

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE No. 1:24-cv-21226-RAR

DR. EDWIN A. HERNANDEZ and
EGLA CORP.,

Plaintiffs,

v.

STINGRAY GROUP INC. f/k/a
STINGRAY DIGITAL GROUP, INC.,
STINGRAY MUSIC USA, INC.,
MOOD MEDIA LLC f/k/a MOOD
MEDIA CORPORATION, AT&T
ENTERPRISES, LLC f/k/a AT&T
CORP., MILLICOM
INTERNATIONAL SERVICES, LLC,
and BLUE STREAM
COMMUNICATIONS, LLC dba
BLUE STREAM FIBER,

Defendants.

**DEFENDANTS STINGRAY GROUP, INC., AT&T ENTERPRISES, LLC, MILLICOM
INTERNATIONAL SERVICES, LLC, AND BLUE STREAM COMMUNICATIONS,
LLC'S¹ RESPONSIVE CLAIM CONSTRUCTION BRIEF**

¹ Defendants Stingray Music USA, Inc. and Mood Media, LLC are not accused of patent infringement and therefore take no position on Plaintiffs' Opening Claim Construction Brief.

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I. Introduction

The Asserted Claims generally recite the steps of “receiving *from a content provider*, a request for at least one media stream for playback on a broadcast media channel” and then “*obtaining content* corresponding to the plurality of multimedia items *from at least one source*.” *See, e.g.*, Ex. A at Claim 1 (emphasis added). After that content is processed in accordance with the other claim elements, the claims recite “providing the at least one media stream *to the content provider* for broadcast on the broadcast media channel.” *Id.* (emphasis added). As a result, the claim elements above, on their face, generally cover receiving a request for a media stream from a content provider, obtaining multimedia content corresponding to that request from a source, and then providing the requested media stream to the content provider for broadcast.

Although it is rather uncommon for a patent owner to argue that their own claims are ambiguous, this is precisely what Dr. Hernandez contends in his Opening Claim Construction Brief. Under the pretense that the jury “may be confused about the role of the content provider given that the claims also recite obtaining content,” Plaintiffs seek to redraft their own claims to impose a corporate division between the claim elements. *See* Dkt. 189 at 8-9. Based on their argument that the content provider “is not the entity performing the claimed functions of obtaining content and rendering it to generate a multimedia stream,” Plaintiffs propose construing “content provider” to mean “a *third party* such as a cable television or satellite television operator, or any other multimedia outlet that requests and receives multimedia content for playback on a broadcast media channel.” *Id.* (emphasis added).

However, the claim language does not specify nor limit the claims to a specific corporate configuration of content providers or cable/satellite operators. For example, on their face, the claims could be practiced by a single satellite operator with multiple internal groups or divisions that, respectively: make requests for media streams, obtain the corresponding multimedia content,

and receive and broadcast the resulting media stream. Nothing in the claim language forecloses this plain reading, and logically, patent claims cover technological improvements—not corporate distinctions that arise under business laws.

Under Plaintiffs’ proffered construction, a system that fully practices the claims could be both infringing (if the media stream is provided to a “third-party” content provider for broadcast) and non-infringing (if the media stream is provided to a “non-third-party” content provider for broadcast). Thus, a given multimedia platform would become the Schrödinger’s Cat of media distribution and fluctuate between infringing and non-infringing depending purely on corporate formalities and whether the recited content provider is a “third party” or not. But this is not what the claim language covers, and there is nothing in the specification that warrants such a redrafting of the Asserted Claims.

As a result, the Court should reject Plaintiffs’ attempt to change the scope of the claims. Given that the term “content provider” is provided meaning by the surrounding claim language and the identified capabilities relating to requesting and broadcasting media streams, Patent Defendants respectfully submit that no specific construction is necessary for this term.

II. Claim Construction

A. The Term “Content Provider” is Not Ambiguous.

Asserting that his own claim language is confusing, Dr. Hernandez argues that the term “content provider” should now be essentially limited to a “third party [that] receives multimedia content for playback on a broadcast media channel.” But as explicitly stated by the Federal Circuit: “courts may not redraft claims, whether to make them operable or to sustain their validity.” *Chef Am., Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1374 (Fed. Cir. 2004). Instead, “we construe the claim as written, not as the patentees wish they had written it.” *Id.*

In *Chef America*, the claims covered a baking process that required “heating the resulting batter-coated dough *to a temperature* in the range of about 400° F to 850° F.” *Id.* at 1372 (emphasis added). As described by the Federal Circuit, “[t]he problem is that if the batter-coated dough is heated to a temperature range of 400° F to 850° F, as the claim instructs, it would be burned to a crisp.” *Id.* at 1373 (describing the result as something that would “resemble[] a charcoal briquet”). To overcome the alleged ambiguity in the claim language and capture the intended invention, the patent owner Chef America asked the court to construe the claim “to apply the heating requirement to the place where the heating takes place (the oven) rather than the item being heated.” *Id.* at 1373-74.

