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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

WITHROW NETWORKS, INC.,

Plaintiff,

v.

GOOGLE LLC and YOUTUBE, LLC,

Defendants.

Case No. 5:24-CV-03203-PCP (VKD)

**DEFENDANTS GOOGLE LLC AND
YOUTUBE, LLC'S NOTICE OF MOTION
AND MOTION TO STRIKE
PLAINTIFF'S INFRINGEMENT
CONTENTIONS**

Date: June 17, 2025
Time: 10:00 a.m.
Ctmm.: 2, 5th Floor
Judge: Hon. Virginia K. DeMarchi

Date Filed: May 28, 2024

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PLAINTIFF'S INFRINGEMENT CONTENTIONS
Case No. 5:24-CV-03203-PCP (VKD)

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 17, 2025 at 10:00 a.m., or as soon thereafter as this matter may be heard, in Courtroom 2, 5th Floor of the United States District Court located at 280 South 1st Street, San Jose, California, 95113 before the Honorable Virginia K. DeMarchi, Defendants Google LLC and YouTube, LLC (collectively, “Defendants”) will and hereby do respectfully move this Court for an order striking Withrow’s Contentions: (a) as to Transcoder API in their entirety, including to the extent they purport to combine Transcoder API with Shaka Player or ExoPlayer, or rely on open-ended language (*e.g.* “any multimedia player”), (b) as to Live Stream API in their entirety, including to the extent they purport to combine Live Stream API with Shaka Player or ExoPlayer, or rely on open-ended language (*e.g.* “any multimedia player”), (c) as to YouTube, to the extent they purport to combine YouTube with Shaka Player or ExoPlayer, or rely on open-ended language (*e.g.* “any multimedia player”), (d) rely on open-ended language (*i.e.* “all Google Pixel Phones” and “all Google Pixel Tablets,” (e) to the extent they purport to identify instrumentalities but fail to show how each instrumentality practices each limitation of each asserted claim (*i.e.* ExoPlayer); and (f) as to any instrumentality mentioned but not actually accused (*i.e.*, Google TV). Defendants further move this Court for an order staying discovery until Withrow provides compliant Contentions. This motion is based on this notice of motion, the attached memorandum of points and authorities in support thereof, the declaration of Elizabeth Dinh filed in support of the motion, the pleadings and documents on file in this case and such other evidence and arguments as may be presented at the hearing on this motion.

STATEMENT OF THE RELIEF REQUESTED

Defendants request an order striking, in part, Withrow’s deficient March 8, 2025, Patent Local Rule 3-1 infringement contentions for U.S. Patent No. 10,771,849 (the “’849 Patent”), as set forth in the Memorandum of Points and Authorities below.

MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

Withrow's infringement contentions ("Contentions") fall far short of Patent Local Rule¹ 3-1's requirements. For three of the five accused instrumentalities, Withrow fails to meet the base requirement of mapping each limitation of each asserted claim to an identified product or service offered by Defendants.

The patent-in-suit, U.S. Patent No. 10,771,849 (the "'849 Patent"), relates to adaptive multimedia streaming, with claims that Withrow asserts are directed to a "client centric streaming approach" for "provid[ing] smooth ... video to mobile devices across the Internet," in part by "using dynamic adaption of different media quality levels." Compl. ¶¶ 8, 55. The Complaint and exemplary claim charts Withrow attached to it focused on Defendant YouTube's streaming service (Compl. ¶¶ 41-42, 73-74 & Ex. 2); while Defendants reject Withrow's position on the merits, they don't challenge that Withrow's Contentions purport to map the YouTube streaming service to each limitation of each asserted claim.

But rather than just pursue the case against YouTube, where it can plausibly map the '849 Patent's claims to an actual product or service that a defendant offers, Withrow has tried to rope in an alphabet soup of other instrumentalities and streaming standards, without any contention that Defendants offer them together as a single product or service. Using sweeping language, Withrow's Contentions purport to encompass Google's application programming interfaces for transcoding (converting data from one format to another) and live streaming; "any multimedia player provided by Defendants"; two open-source media players called Shaka Player and ExoPlayer; Google Pixel Phones; Google Pixel Tablets; and "all Defendant servers." Withrow's scattershot attempt to accuse these other instrumentalities fails under Rule 3-1 because it neither adequately identifies the accused instrumentalities nor "identif[ies] specifically where and how each limitation of each asserted claim is found within each Accused Instrumentality." Rule 3-1(b)-(c). While Withrow attempts to mix and match different products and services, it ultimately fails to meet Rule 3-1's standard for accusing any purported combination.

¹ Unless otherwise stated, all references to "Rule ____" refer to the Patent Local Rules.

