 7). Docket No. 61 at 12-13. Further, Defendant argues that the specification consistently refers to the claimed content generation steps being done “over a network” by a server. *Id.* at 13 (citing ’911 Patent at 1:51-57, 6:33-35, 7:59-61, 11:7-15). Defendant observes that the initial communication with the user and all subsequent steps are “handled by communications module 218 within server 200, which establishes communication sessions with clients and maintains the session “until the user leaves the site.” *Id.* at 14 (citing ’911 Patent at 8:8-21, 11:24-32, 11:51-61; Figs. 2-5).

The Court will resolve both disputes in Defendant’s favor. As relevant here, Claim 1 discloses: “A method for generating and sharing audio/video content to a social network” that includes the following steps: (1) “initiating a content creation process in response to a request from a user;” (2) “prompting the user to record content;” and (3) “prompting the user to select an audio composition from a list of compositions retrieved from a host server.” ’911 Patent, Claim 1.

First, the Court finds that, as used in the claim and supported by the specification, the plain and ordinary meaning of “prompting the user to” is clear. A POSA would understand “prompting the user to” means requesting or asking the user to take certain action (*e.g.*, record content, select

an audio composition). The parties do not meaningfully dispute this. Rather, Plaintiff suggests swapping “encouraging” for “prompting,” but a POSA would understand “prompting” in this context; there is no need to use a synonym in lieu of the actual claim language. *See, e.g., id.* at 3:57-58 (“a user does not have a final audio content and the user is then prompted to create audio content”), 3:67-4:2 (“a lyric mechanism prompts the user to enter the text of the original lyrics in a query box”), 8:20-25 (“when a user wishes to record an audio or video recording, the communications module 218 prompts the user for permission to access peripheral devices (*e.g.*, microphone, camera, webcam, camcorder, etc.) connected to the user device”); 13:62-63 (“FIG. 7 illustrates an example user interface of a lyric generation prompt,” which “includes text boxes, suitable for automatically generating lyrics by using text submitted by a user”). The Court declines to add the other language in Plaintiff’s proposed construction (*e.g.*, “user interface”) because it would create redundancies with the remaining claim language. *See, e.g., TMI Prods. v. Rosen Entm’t Sys., L.P.*, 610 Fed. Appx. 968, 971-972 (Fed. Cir. 2015); *see also* ’911 Patent at Claim 1 (requiring “user interface”).

Second, the “prompting” steps must be read in connection with the “initiating” step that precedes them. Specifically, the first step in the claimed method is “*initiating* a content creation process in response to a request from a user,” then “*prompting* the user to record content” and “*prompting* the user to select an audio composition from a list of compositions retrieved from a host server.” *See* ’911 Patent, Claim 1 (emphasis added). Taken together, a user request initiates a content creation process that prompts the user to record content and select an audio composition from a list retrieved from the server. The specification teaches that both of these prompts come from the server.

The parties agree that the claimed method for generating and sharing audio and video content to a social network comprises a client-side and a server-side. *See* ’911 Patent at 3:51-53 (“the present disclosure relates to using a network for generating audio and video content over a network”). On the client side, “client devices” “serve as the interface to the user;” client devices can be any “device that is able to establish a connection with another device.” *Id.* at 5:15-17 (*e.g.*, computer, laptop, smart phone). On “the server-side,” a “host server facilitates the generation of audio and video content over a network. The host server is used to respond to requests from a

client device 101-103 for web-pages.” *Id.* at 6:33-36.²

The specification teaches that, to generate content for sharing, a user is “asked to upload a pre-recorded audio content” or “prompted to create audio content.” *Id.* at 3:55-58. To “create[e] an audio content, a request is sent by a user to start the creation process.” *Id.* at 3:54-55. A user can use “an audio input device 104 [] coupled to the client device 101-103” “to capture audio or voice content for uploading to the server side 120.” *Id.* at 5:27-32. “[T]he present disclosure” also “provid[es] a mechanism for users to access audio content and video contents of others and in some instances, use the work of others to generate collaborative content via a service site hosted by a web-portal.” *Id.* at 4:57-61. The language “asked to upload” suggests the server is “initiating” the content creation process by “prompting” the user to take certain steps. Further, as Defendant observes, the fact that all of the embodiments and examples provided in the specification show server-side functions further supports this conclusion. *Kinetic Concepts, Inc. v. Blue Sky Med. Grp., Inc.*, 554 F.3d 1010, 1019 (Fed. Cir. 2009) (“wound” means “skin wound” where all examples in patent involve skin wounds).