In rejecting this request, however, the Federal Circuit held that “courts may not redraft claims, whether to make them operable or to sustain their validity” and that this rule applied even when the claim yielded a “nonsensical result.” *Id.* at 1374 (holding that “we must construe the claims based on the patentee’s version of the claim as he himself drafted it”).

Here, as in *Chef America*, Plaintiffs are not seeking to construe the term “content provider” to reflect its ordinary meaning to a person skilled in the art. Instead, under the pretense of resolving an ambiguity, Plaintiffs are seeking to change the scope of the claims as written—*i.e.*, to potentially exclude scenarios where the “content provider” is not a “third party.” But this inserts a requirement into the claim that is non-existent. For example, Plaintiffs’ construction would potentially exclude a scenario where the content provider is a corporate division or server group within a larger satellite television company that literally practices the claimed invention. But there is no ambiguity that warrants such a change, and it is irrelevant whether Dr. Hernandez intended his claims to be limited in this manner. Instead, under Federal Circuit law, courts “construe the claim as written, not as the patentees wish they had written it.” *Chef America*, 358 F.3d at 1374.

In the context of the claims, a request for a media stream is first received “from a content provider” and that the multimedia content used to generate the requested media stream is obtained “from at least one source.” *See* Ex. A at Claim 1. Once that content is formatted into the required media stream, it is provided “to the content provider for broadcast.” *Id.* The claims never specify or require the “content provider” to be a legally separate entity and instead define the term by its capabilities—*i.e.*, by what it does. As referenced in the Asserted Claims, the content provider makes “a request for at least one media stream for playback on a broadcast media channel” and, after the media stream is assembled (in accordance with the other claim elements), the content provider receives that stream “for broadcast on the broadcast multimedia channel.” Whether it is a “third party,” an “affiliate,” a “corporate division” or part of one overarching organization is *irrelevant* to its capabilities and to the elements recited above.

Moreover, the term “third party” only serves to inject ambiguity into the claim as it is unclear who is and who is not a third party. Although Plaintiffs argue that the content provider is not “the entity” that obtains the content, neither Plaintiffs nor the patents provide any guidance on how to draw this imaginary line and the degree of legal separation required under Plaintiffs’ proposal. For instance, it is unclear whether an affiliate such as a parent entity or a subsidiary should be considered a “third party” or not. Similarly, the patent provides no guidance on how agents or partnerships should be treated. The specification simply fails to shed any light on what it means to be a “third party” under Plaintiffs’ construction. This is because the claims do not include (and were never intended to include) such requirements of corporate structure.

As a result, Plaintiffs’ construction does not resolve an ambiguity but, in contrast, seeks to add limiting language that would change the scope of the Asserted Claims. Given that there is no basis for such a change to the claim language, the Court should reject Plaintiffs’ proposal.

B. The Patent Specification Does Not Support Plaintiffs' Construction.

There is also no basis in the specification to limit the term “content provider” to only third-party content providers. The patents never define the term “content provider” in this narrow manner, and the alleged inventions could be practiced regardless of the corporate form of the content provider.

Indeed, a review of the patent specification further undermines Plaintiffs' argument. Specifically, the specification uses both the term “third party content provider” and the term “content provider,” showing that not every “content provider” is necessarily a third party. *Compare, e.g.*, Ex. A at 1:58 and 1:63 *with* Ex. A at 2:51 and 2:60. Otherwise, the inclusion of the modifier “third party” would be entirely superfluous. As an analogy, reference to “a diesel engine” inherently recognizes that there are other kinds of engines and that not all engines use diesel fuel. As a result, if a patent claim specifically recited “an engine”—as opposed to “a diesel engine”—then it would be improper for a court to limit the claim to only a diesel engine.

As stated by the Federal Circuit, “[i]n the absence of any evidence to the contrary, we must presume that the use of these different terms in the claims connotes different meanings.” *See CAE Screenplates Inc. v. Heinrich Fiedler GmbH*, 224 F.3d 1308, 1317 (Fed. Cir. 2000). In *CAE*, the parties disputed whether the “bottom plane” of the claimed screen plate referred to a physical surface. *Id.* at 1316. Because different terms are presumed to have different meanings, the Federal Circuit held that the term “bottom plane” must mean something different than the more general “bottom” of the groove described in the patent. *Id.* at 1317 (holding that the “bottom plane refers to a surface lying within the more general ‘bottom’ of the groove”).

Similarly, in *Helmsderfer*, the district court construed the term “*partially* hidden from view” to exclude a surface that was *totally* hidden from view. *See Helmsderfer v. Bobrick Washroom Equip., Inc.*, 527 F.3d 1379, 1381-82 (Fed. Cir. 2008) (emphasis added). In arguing

that the district court should have construed the term to mean “*at least* partially hidden from view,” the plaintiff pointed to an embodiment in the patent specification that stated the surface was “generally hidden from view.” *Id.* (emphasis added). However, noting that “different terms are presumed to have different meanings,” the Federal Circuit expressly “decline[d] to construe the term ‘partially hidden from view’ to have the same meaning as ‘generally hidden from view’ or ‘at least partially hidden from view.’” *Id.* at 1382. Importantly, the court stated that “[i]f Brocar had intended to use these terms to describe the platform top surface, it should have.” *Id.*

The same logic applies here. If Plaintiffs had intended to limit the “content provider” to a “third party content provider,” they should have done so in the claim language. Not only does their use of “third party content provider” in the specification inherently recognize that there are *non-third-party* content providers, but Plaintiffs’ use of the more narrow term “third party content provider” in the specification shows that they knew how to limit their claims in this manner if they intended to do so.