1 Withrow’s Contentions reflect at least the following specific shortcomings:

2 As to Transcoder API, Withrow names it as an accused instrumentality, but rather than
 3 show where it meets the limitations, Withrow relies almost exclusively on citations to the HLS or
 4 MPEG-DASH streaming standards and/or to the open-source Shaka Player. Withrow provides no
 5 justification for its muddled hash of elements that mixes and matches functionalities from
 6 different products, services, and standards into its charts. Without such a justification, its charts
 7 fail to satisfy Rule 3-1. Moreover, rather than provide a definite identification of each accused
 8 instrumentality, Withrow sweeps in broad categories of products and services. It alleges that “any
 9 multimedia player provided by Defendants” infringes in combination with what it refers to as
 10 Transcoder API “system and service” and either the HLS or MPEG-DASH streaming standards.
 11 And, Withrow fails to map several claim limitations to any of Transcoder API, any multimedia
 12 player, or any streaming standard, either alone or even in purported combination.

13 Second, Withrow names Live Stream API² as an accused instrumentality, but Withrow
 14 does not even attempt to map Live Stream API to any of the asserted claims—or even to any
 15 limitation of any asserted claim. Indeed, it cites no documentation regarding Live Stream API
 16 whatsoever. Withrow’s claim chart only refers to Live Stream on the first page—and that
 17 reference is a screenshot with abstract lines and no explanatory text. Moreover, its claim charts as
 18 to Live Stream API suffer all the same deficiencies that its Transcoder API charts suffer.

19 Third, Withrow’s claim charts as to YouTube, the overall sufficiency of which Defendants
 20 do not challenge, nonetheless include certain extraneous material that should be stricken.
 21 Specifically, Withrow peppers the YouTube claim charts with references to Shaka Player and
 22 ExoPlayer, without providing any justification for doing so. The charts as to YouTube, like the
 23 other charts, also improperly rely on broad categorical language to purportedly identify the
 24 accused instrumentalities.

25 In a similar vein, all the claim charts refer sporadically to “all Google Pixel Phones” and
 26 “all Google Pixel Tablets” for specific limitations, without even attempting to explain how any of

27
 28 ² Withrow incorrectly refers to the name of the API as “Livestream;” except when quoting the
 Contentions, Defendants use the correct spelling of “Live Stream.”

these broad categories meet each limitation of each asserted claim.

Fourth, Withrow apparently tries to accuse an open-source media player called ExoPlayer by identifying it as an exemplary multimedia player in each of its claim charts, but as with Live Stream, Withrow does not map ExoPlayer to any claim or cite any documentation regarding it. Withrow merely includes a picture of ExoPlayer’s logo in each claim chart.

Finally, Withrow’s Contentions make a passing reference to Google TV, asserting that discovery may show it is an Accused Instrumentality. Withrow does not map Google TV to any claim or cite any documentation regarding Google TV; if Withrow intended to identify Google TV as an accused instrumentality, it must have provided a chart identifying how Google TV meets each limitation of each asserted claim.

Ultimately, Withrow’s Contentions fail to satisfy Rule 3-1, because Withrow does not “crystallize its theories of the case early in the litigation.” *Uniloc 2017 LLC v. Apple, Inc. (Uniloc II)*, No. 19-cv-01929-EJD (VKD), 2020 WL 978678, at *2 (N.D. Cal. Feb. 28, 2020) (quotation marks and citation omitted). Withrow’s failure is prejudicial to Defendants and their ability to prepare their defenses, effectively participate in claim construction, and appropriately tailor discovery in this matter.

Therefore, the Court should strike Withrow’s Contentions, except as to the YouTube system and service with HLS or MPEG-DASH, through any YouTube Multimedia Player (*i.e.*, charts 1 and 2). Even as to YouTube, Withrow should not be allowed to encompass “any multimedia player” in the Accused Instrumentalities, and the references to Shaka Player and Exo Player should be stricken from charts 1 and 2. To the extent Withrow seeks to accuse any non-YouTube instrumentality, it should be required to specifically identify each instrumentality and produce a separate claim chart mapping that instrumentality to each claim element of each asserted claim, including identification of the basis supporting any alleged combination of separate instrumentalities. Furthermore, discovery should be stayed until Withrow has served compliant contentions, as is routine in this District. *See, e.g., Tech. Props. Ltd. v. Samsung Elecs. Co.*, 114 F. Supp. 3d 842, 852 (N.D. Cal. 2015).

II. BACKGROUND

On March 8, 2025, Withrow served its Contentions, which contain the following table purporting to identify five accused instrumentalities. Each names what Withrow calls a “system and service” combined with either the HLS or MPEG-DASH standard and “any multimedia player provided by Defendants.” *Id.*:

Accused Instrumentality	Claims ³	Entity	Chart
The YouTube system and service with HLS, through any multimedia player provided by Defendants	1, 2, 3, 4, 6, 7, and 8	Defendants	1
The YouTube system and service with MPEG-DASH, through any multimedia player provided by Defendants	1, 2, 4, 6, 7, and 8	Defendants	2
The Google Transcoder API system and service with HLS, through any multimedia player provided by Defendants	1, 2, 6, 7, and 8	Google	3
The Google Transcoder API system and service with MPEG-DASH, through any multimedia player provided by Defendants	1, 2, 6, 7, and 8	Google	4
The Google Livestream API system and service with HLS, through any multimedia player provided by Defendants	1, 2, 3, 6, and 7	Google	5

See Declaration of Elizabeth Dinh in support of Motion to Strike (“Dinh Decl.”), Exs. 1 (Withrow’s Initial Disclosure of Asserted Claims and Infringement Contentions (“PLR 3-1 Disclosure”)), 2-6 (Charts 1-5).