Plaintiff counters that Figure 23 provides an example embodiment wherein the “prompting” steps can occur on the client-side client device. Figure 23 does not shed light on the parties’ dispute, however, because it has nothing to do with the “prompting” steps. Instead, it “shows a diagrammatic representation of a machine in the example form of a computer system 2300 within which a set of instructions, for causing the machine to perform any one or more of the methodologies discussed herein, may be executed.” *Id.* at 17:66-18:3.

The accompanying description explains that a computer (*i.e.*, machine) can fill the role of any required network component used in the claimed method. Specifically, “[i]n a network deployment, the machine may operate in the capacity of a server *or* client machine in a client-server network environment, *or* as a peer machine in a peer-to-peer (or distributed) network environment.” *Id.* at 18:4-9 (emphasis added); *see also id.* at 18:33-43 (this can all be done on any computer). Stating that a machine can be used in myriad ways throughout the network says nothing about the claimed content creation prompts. That the description of Figure 23 states that the same type of machine could serve multiple network purposes in achieving the claimed method

² A network “provide[s] connectivity to the client devices 101-103 and servers.” *Id.* at 5:58-59. “Thus, the client devices 101-103 can communicate with remote servers (*e.g.*, web server, host server, mail server, instant messaging server) on the server side 120 that provides the user access to the World Wide Web via a web browser, for example.” *Id.* at 6:19-25.

is unsurprising considering the extent to which the specification makes clear that the claimed method is performed by using off-the-shelf components (*i.e.*, any device, network configuration, social network site, etc. will do). This continues to raise questions about whether the claimed method is a patent ineligible abstract idea.

Accordingly, the disputed terms shall have their plain and ordinary meaning, with the clarification that the server initiates the prompts.

v. Recording Session Terms (Claim 1)

Term	Playvuu's Proposed Construction	Snap's Proposed Construction
"providing simultaneous aural playback of the audio composition during a recording session"	Plain and ordinary meaning	"providing, by the server, simultaneous aural playback of the audio composition during a recording session"
"generating recorded content"	"generating and recording content"	"generating, by the server, recorded content"
"compositing"	Plain and ordinary meaning	"compositing, by the server"

As with the "prompting" terms, the parties dispute whether the actions described in these limitations are initiated by the server. Plaintiff argues that no construction is needed for the "simultaneous playback" and "compositing" terms, and incorporates its server-related arguments stated above. Docket No. 60 at 10, 12; *see also* Docket No. 63 at 10-11. As to "generating recorded content," Plaintiff argues that the claim language and specification supports the conclusion that the claimed "generating" must precede the recording that creates "recorded content." Docket No. 60 at 11.

Defendant generally reiterates its arguments that the claimed functionality is provided by the server. Docket No. 61 at 16-20; Docket No. 64 at 13-16.

The claimed method includes steps for "providing simultaneous aural playback of the audio composition during a recording session, thereby permitting the user to hear the composition during recording," and "generating recorded content based on the recording session by compositing video captured during the recording session with the instance of pre-recorded visual media content." '911 Patent, Claim 1. Reading these disputed limitations together, and in the context of the patent as a whole, the Court finds that its server-related analysis for the "prompting" terms applies to the functionality claimed in the recording session terms as well. As stated, all of the relevant examples

provided in the specification recite server-side functionality. *See, e.g.*, '911 Patent at 3:48-50 (“Embodiments of the present disclosure include systems and methods for enabling a user to generate audio content over a network”); 3:51-53 (“the present disclosure relates to using a network for generating audio and video content over a network”); 6:33-35 (host server 121 “facilitates the generation of audio and video content over a network”); 8:65-9:7 (recording engine 206 records audio/video and “can perform simultaneous aural playback of a composition to the recording user during a recording session when the recording user has requested to record over the composition”); 10:32-37 (the editing module 208 of server 200 performs “video processing including, but not limited to, geometric conversions, color correction and saturation, digital compositing, de-mosaicing, white balance, noise reduction, segmenting, auto-exposure adjustment, de-interlacing, anti-flicker correction, filtering, etc.”).

Besides clarifying that the claimed functionality is provided on the server side, the Court sees no reason to deviate from the presumption of giving the limitations their plain and ordinary meaning. A POSA would understand the steps described in these limitations and the Court declines to adopt Plaintiff’s additional verbiage.

vi. *Preview Terms* (Claim 1, Claim 7)

Term	Playvuu’s Proposed Construction	Snap’s Proposed Construction
“the preview enables the user to change the timing or latency of the recorded content to relative to the selected audio composition”	“the preview includes a user interface which enables the user to change the timing or change the latency of the recorded content relative to the selected audio composition”	“the preview is provided by the server and enables the user to change the timing or latency of the recorded content on the server relative to the selected audio composition”
“wherein the preview is stored in temporary memory and rewritten to nontransient memory upon receiving a save request from the user”	“wherein the preview is stored in transient memory and is saved to non-transient memory upon receiving a save request from the user”	“wherein the preview is stored in temporary memory on the server and re-written to nontransient memory upon receiving a save request from the user”

Similar to the prompting terms and recording session terms, the parties primarily dispute the role of the server with respect to the preview. Plaintiff argues that the claim language and specification support its proposed constructions, and incorporates its server-related arguments. Docket No. 60 at 14-16; Docket No. 63 at 13-14.

