

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

**QUANTUM IMAGING LLC**  
*Plaintiff,*

v.

**SONY INTERACTIVE  
ENTERTAINMENT INC.; SONY  
INTERACTIVE ENTERTAINMENT  
LLC; AND BLUEPOINT GAMES, INC.,**  
*Defendants.*

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**NO. 1:23-CV-1212-ADA-DTG**

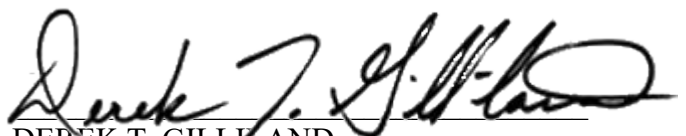
**JURY TRIAL DEMANDED**

**CLAIM CONSTRUCTION ORDER**

Before the Court is Defendants' Opening Claim Construction Brief filed July 7, 2023, pertaining to U.S. Patent Nos. 8,458,028; 10,255,724; 10,846,941; and 10,991,165. ECF No. 124. Plaintiff responded to the claim constructions in a brief filed on August 1, 2023. ECF No. 127. Defendants replied in support of their claim constructions on August 15, 2023. ECF No. 128. Plaintiff filed a sur-reply brief on August 29, 2023. ECF 129. The *Markman* hearing was held on October 10, 2023. ECF No. 142. The Court considered the patent as well as the arguments and authorities raised by the parties. The Court issues this Order to memorialize the Court's final claim construction rulings for the parties, and to inform the parties that the Court will issue a more-detailed Order explaining its analysis in due course. The deadline to file any objections to the undersigned's claim construction rulings (pursuant to Federal Rules of Civil Procedure 59 and 72) does not begin to run until the more-detailed Order is entered on the docket.

**IT IS SO ORDERED.**

**SIGNED** this 20th day of October, 2023.

  
DEREK T. GILLILAND  
UNITED STATES MAGISTRATE JUDGE

**I. AGREED TERMS**

| <b>Term No.</b> | <b>Claim Term</b>                      | <b>Patent Nos.</b>            | <b>Agreed Construction</b>                                                                                                    | <b>Court's Final Construction</b> |
|-----------------|----------------------------------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <b>1</b>        | "virtual thematic environment"         | ('724, '941 and '165 Patents) | "a theme-based virtual computer interface"                                                                                    | As agreed by the parties.         |
| <b>2</b>        | "graphics user interface (GUI) module" | ('724, '941 and '165 Patents) | "software that provides a graphical display and processes user inputs to allow a user to interact with the graphical display" | As agreed by the parties.         |
| <b>3</b>        | "external sources"                     | ('724 Patent)                 | "sources outside of the clients and servers of the claimed computer system"                                                   | As agreed by the parties.         |

**II. DISPUTED TERMS**

| <b>Term No.</b> | <b>Claim Terms:</b>                                                                                                                   | <b>Plaintiff's Proposed Construction</b>                                                                                                                          | <b>Defendants' Proposed Construction</b>                                                                                                                                                                   | <b>Court's Final Construction</b>                                                  |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <b>4</b>        | "automatically"<br><br>'028 Pat., (cls. 1, 7);<br>'724 Pat., (cl. 1)                                                                  | Plain and Ordinary meaning; no construction required.<br><br>But if the Court requires construction, "in a self-acting manner, when initially actuated by a user" | This term precludes action initiated by a user, i.e., "not effected by physical operation of the user."                                                                                                    | Plain and ordinary meaning.                                                        |
| <b>5</b>        | "real-time information"<br><br>'941 Pat., (cls. 1, 3, 7, 8, 9, 10, 11, 23, 25, 26);<br>'165 Pat., (cls. 1, 2, 3, 6, 7, 8, 10, 11, 18) | Plain and Ordinary meaning; no construction required.<br><br>But if the Court requires construction, the construction for "real time" is: "data                   | Plain and ordinary meaning. "The plain and ordinary meaning of the term is that real-time information <i>is</i> live information; there is no real-time information that is <i>not</i> live." (This is the | Plain and ordinary meaning, which includes but is not limited to live information. |