A. The instrumentalities Withrow tries to pull together in the Contentions are distinct from each other.

Although Withrow must identify the specific instrumentalities it accuses, Defendants provide contextual background about the different products, services, open-source players, and standards that Withrow calls “systems and services.” As explained below, they are distinct;

³ For the Court’s convenience, the attached chart identifies each limitation of each asserted claim. Dinh Decl. Ex. 10.

Withrow does not offer any contrary allegations in its Contentions.

1. The identified “systems and services.”

YouTube is “an open video platform where anyone can upload a video and share it with the world.”⁴ **Transcoder API** is an application programming interface (API) that allows users to convert audio or video content in Google Cloud into various output formats.⁵ **Live Stream API** is an API that allows users to transcode (*i.e.* convert the format of) live, linear video streams into various output formats and saves the output to Google Cloud.⁶ Withrow does not contend that either API is capable of playing audio or video content on its own.

2. The identified streaming standards.

HLS refers to HTTP Live Streaming, “a protocol for transferring unbounded streams of multimedia data” developed by Apple that “specifies the data format of the files and the actions to be taken by the server (sender) and the clients (receivers) of the streams.” Compl., Ex. 12 at 2. **MPEG-DASH** refers to Dynamic Adaptive Streaming over HTTP, a protocol developed by the International Organization for Standardization and the International Electrotechnical Commission that “specifies ... formats that enable delivery of media content from standard HTTP servers to HTTP clients.” Compl. ¶ 68, Ex. 14 at 2.

3. The identified “multimedia players.”

The only multimedia players Withrow identifies by name are YouTube Player, Shaka Player, and ExoPlayer. **YouTube** is referred to as both a “system and service” and “multimedia player” in Withrow’s Contentions. PLR 3-1 Disclosure at 2, Chart 1 at 2-3. Withrow identifies three YouTube Players: two “App Players” (on the iOS operating system and on the Android operating system) and a web-based video player on www.youtube.com. Chart 1 at 2-3. **Shaka Player** is an open-source JavaScript library that developers can use to build a media player

⁴ *How does YouTube manage harmful content?*, YouTube, <https://www.youtube.com/howyoutubeworks/our-commitments/managing-harmful-content/> (last visited May 8, 2025).

⁵ *Transcoder API documentation*, Google Cloud, <https://cloud.google.com/transcoder/docs> (last visited May 8, 2025); *Overview of the Transcoder API*, Google Cloud, <https://cloud.google.com/transcoder/docs/concepts/overview> (last visited May 8, 2025).

⁶ *Overview of the Live Stream API*, Google Cloud, <https://cloud.google.com/livestream/docs/overview> (last visited May 8, 2025).

capable of playing certain media formats in a web browser.⁷ As an open-source library, the source code underlying Shaka Player is public.⁸ Withrow is aware of—and indeed cites—the public documentation regarding Shaka Player that links to the public source code repository for the library. *See* Chart 3 at 2. **ExoPlayer** is an open-source media library that allows playback of media files on the Android operating system.⁹ Similarly to Shaka Player, the source code underlying ExoPlayer is public.¹⁰

Withrow’s Contentions accuse each of the Transcoder API “system and service” and the Live Stream API “system and service”, on the one hand, in combination with Shaka Player, ExoPlayer, and “any multimedia player provided by Defendants,” on the other (PLR 3-1 Disclosure at 2), but nowhere in its Contentions (including the claim charts) does Withrow provide any information explaining or supporting its combination of Transcoder API or Live Stream API with Shaka Player or ExoPlayer, let alone with “any multimedia player provided by Defendants.” Indeed, except for YouTube (discussed below), Withrow does not allege that any of the named “systems and services” are bundled or offered with any particular player, including Shaka Player or ExoPlayer.

As to YouTube, Withrow’s Contentions accuse the YouTube “system and service” in combination with not only YouTube Players, but seemingly also Shaka Player, ExoPlayer, and “any multimedia player provided by Defendants”—but nowhere in its Contentions (including the claim charts) does Withrow provide any information explaining or supporting its combination of YouTube with Shaka Player or ExoPlayer, let alone with “any multimedia player provided by Defendants.” PLR 3-1 Disclosure at 1-2; Chart 1 at 1-2.

4. The multiple other uncategorized instrumentalities.

In addition to the named “systems and services,” streaming standards, and “multimedia players,” Withrow sprinkles in references to other categories of products or services, namely “all

⁷ *shaka-player*, GitHub, <https://github.com/shaka-project/shaka-player> (last visited May 8, 2025).

⁸ *Id.*

⁹ *Media3 ExoPlayer*, Google for Developers, <https://developer.android.com/media/media3/exoplayer> (last visited May 8, 2025).