Defendant reiterates its server-related arguments in the context of these limitations. Docket No. 61 at 21-23; Docket No. 64 at 16-17.

The claimed method includes a step for “displaying a preview of the recorded content to the user, wherein the preview of the recorded content enables the user to change the timing or latency of the recorded content to relative to the selected audio composition.” ’911 Patent, Claim 1. Dependent Claim 7 adds that “the preview is stored in temporary memory and re-written to non-transient memory upon receiving a save request from the user.” *Id.*, Claim 7. Reading the disputed “preview” limitations together, and in the context of the patent as a whole, the Court finds that its server-related analysis for the prompting and recording session terms applies to how the preview is provided and where it is stored. Again, all of the examples provided in the specification recite server-side functionality. *See, e.g.*, ’911 Patent at 4:39-41 (“a preview of the recording (*e.g.*, audio or video) can be played back to the user over the network,” and the user may make adjustments to the recording); *id.* at 10:2-8 (preview module 216 (on server 200) allows a user to make “adjustments to the recorded content (*e.g.*, sound or imaging effects, fade-in, fade-out, frequency, timing, etc.),” including “timing or latency adjustment” to synchronize the user recording with the selected pre-recorded composition).

Besides clarifying that the preview is provided and stored on the server side, the Court sees no reason to deviate from the presumption applying plain and ordinary meaning. A POSA would understand the preview steps described in these limitations and Plaintiff does not provide a persuasive basis for substituting alternate language for the claim language.

C. Section 101 Issues

As stated, in denying Defendant’s § 101 motion, the Court previously ruled that whether Claim 1 “is directed to an improved user interface for computing devices,” like the type of “improved user interface” the Federal Circuit approved in *Core Wireless Licensing S.A.R.L. v. LG Elecs., Inc.*, 880 F.3d 1356, 1362 (Fed. Cir. 2018), appears to “present[] a claim construction issue that cannot be decided at the motion to dismiss stage.” Docket No. 29 at 8. The Court assumed that, “without construing the scope of the claimed ‘interface,’ it is unclear” whether “that interface is an improvement to computer technology or merely a generic black-box component.” *Id.* Thus, “[w]ithout construing the nature of the claimed user interface, the Court [was] unable to determine whether the claim language . . . provides sufficient specificity to avoid ineligibility for being results-oriented.” *Id.*

Despite framing this issue for Plaintiff, and despite denying Defendant's § 101 motion without prejudice to renewal after claim construction, in its dozens of pages of claim construction briefing, Plaintiff does not address the claimed "user interface" generally, or address whether it is an improved user interface that can qualify for patent eligibility specifically. Accordingly, when "the time for claim construction has passed, all unconstrued claims shall have their plain and ordinary meanings." *Broadcom Corp. v. Emulex Corp.*, No. CV 10-03963 JVS ANx, 2011 WL 13130705, at *4 (C.D. Cal. Aug. 10, 2011). Following issuance of the Court's Claim Construction Order, the Court invites Defendant to renew its § 101 motion.

V. Conclusion

For the reasons stated, the Court would construe the disputed claim terms as follows:

Term	Court's Construction
"facilitate access to other users"	Plain and ordinary meaning
"an interface to selectively edit the instance of prerecorded visual media content"	Not indefinite; plain and ordinary meaning
"the video captured during the recording session is selectively made transparent"	Not indefinite; plain and ordinary meaning
"prompting the user to record content" "prompting the user to select an audio composition"	Plain and ordinary meaning, with the clarification that the server initiates the claimed prompts.
"providing simultaneous aural playback of the audio composition during a recording session" "generating recorded content" "compositing"	Plain and ordinary meaning, with the clarification that the server initiates the claimed actions (providing, generating, compositing).
"the preview enables the user to change the timing or latency of the recorded content to relative to the selected audio composition" "wherein the preview is stored in temporary memory and rewritten to nontransient memory upon receiving a save request from the user"	Plain and ordinary meaning, with the clarification that the preview is provided by and saved on the server.