In fact, even if Plaintiffs argue that the specification’s use of “third party content provider” was meant to somehow define the term “content provider,” this would still not support their proposed construction. The specific term “third party content provider” appears only twice in the specification. *See* Ex. A at 1:58 and 1:63. In particular, the patents explain that “[s]atellite systems are used to deliver data (e.g. TV, radio, Video-on-Demand, multimedia stream) *from a particular source (e.g. third-party content provider)* to cable head end systems or other satellite systems.” *See* Ex. A at 1:56-59 (emphasis added). As further described in the patents:

For example, *a third-party content provider can maintain multimedia files* in CD/DVDs, pre-recorded storage, or as pre-recorded files *that are reproduced in a particular audio or video encoding format* using a video or audio encoder (e.g. MP3, H.264, AC3, and others). The audio and video is then made part of an RF signal that is broadcasted to the satellite system. *This signal is then received by the cable or satellite operator* using an antenna receptor

and is decoded to generate either an analog signal (e.g. RCA Cables or any other analog interface) or digital signal (e.g. ASI, Asynchronous Serial Interface). If an analog signal is received, modern DVB (Digital Video Broadcasting) Cable and *Satellite systems will encode this signal to their particular video/audio encoding requirements such that it can be broadcasted in digital packets via a multicast MPEG Transport Stream.*

Id. at 1:63-2:2. As a result, the patents use the term “third party content provider” to refer to the “particular source” of the content that is subsequently re-formatted for transmission. In other words, looking at the claim language, this “third party content provider” described in the specification is not the broadcaster of the content but rather the “source” of the content recited in the step: “*obtaining content* corresponding to the plurality of multimedia items *from at least one source.*” *See, e.g.,* Ex. A at Claim 1 (emphasis added). Accordingly, the term “third party content provider” cannot be used to define the term “content provider” as used in the claims. At best, if the term “third party content provider” was meant to limit the scope of the claims, it only supports construing the term “at least one source” to mean “at least one *third party source.*”

III. Conclusion

Given the problems with Plaintiffs’ proposed construction and how it would unjustifiably narrow the scope of the claims, the Court should reject their attempt to redraft the claim language to impose this “third party” requirement. Given that the term “content provider” is provided meaning by the surrounding claim language and the identified capabilities relating to requesting and broadcasting media streams, Patent Defendants respectfully submit that no specific construction is necessary for this term.

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Respectfully submitted,

RIVERO MESTRE LLP

2525 Ponce de Leon Boulevard, Suite 1000

Miami, Florida 33134

Telephone: (305) 445-2500

Fax: (305) 445-2505

Email: jmestre@riveromestre.com

Email: ahenry@riveromestre.com

/s/ Allison Henry

JORGE A. MESTRE

Florida Bar No. 88145

ALLISON HENRY

Florida Bar No. 1003008

*Counsel for Defendants Stingray Group Inc.,
Stingray Music USA, Inc., Millicom
International Services LLC, and Blue Stream
Communications LLC*

/s/ Demetrios Anaipakos

Demetrios Anaipakos (admitted pro hac vice)

Texas Bar No. 00793258

danaipakos@aatriallaw.com

Michael McBride (admitted pro hac vice)

Texas Bar No. 24065700

mmcbride@aatriallaw.com

Steven Jugle (admitted pro hac vice)

Texas Bar No. 24083280

sjuggle@aatriallaw.com

ALAVI & ANAIPAKOS PLLC

609 Main Street, Suite 3200

Houston, Texas 77002

Telephone: (713) 751-2362

Facsimile: (713) 751-2341

*Counsel for Defendants Stingray Group Inc.,
Stingray Music USA, Inc., Millicom
International Services LLC, and Blue Stream
Communications LLC*

/s/ Harvey W. Gurland, Jr.

Harvey W. Gurland, Jr. (FBN 284033)

hwgurland@duanemorris.com

DUANE MORRIS LLP

201 S. Biscayne Boulevard, Ste. 3400

Miami, Florida 33131
Telephone: 305.960.2214
Facsimile: 305.397.1874

Matthew S. Yungwirth
msyungwirth@duanemorris.com
(admitted pro hac vice)
Alice E. Snedeker
aesnedeker@duanemorris.com
(admitted pro hac vice)

DUANE MORRIS LLP
1075 Peachtree Street NE, Ste. 1700
Atlanta, Georgia 30309
Telephone: 404.253.6900
Facsimile: 404.253.6901

*Counsel for Defendant AT&T Enterprises,
LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was filed electronically in compliance with Local Rules 5.2(a) on February 27, 2025. As such, this document was served on all counsel of record pursuant to Local Rules 5.2(a) and the Federal Rules of Civil Procedure.

/s/ Allison Henry
Allison Henry