¹⁰ *Id.*

Google Pixel Phones” (Chart 1 at 618; Chart 2 at 60; Chart 3 at 37; Chart 4 at 42; Chart 5 at 44); “all Google Pixel Tablets” (Chart 1 at 62; Chart 2 at 61; Chart 3 at 38; Chart 4 at 43; Chart 5 at 45); and “all Defendant servers” (Chart 1 at 158; Chart 2 at 174; Chart 3 at 118; Chart 4 at 132). Withrow does not name any of the uncategorized instrumentalities in its identification of accused instrumentalities. *See* PLR 3-1 Disclosure at 1-2. It also does not appear to contend these uncategorized instrumentalities purportedly meet all the limitations of any claim, either alone or in an identified combination.

Withrow also makes a passing reference to Google TV, stating that “discovery is expected to show that Google TV is an Accused Instrumentality.” PLR 3-1 Disclosure at 3. Withrow does not provide any other information regarding Google TV in its Contentions and does not provide a claim chart as to Google TV.

B. The parties’ meet and confer efforts

Although the parties have met and conferred on the issues presented in this motion, they have not come to agreement. Dinh Decl. at ¶ 3. On March 24, 2025, after receiving the Contentions, Defendants notified Withrow during a videoconference of their view that the Contentions failed to comply with the Patent Local Rules. Dinh Decl. ¶ 5. Thereafter, on April 4, Defendants emailed Withrow regarding the insufficiency of the Contentions. Dinh Decl. Ex. 7. Withrow responded to Defendants’ correspondence with a letter on April 21. Dinh Decl. Ex. 8. The parties again met and conferred via videoconference on April 22. Dinh Decl. ¶ 8. On May 5, Defendants informed Withrow that they expected to move to strike the Contentions. Dinh Decl. ¶ 9. On May 8, Defendants sent Withrow a letter further explaining the deficiencies in the Contentions. Dinh Decl. Ex. 9. The parties held a further meet and confer on May 9, 2025, with lead counsel for both sides in attendance. Dinh Decl. ¶ 11. The parties were unable to resolve their disagreement regarding the Contentions’ sufficiency.

III. LEGAL STANDARD

The Patent Local Rules were “designed [to] make the parties more efficient, to streamline the litigation process, and to articulate with specificity the claims and theory of a plaintiff’s infringement claims.” *Uniloc 2017 LLC v. Apple, Inc. (Uniloc I)*, No. 19-cv-01904-WHO, 2019

WL 8810168, at *2 (N.D. Cal. Dec. 16, 2019) (alteration in original) (quotation marks and citation omitted). This is “not only so that defendants can properly respond to the claims against them, but ‘so that the Court can make a principled decision on whether discovery will proceed.’” *Geovector Corp. v. Samsung Elecs. Co.*, No. 16-cv-02463-WHO, 2017 WL 76950, at *5 (N.D. Cal. Jan. 9, 2017) (citation omitted); *Uniloc I*, 2019 WL 8810168, at *2 (same). Thus, Rule 3-1 requires a party claiming patent infringement to serve a “Disclosure of Asserted Claims and Infringement Contentions” that “shall contain,” *inter alia*, (a) “*as specific[ally] as possible*” and “*separately* for each asserted claim, *each* accused ...instrumentality,” “identified by name or model number, if known” (Rule 3-1(b) (emphasis added)); and (b) a “chart *identifying specifically* where and how each limitation of each asserted claim is found within each Accused Instrumentality” (Rule 3-1(c) (emphasis added)). “[A]ll courts agree that the degree of specificity under Local Rule 3-1 must be sufficient to provide reasonable notice to the defendant why the plaintiff believes it has a reasonable chance of proving infringement.” *Geovector*, 2017 WL 76950, at *3 (quoting *Shared Memory Graphics LLC v. Apple, Inc.*, 812 F. Supp. 2d 1022, 1025 (N.D. Cal. 2010)) (internal quotations omitted).

IV. ARGUMENT

A. The Court should strike Withrow’s Contentions as to Transcoder API (Charts 3 and 4) in their entirety.

Withrow’s Contentions as to Transcoder API (Charts 3 and 4) fail for the four separate and independent reasons set forth below and should thus be stricken in their entirety.

1. Withrow fails to show how Transcoder API meets each limitation of any asserted claim.

Withrow’s claim Charts 3 and 4, which relate to its purported accusation of Transcoder API, are facially insufficient because they do not map every claim element to Transcoder API. These charts reference Transcoder API in only two places: (1) on the first page, which simply states “Google Transcoder API” accompanied by a non-descript abstract image without any explanatory text; and (2) with respect to the dependent claim limitations of claim 8. Chart 3 at 1, 110-11; Chart 4 at 1, 129. Withrow does not explain how the API practices any limitation of independent claim 1, which would be required to practice claim 8. Withrow’s inability to map

Transcoder API to any limitation is unsurprising, given that by Withrow's own description, the '849 patent relates to "a client-driven streaming player" (Withrow's Opp., ECF No. 36, at 18), while Transcoder API merely converts content from one format to another (and is not a multimedia player). *See Transcoder API documentation*, Google Cloud, <https://cloud.google.com/transcoder/docs> (last visited May 8, 2025). In any event, Withrow's Contentions fail to satisfy Rule 3-1's basic requirements as to Transcoder API. *See Uniloc II*, 2020 WL 978678, at *3.