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|---|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
|   |                                                                                | communicated without any discernible delay”                                                                                                                                                                                                                                                | Court’s actual construction in <i>Barbaro Techs., LLC v. Niantic, Inc.</i> , N.D.Cal. 3:18-cv-02955-RS.)                                                                                                                                                                                                           |                                                            |
| 6 | “world wide web”<br><br>’165 Pat., (cls. 1, 8, 18)                             | “an aspect of the internet using web-based protocols such as HTTP and HTTPS.” (The Court’s construction in <i>Barbaro Technologies, LLC v. Niantic, Inc.</i> N.D.Cal. 3:18-cv-02955-RS.)                                                                                                   | Plain and ordinary meaning, which is: “The set of interlinked documents or web pages, written in HTML (Hypertext Markup Language), residing on servers all around the world and identified by URLs (Uniform Resource Locators), and transmitted from server to end user under HTTP (Hypertext Transfer Protocol).” | Plain and ordinary meaning.                                |
| 7 | “virtual thematic environment rules”<br><br>’724 (cl. 1);<br>’941 (cls. 1, 23) | Plain and Ordinary meaning; no construction required, not indefinite.<br><br>But if the Court requires construction, see previous construction for “virtual thematic environment”. The construction for “rules” is: “principles or regulations governing conditions within an environment” | Indefinite                                                                                                                                                                                                                                                                                                         | Construed as “rules for the virtual thematic environment.” |

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| 8 | <p>“thematic/publishing logic module”</p> <p>’724 (cl. 1);<br/> ’941 (cls. 1, 23);<br/> ’165 (cls. 1, 18)</p>         | <p>Plain and Ordinary meaning; no construction required; not subject to 35 USC 112(6); not indefinite.</p> <p>However, if the Court requires construction, “software layer which directs other components and contains virtual thematic environment rules”</p>                                                      | <p>This term is subject to interpretation under 35 U.S.C. § 112, ¶6. The function is, e.g., thematic/publishing logic. The specification fails to describe adequate corresponding structure to perform this function, and thus the term is indefinite.</p>                                                                                                                                                                                                                                                                            | <p>Not subject to interpretation under 35 U.S.C. § 112, ¶6. Plain and ordinary meaning.</p>                                                                                                                                                                                                                                                                                       |
| 9 | <p>“quantum imaging environment (QIE) module”</p> <p>’724 (cl. 1);<br/> ’941 (cls. 1, 23);<br/> ’165 (cls. 1, 18)</p> | <p>“a software layer which receives and interprets content such that the content is manipulated so as to be accessible on different types of devices for use within the virtual thematic environment” (The Court’s construction in <i>Barbaro Technologies, LLC v. Niantic, Inc.</i> N.D.Cal. 3:18-cv-02955-RS)</p> | <p>This term is subject to interpretation under 35 U.S.C. § 112, ¶6. The function is e.g., quantum imaging environment. The corresponding structure from the specification is a software virtual platform that is both part of client and server. On the client-side, the structure is part of a GUI component. On the server-side, the structure is a 6-tier modular / layer system fully distributed across the internet, the six layers including 1) a graphical user interface, 2) a Thematic/ Publishing Logic and a Digital</p> | <p>Not subject to interpretation under 35 U.S.C. § 112, ¶6. “A software layer which receives and interprets content such that the content is manipulated so as to be accessible on different types of devices for use within the virtual thematic environment” (The Court’s construction in <i>Barbaro Technologies, LLC v. Niantic, Inc.</i>, 3:18-cv-02955-RS (N.D. Cal.)).</p> |

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|-----------|----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
|           |                                                                            |                                                                                                                                                                                                                         | Content Library, 3) a Business Logic, 4) a thematic or zone application builder and interpreter (i.e., a Quantum Imaging Engine), 5) Communications, and 6) a Data Storage.                                                                            |                                                                                      |
| <b>10</b> | “digital content library module”<br><br>'724 (cl. 1);<br>'941 (cls. 1, 23) | Plain and Ordinary meaning; no construction required; not subject to 35 USC 112(6); not indefinite. However, if the Court requires construction, “software layer which is a content management application or database” | This term is subject to interpretation under 35 U.S.C. § 112, ¶6. The function is providing a digital content library. The specification fails to describe adequate corresponding structure to perform this function, and thus the term is indefinite. | Not subject to interpretation under 35 U.S.C. § 112, ¶6. Plain and ordinary meaning. |