

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ASPEN NETWORKS, INC., a California
Corporation,

Plaintiff,

v.

AT&T MOBILITY, LLC, a Delaware
Corporation,

Defendant.

Case No.: 2:23-cv-00476-RWS-RSP

JURY TRIAL DEMANDED

LEAD CASE

ASPEN NETWORKS, INC., a California
Corporation,

Plaintiff,

v.

CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS, a Delaware Corporation,

Defendant.

Case No.: 2:23-cv-00557-RWS-RSP

ASPEN NETWORKS, INC., a California
Corporation,

Plaintiff,

v.

T-MOBILE US, INC., a Delaware
Corporation, and T-MOBILE USA, INC., a
Delaware Corporation,

Defendants.

Case No.: 2:23-cv-00476-RWS-RSP

**DEFENDANTS' P.R. 4-2 EXCHANGE OF PRELIMINARY PROPOSED CLAIM
CONSTRUCTIONS AND EXTRINSIC EVIDENCE**

Pursuant to Patent Rule 4-2 and the Court's Docket Control Order, Defendants AT&T Mobility, LLC, Cellco Partnership d/b/a Verizon Wireless, T-Mobile US, Inc., and T-Mobile USA, Inc. (collectively, "Defendants") respectfully submit their Preliminary Proposed Claim Constructions and Extrinsic Evidence for the claim terms, phrases, or clauses contained in the asserted patents that the parties identified for claim construction purposes pursuant to Patent Rule 4-1.

Defendants base these constructions upon their current knowledge, understanding, and belief as to the facts and information available as of this date. Defendants reserve the right to further amend these preliminary proposed claim constructions as the parties proceed with discovery and work toward the preparation of a final Joint Claim Construction Statement. In particular, Defendants reserve the right to modify or supplement these P.R. 4-2 disclosures to facilitate agreement with Plaintiffs, to avoid duplication of terms or phrases, to reflect newly-received information, or in response to any changes in Plaintiffs' P.R. 3-1 and P.R. 3-2 disclosures. To the extent necessary to clarify the issues for the Court or otherwise avoid ambiguity or confusion, Defendants reserve the right to address a word or phrase separately from the terms listed below, if addressing that word or phrase separately will assist in the resolution of the parties' disputes.

Defendants also reserve their right to revise their proposals regarding claim terms in view of Plaintiffs' proposals and as discovery proceeds. Defendants specifically reserve the right to modify or supplement their preliminary proposed constructions once they have had an opportunity to review Plaintiffs' preliminary proposed constructions. Defendants further reserve the right to rely on extrinsic evidence identified by Plaintiffs and to add additional extrinsic evidence,

particularly for constructions on which the parties disagree. Furthermore, Defendants reserve the right to update their citations to additional relevant extrinsic evidence, such as inventor testimony and testimony from attorneys responsible for prosecuting the asserted patents, as well as to identify additional dictionary definitions and prior art.

Defendants also reserve the right to amend these disclosures to the extent Plaintiffs supplement or amend their infringement contentions or claim construction disclosures. Plaintiffs have not served infringement contentions that comply with P.R. 3-1 and/or Paragraph 3 of the Court's Discovery Order and have otherwise not provided sufficient notice as to its infringement theories in this case. Defendants are prejudiced in identifying the terms and constructions below in the absence of knowledge as to how Plaintiffs intend to assert its claim scope in this litigation. Defendants specifically reserve the right to modify the terms and proposed constructions identified herein within a reasonable time of Plaintiffs being permitted to serve any supplemental contentions.

Defendants contend that various claim limitations are indefinite. To the extent that Defendants provided proposed alternative claim constructions for these claim limitations and in the event that the claims are not found to be indefinite, such proposal is not an admission that these claims are amenable to proper construction and/or satisfy the definiteness requirement of 35 U.S.C. § 112, which Defendants specifically deny. Moreover, nothing in these proposed terms should suggest that a particular limitation or claim is valid or construable, accurately described, enabled or definite within the meaning of 35 U.S.C. § 112.