To the extent Withrow argues that Charts 3 and 4 are sufficient because they chart a representative product, Withrow has not—and could not—make a representativeness allegation because it hasn't identified any representative product, much less offered any reason why such a product would be representative of Transcoder API. *Uniloc II*, 2020 WL 978678, at *3.

Nor can Withrow argue its Contentions are adequate because they chart the HLS and MPEG standards. To rely on the streaming standards themselves to supply the contention for any claim limitations, Withrow must first establish that the accused instrumentality complies with the relevant standard—which Withrow has failed to do. *See Uniloc USA Inc. v. LG Elecs. USA Inc.*, No. 18-cv-06738-LHK (SVK), 2019 WL 8809732, at *3 (N.D. Cal. Apr. 4, 2019). Moreover, even if Withrow were able to rely on the standard for certain elements, there are still numerous elements that it does not to any standard: Chart 3 at 19-22 (limitation [1.b.ii]), 32-33 ([1.c.iv]), 36-39 ([6.d]), 57-60 ([6.b.ii]), 69-70 ([6.c.iv]), 71-72 ([7.d]), 96-98 ([7.b.ii]), 118 ([8])). For each such element, Withrow must show how the accused instrumentality, *i.e.*, Transcoder API, meets that element. *See Uniloc II*, 2020 WL 978678, at *3. As Withrow has not mapped Transcoder API to any limitation other than claim 8, it has thus failed to meet this requirement.

2. Withrow improperly attempts to accuse Transcoder API in combination with (i) Shaka Player and (ii) ExoPlayer as a single instrumentality, even though Withrow offers no contention for why they can be combined for infringement analysis.

Withrow names Transcoder API in combination with unnamed multimedia players as an accused instrumentality, and it also appears to rely in Claim Charts 3 and 4 on combining Transcoder API with Shaka Player and ExoPlayer as a single instrumentality. But the Contentions offer no explanation for why Transcoder API can be combined with Shaka Player or ExoPlayer,

much less any unidentified players, for infringement analysis. Part IV.A.3 below addresses why Withrow’s attempted combination with unidentified players is improper. As to ExoPlayer, Withrow cannot and has not offered any purported justification for a combination; in fact, Withrow doesn’t substantively chart ExoPlayer against any claim limitations, and instead merely includes its logo as an exemplary media player. Chart 3 at 2, 36; *see* Part IV.E. Thus, the purported combination of Transcoder API and ExoPlayer is insufficient. *Uniloc II*, 2020 WL 978678, at *3.

As to Shaka Player, Withrow asserted in a meet and confer letter that “Shaka Player receives Transcoder data” (Dinh Decl., Ex. 8 at 2). This post-hoc explanation is both procedurally and substantively insufficient. Procedurally, Withrow cannot rely on letters to counsel after the fact to meet its disclosure requirements for its Contentions under the Patent Local Rules. *See EON Corp IP Holding LLC v. Sprint Spectrum, L.P.*, No. C-12-01011 JST (EDL), 2014 WL 1022536, at *4 (N.D. Cal. Mar. 13, 2014) (finding letters and expert reports insufficient to “constitute amended infringement contentions”). Because the purported justification for combining Transcoder API with Shaka Player isn’t included in the Contentions themselves, it cannot address their deficiency. Indeed, it appears instead to be an implicit acknowledgment of the Contentions’ deficiency.

Substantively, even if Withrow had included the bare allegation that Transcoder API receives data from Shaka Player in its Contentions, that would not satisfy Rule 3-1. As Judge Gilliam has observed, it is “question[able] whether lumping information about [multiple] products into a single claim chart (absent a common infringing element) could ever satisfy the language or purpose of Patent Local Rule 3–1(c).” *Finjan, Inc. v. Proofpoint, Inc.*, No. 13-cv-05808-HSG, 2015 WL 1517920, at *4 (N.D. Cal April 2, 2015). Withrow does not provide any explanation to justify its “mixing and matching” of Transcoder API and Shaka Player. As stated in Parts II.A.1 and II.A.3 above, Transcoder API and Shaka Player are completely separate: one is offered as a commercial service by Google Cloud while the other is an open-source player.

Withrow cannot merely conclude that Transcoder API and Shaka Player somehow work together; it must allege *how* this purported combination infringes together. *See Finjan, Inc. v.*

1 *Check Point Software Techs., Inc.*, No. 18-cv-02621-WHO, 2019 WL 955000, at *4 (N.D. Cal.
 2 Feb. 27, 2019); *cf. AbCellera Biologics Inc. v. Bruker Cellular Analysis, Inc.*, No. 20-cv-08624-
 3 JST (VKD), 2024 WL 1182929, at *3 (N.D. Cal. Mar. 18, 2024) (“[patentee] must separately
 4 chart distinct infringing combinations, and if the chart relies on groupings of like systems,
 5 workflows, or chips, the chart must make this clear.”). Withrow does not do that. Notably, Shaka
 6 Player (including all its code) is open-source; Withrow cannot justify its failure to adequately
 7 allege the combination it purports to rely on in the Contentions.

