

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ATTENTIVE MOBILE INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 23-087 (CJB)
	)	
STODGE INC. d/b/a POSTSCRIPT,	)	
	)	
Defendant.	)	

**PLAINTIFF’S PRELIMINARY IDENTIFICATION OF TERMS AND PHRASES FOR
CONSTRUCTION AND PRELIMINARY PROPOSED CONSTRUCTIONS**

Pursuant to the Court’s Scheduling Order, Plaintiff Attentive Mobile, Inc. (“Attentive” or “Plaintiff”) hereby provides a list of claim term(s)/phrase(s) of U.S. Pat. Nos. 11,416,887, 11,416,897, and 11,553,074 (collectively, the “Asserted Patents”) proposed for construction and the proposed construction(s) of those term(s)/phrase(s).

Plaintiff’s preliminary identification of proposed constructions for the identified claim terms and phrases are based on information currently available to Plaintiff. Plaintiff reserves the right to supplement, modify, or amend claim terms/phrases from the list and any proposed construction as the parties meet and confer, as additional materials and information become available or known, and/or as appropriate, and to facilitate the preparation of the Joint Claim Construction Chart.

Plaintiff reserves the right to modify this disclosure once Plaintiff has reviewed the term(s)/phrase(s) proposed for construction by Defendant Stodge Inc. d/b/a Postscript (“Postscript” or “Defendant”), Defendant’s proposed claim constructions for the proposed term(s)/phrase(s), and in light of arguments made or positions taken by Defendant as this case proceeds. Plaintiff further notes that its identification of any term/phrase in this disclosure is not

an admission that the term/phrase requires construction, and hereby reserves the right not to propose a construction for any identified term/phrase. Further, Plaintiff reserves the right to propose that additional or different parts or subparts of the claim language that includes an identified term/phrase be construed by the Court, and to revise or modify its proposed constructions accordingly.

Plaintiff is prepared to meet and confer at a mutually agreed upon time to combine and finalize the list of term(s)/phrase(s) for construction by the Court and to facilitate the preparation of the Joint Claim Construction Chart in accordance with the Court's scheduling order. Subject to the above limitations and reservations or rights, Plaintiff states the following:

Unless otherwise specified below, where a claim term or phrase is identified, Plaintiff's position is that each claim term of the Asserted Patents require no construction and should be given its plain and ordinary meaning as read by a person of ordinary skill in the art at the time of the invention, in the context of the entire patent including the specification and drawings. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (*en banc*).

Patent	Proposed Claim Term/Phrase for Construction	Proposed Construction
11,416,897 (Claim 15 ¹)	"a mobile device requesting and/or a webpage"	"a mobile device requesting and/or loading a webpage"
11,416,897 (Claim 15)	"the user data"	"user data"
11,416,897 (Claim 17)	"user data"	"the user data"

¹ For the avoidance of doubt, the identification of claims also applies to all asserted claims that depend from any of the identified claims.

Plaintiff further reserves the right to amend the foregoing statement in the event further discovery or development of the evidence warrants such an amendment. Plaintiff also reserves the right to amend or supplement this disclosure as may be appropriate, particularly in response to or in consideration of Defendant's proposals and positions concerning claim construction, validity, and/or infringement, and/or in response to the meet and confer process concerning claim construction. Further, Plaintiff reserves the right to contend that terms or phrases might be in need of construction or construe the terms or phrases identified by Defendant, as well as those that are subsumed within the terms and phrases identified by Defendant, after review and consideration of Defendant's disclosures, though such a reservation of rights is not an admission that any terms or phrases identified by Defendant require construction.

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2023, copies of the foregoing were caused to be served upon the following in the manner indicated:

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