To confirm the proper construction, in addition to the extrinsic evidence cited below, Defendants may rely on the patents and other references cited during the prosecution of the asserted patents. Defendants also may rely on one or more of the prior art systems and/or

publications identified in their Invalidity Contentions to explain the state of the art and/or to show the ordinary meaning of certain claim terms. Furthermore, Defendants may rely on any public statement of Plaintiffs and/or their representatives (including statements made in prosecution of foreign counterparts to the asserted patents), or any current or former employee of Plaintiffs; any of the named inventors and/or prosecuting attorneys; and/or any information from other sources, including discovery produced in this case. Defendants may also rely on documents produced by Plaintiffs pursuant to Patent Local Rule 3-2 to the extent those documents evidence the ordinary meaning of claim terms and/or any different meaning assigned to claim terms by the inventors. Defendants may also rely on testimony from one or more of the inventors and/or the prosecuting attorney elicited in ongoing discovery in this case. Testimony from one or more of the inventors or the prosecuting attorney may be relevant to the meaning or indefiniteness of one or more of the contested claim terms.

As noted below, Defendants may also rely on testimony from one or more expert witnesses, including any identified by Plaintiffs. Such expert evidence may address the relevant field of art, the level of ordinary skill in the art, whether certain terms connote sufficient structure to perform the claimed functions, whether the patents' specifications disclose and clearly link sufficient structure to perform the claimed functions, the definiteness of certain terms, and the meaning that certain claim terms would have to a person of ordinary skill in the art based on the asserted patents' disclosure and associated prosecution history, including any extrinsic evidence offered by Plaintiffs or Defendants.

Term #	Claims	Terms	Proposed Construction	Preliminary Identification of Extrinsic Evidence
1.	1 & 15	“a network protocol that operates on top of the internet protocol”	Indefinite	Newton’s Telcom Dictionary, 22nd Edition; Microsoft Computer Dictionary, Fifth Edition; Telecommunications: Glossary of Telecommunications Terms; IEEE RFC 791; IEEE RFC 1122; IEEE RFC 1123; Plaintiff’s P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs’ claim construction position on this term and alleged support, including as to why Defendants’ position should be adopted over that of Plaintiffs.
2.	1 & 15	“transmission source”	Indefinite or, alternatively, Plain and Ordinary Meaning (<i>i.e.</i> , device that initiates the transmission)	Newton’s Telcom Dictionary, 22nd Edition; Microsoft Computer Dictionary, Fifth Edition; Telecommunications: Glossary of Telecommunications Terms; IEEE RFC 1122; IEEE RFC 1123; IEEE RFC 3261; IEEE RFC 3455; Plaintiff’s P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill

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				would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.
3.	1 & 15	"SIP signaling sequence of the transmission is maintained"	Indefinite or, alternatively, "SIP signaling sequence number of the transmission is maintained throughout a dialog with a SIP server"	IEEE RFC 3261; IEEE RFC 3455; Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.
4.	2 & 16	"stream quality event"	RTP stream quality drops below or exceeds configured quality thresholds	Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill

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5.	3 & 17	"stream load balancing"	Plain and ordinary meaning (<i>i.e.</i> , ... as a result of stream load balancing based on a measured stream load)	Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.
6.	5 & 19	"SIP server"	Server that receives and responds to a SIP INVITE request	IEEE RFC 3261; IEEE RFC 3455; Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill

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7.	5 & 19	"authenticate"	Authenticate a SIP INVITE request	3GPP TS 22.011 version 8.2.0; IEEE RFC 3261; IEEE RFC 3455; Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.
8.	7 & 21	"roaming"	Indefinite	3GPP TS 22.011 version 8.2.0; Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions.

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				Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.
9.	15	"the transmission . . . said transmission . . . the audio or video transmission"	Indefinite	Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions. Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.
10.	15	"audio or video data . . . audio or video content . . . audio or video transmission"	Indefinite	Plaintiff's P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions.

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				Defendants may offer expert testimony explaining what a person of ordinary skill would have understood this term to mean in light of the intrinsic and extrinsic evidence. Defendants may also rely on expert testimony to respond to Plaintiffs' claim construction position on this term and alleged support, including as to why Defendants' position should be adopted over that of Plaintiffs.

January 9, 2025

Respectfully submitted,

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