8 On the combination issue, Charts 3 and 4 are similar to those stricken in *Finjan, Inc. v.*
 9 *Proofpoint, Inc.*, where the patentee charted groups of allegedly similar products together. 2015
 10 WL 1517920, at *4. Judge Gilliam found that these combined charts failed to put the defendant
 11 on notice of the plaintiff’s infringement contentions because the charts did not disclose how each
 12 individual product in the group met each claim limitation. *Id.* (“For example, while a product
 13 called ‘SafeImpressions’ is listed as one of the five products that constitute the Armorize Products
 14 group, Finjan’s contentions do not discuss the SafeImpressions product in the portion of its chart
 15 devoted to Claim 1a of the [asserted patent].”). Courts in this District routinely strike claim charts
 16 that mix and match products as Withrow does. *See, e.g., Uniloc II*, 2019 WL 8810168, at *6
 17 (striking contentions that “lump[ed] 38 different products into a single claim chart”); *AbCellera*,
 18 2024 WL 1182929, at *3 (a patentee may not “lump all accused systems” into a single chart,
 19 “leaving [Defendants] to figure out which combinations are accused.”); *Proofpoint*, 2015 WL
 20 1517920, at *4 (N.D. Cal. Apr. 2, 2015) (“The object of [] Rule [3-1]... is not well-served by
 21 creating charts that address multiple distinct products at once.”).

22 **3. Withrow’s attempt to combine Transcoder API with accused**
 23 **instrumentalities it identifies only in an open-ended way, i.e., “any**
 24 **multimedia player” and “all Defendant servers,” fails to meet Rule 3-**
1(b)’s particularity requirement.

25 Rule 3-1(b) requires Withrow to identify “*each* accused apparatus, product, device,
 26 process, method, act, or other instrumentality” that it contends infringes. “Rule 3-1(b) does not
 27 permit parties to identify accused products by using categorical or functional identifications, or
 28 limited, representative examples.” *Geovector*, 2017 WL 76950, at *4.

1 Rather than provide a definitive list of accused instrumentalities, Withrow's Contentions
 2 (as best understood by Defendants) do exactly what prior decisions say Rule 3-1 does not permit:
 3 it accuses Transcoder API in combination with two broad unidentified categories of products,
 4 namely "any multimedia player provided by Defendants" (PLR 3-1 Disclosure at 1-2; *see also*
 5 Chart 3 at 2 ("any player Defendants provide to a user's machine for HLS playback as they all
 6 must comply with the HLS standard")) and "all Defendant servers (e.g., transcoders)" (Chart 3 at
 7 118; Chart 4 at 132; *see also* Chart 1 at 158; Chart 2 at 174). These identifications and purported
 8 combinations fail to meet Rule 3-1's requirement for specifically identifying accused
 9 instrumentalities. *Oracle Am., Inc. v. Google Inc.*, No. C 10-03561 WHA, 2011 WL 4479305, at
 10 *1-3 (N.D. Cal. Sept. 26, 2011) (finding insufficient and striking purported identification of
 11 accused instrumentalities as "mobile devices running Android"); *Geovector*, 2017 WL 76950, at
 12 *4 (finding insufficient identification of "(1) Samsung 'smart phones' with a screen, camera,
 13 processor, compass, and accelerometer; (2) all 'tablets' shipped between 2010 and 2013; the
 14 Samsung Galaxy, Galaxy S, Galaxy Note, and Galaxy Tab 'product lines'; (3) all 'phablets'; and
 15 (4) all Augmented Reality applications").

16 Courts in this District have found the sort of "strategic open-ended language" Withrow
 17 proffers to be insufficient under the Patent Local Rules. *See, e.g., Uniloc USA, Inc. v. Apple Inc*
 18 (*Uniloc USA-Apple*), No. C 18-00360 WHA, 2018 WL 3219486, at *3 (N.D. Cal. July 2, 2018);
 19 *Geovector*, 2017 WL 76950, at *4. Courts have accordingly stricken such language and limited
 20 the accused instrumentalities to only those explicitly named in the contentions. *See, e.g.,*
 21 *Geovector*, 2017 WL 76950, at *8 ("If GeoVector wishes to accuse products not explicitly listed
 22 in its initial infringement contentions ..., it may only do so after seeking leave and showing good
 23 cause under Patent Local Rule 3-6."); *Uniloc USA-Apple*, 2018 WL 3219486, at *3 ("Uniloc will
 24 be limited to the accused products actually listed in its infringement contentions. If Uniloc
 25 believes that products released by Apple in the future infringe, it may move for leave to amend its
 26 infringement contentions.") (citation omitted).

27 //

28 //

1 **4. Withrow fails to map limitations [1.b.ii] and [6.d] sufficiently for**
 2 **Transcoder API.**

3 In addition to the deficiencies above, Charts 3 and 4 fail to show how certain limitations
 4 are met even by any combination of products. This deficiency is in addition to all those set forth
 5 in Parts IV.A.1-3 above and relates to the following limitations as mapped in Charts 3 and 4, as
 6 explained below:

- 7 • [1.b.ii] “multimedia objects are ... received by said multimedia player from servers”
 8 • [1.b.ii] “multimedia objects [] are ... received using a wireless connection”
 9 • [6.d] “stored on a non-transitory computer readable medium”

10 **a. [1.b.ii] “multimedia objects are ... received by said multimedia**
 11 **player from servers”**

12 Withrow relies entirely on its assertion that “the Google Player receives multimedia
 13 objects from Google’s content servers.” *E.g.*, Chart 3 at 19. In support, it includes screenshots
 14 from Google webpages related to Google’s Edge Network of data centers. Chart 3 at 19-21, 57-
 15 59, 96-97; Chart 4 at 24-26, 66-67, 112-113; Chart 5 at 19-21, 65-67, 107-108. But Withrow fails
 16 to explain any connection between Google’s Edge Network and Transcoder API. Indeed, none of
 17 the screenshots regarding Google’s Edge Network describe it supplying any functionality with
 18 respect to Transcoder API. Rather, the screenshot highlights that *YouTube* content is temporarily
 19 cached on edge nodes. *Id.* at 21. Withrow does not explain how this functionality shows
 20 infringement by Transcoder API. Thus, Withrow fails to show how this limitation is met. *Cap Co.*
 21 *v. McAfee, Inc.*, No. 14-cv-05068-JD, 2015 WL 4734951, at *2 (N.D. Cal. Aug. 10, 2015) (“[I]n
 22 order to infringe, the accused device must contain each limitation of the claim, either literally or
 23 by an equivalent.”) (internal quotation marks and citation omitted).

24 **b. [1.b.ii] “multimedia objects are ... received using a wireless**
 25 **connection”**

26 For Charts 3 and 4, in support of this limitation, Withrow merely parrots the claim
 27 language and includes a single screenshot of what appears to be a personal hotspot along with the
 28 assertion that “[s]treaming from this system was accomplished using a wireless connection.”
 Chart 3 at 22, 60, 98, 118; Chart 4 at 27, 68, 114, 133; *see also* Chart 5 at 22, 41, 68, 109. But

1 Withrow does not identify what it means by “this system.” This failure is particularly acute
 2 because Withrow’s charts purport to accuse Transcoder API, the two named players, an indefinite
 3 number of unnamed players, and “all Defendant servers.” Defendants are thus left guessing what
 4 instrumentality or feature of an instrumentality allegedly practices this limitation. *Cap Co.*, 2015
 5 WL 4734951, at *2.

6 **c. [6.d] “stored on a non-transitory computer readable medium”**

7 For Chart 3, Withrow asserts “on information belief” that “all Google Pixel Phones” and
 8 “all Google Pixel Tablets” “can be loaded with Shaka and Exoplayer,” yet it does not provide any
 9 support for this assertion, much less explain how this ties into Transcoder API. Chart 3 at 37-38.
 10 These allegations, which are made only “on information and belief,” fail to show how this
 11 limitation is met. *See Theranos, Inc. v. Fuisz Pharma LLC*, No. 11-cv-05236-YGR, 2012 WL
 12 6000798, at *5 (N.D. Cal. Nov. 30, 2012) (striking infringement contentions without leave where
 13 asserting party made only vague allegations “on information and belief” and implicitly conceded
 14 that it did not have any additional factual support for its claims).

15 ***

16 Given the myriad deficiencies in Withrow’s Contentions as to Transcoder API (Charts 3
 17 and 4) set forth in Parts IV.A.1-4 above, those Contentions should be stricken in their entirety.

18 **B. The Court should strike Withrow’s Contentions as to Live Stream API**
 19 **(Chart 5) in their entirety.**

20 Withrow’s Contentions as to Live Stream API largely mirror its Contentions as to
 21 Transcoder API, and thus, suffer the same deficiencies.

22 **First**, Withrow’s purported mapping of Live Stream API is even more lacking than its
 23 Contentions as to Transcoder API. Chart 5, which is the only one regarding Live Stream API,
 24 includes a screenshot of a logo with abstract lines above the words “Google Livestream API” on
 25 its first page—the only place where the word “Livestream” appears in the entire chart (or any
 26 chart). Chart 5 at 1. This fails to satisfy Rule 3-1. *See Uniloc II*, 2020 WL 978678, at *3. To the
 27 extent that Withrow purports its mapping to the HLS standard is sufficient, this fails for the same
 28 reasons this argument fails as to Transcoder API, namely that Withrow has failed to show that

1 Live Stream API complies with the HLS standard or that it meets the limitations that are not met
2 by the standard. *See supra* Part IV.A.1.

3 **Second**, in its chart as to Live Stream API, Withrow attempts the same jumbled mixing
4 and matching of Live Stream API with Shaka Player and ExoPlayer as it attempts with
5 Transcoder API. *Compare* Chart 3 at 1-2 and Chart 4 at 1-2 *with* Chart 5 at 1-2. Withrow appears
6 to contend that somehow Shaka Player, ExoPlayer, or some unidentified multimedia player can
7 satisfy its Rule 3-1 requirements in the absence of any assertions that Live Stream API practices
8 any limitation. For the reasons stated in Part IV.A.2, this is insufficient because (a) courts in this
9 District do not permit lumping multiple products into a single chart absent a common infringing
10 element (*see, e.g., Proofpoint, Inc.*, 2015 WL 1517920, at *4), and (b) Withrow provides no
11 justification for mixing and matching these products or any explanation of how a purported
12 combination of Live Stream API with a multimedia player would infringe together.

13 **Third**, Withrow's Contentions as to Live Stream API rely on the same open-ended
14 language accusing "any multimedia player" that it relies on in the Transcoder API charts. *See*
15 PLR 3-1 Disclosure at 1-2; *compare* Chart 3 at 2 ("any player Defendants provide to a user's
16 machine for HLS playback as they all must comply with the HLS standard") *with* Chart 5 at 2
17 (identical language). For the reasons stated above, *supra* Part IV.A.3, this is improper and the
18 Court should strike such language.

19 **Fourth**, just as with its Contentions as to Transcoder API, Withrow's Contentions as to
20 Live Stream API fail to show how limitations [1.b.ii] or [6.d] are met. *Compare* Chart 3 at 19-21,
21 57-59, 96-97 *with* Chart 5 at 19-21, 65-67, 107-108.

22 **C. The Court should strike Withrow's Contentions as to YouTube (Charts 1 and**
23 **2) to the extent they accuse YouTube in combination with Shaka Player and**
24 **ExoPlayer or rely on open-ended combinations.**

25 While Defendants do not challenge Withrow's Contentions as to YouTube as a whole,
26 there are aspects of Charts 1 and 2 that should be stricken because they suffer similar deficiencies
as those set forth as to Transcoder API and Live Stream API in Parts IV.A and IV.B above.

27 **First**, the charts improperly purport to combine YouTube with Shaka Player and
28 ExoPlayer. The charts reference Shaka Player and ExoPlayer as exemplary "Defendant App

1 Players,” without any evidence that justifies combining either player with YouTube. Chart 1 at 2,
 2 57, 110; Chart 2 at 2, 56, 121. It is unclear whether Withrow contends either or both Shaka Player
 3 and/or ExoPlayer somehow work in conjunction with YouTube and, if so, how. For the reasons
 4 stated in Part IV.A.2, Withrow cannot mix and match these products and services. *See Uniloc II*,
 5 2020 WL 978678, at *3.

6 **Second**, the Contentions as to YouTube rely on broad categorical language regarding
 7 infringement by “any multimedia player” that is present in the Transcoder API and Live Stream
 8 API charts. *See* PLR 3-1 Disclosure at 1-2; *compare* Chart 3 at 2 (“any player Defendants provide
 9 to a user’s machine for HLS playback” *with* Chart 1 at 3 (identical language). For the reasons
 10 stated in Part IV.A.3, this is improper and the Court should strike such language.

11 Accordingly, the Court should strike the claim charts as to YouTube to the extent they
 12 seek to combine YouTube with Shaka Player and ExoPlayer and to the extent they rely on broad
 13 categorical language.

14 **D. The Court should strike the broad, open-ended instrumentalities identified in**
 15 **all the claim charts, i.e., “all Google Pixel Phones” and “all Google Pixel**
 16 **Tablets.”**

17 In addition to accusing “any multimedia player” and “all Defendant servers” across the
 18 charts, Withrow also accuses “all Google Pixel Phones” (Chart 1 at 61; Chart 2 at 60; Chart 3 at
 19 37; Chart 4 at 42; Chart 5 at 44) and “all Google Pixel Tablets” (Chart 1 at 62; Chart 2 at 61;
 20 Chart 3 at 38; Chart 4 at 43; Chart 5 at 45) of infringing in order to meet the limitation of
 21 independent claim 6 requiring computer executable instructions stored on a non-transitory
 22 computer readable medium. Withrow does not identify any specific Google Pixel Phones or
 23 Google Pixel Tablets that meet this limitation. These sweeping categorical allegations are
 24 inadequate under the Patent Local Rules, which require the patentee identify “as specific[ly] as
 25 possible” each accused product, including “by name or model number, if known.” Rule 3-1(b);
 26 *see Uniloc USA-Apple*, 2018 WL 3219486, at *3 (striking patentee’s use of “a list of categorical
 27 products (such as ‘Apple tablets’)”); *see supra* Part IV.A.3. Even if these broad product
 28 categories were adequately specified, Withrow’s Contentions would still fail for not providing
 any claim chart mapping each product category to each limitation of each asserted claim and

explaining why any product is representative of another. *See Uniloc II*, 2020 WL 978678, at *3.

E. The Court should strike all references to ExoPlayer regardless of any other deficiencies.

If the Court grants the relief sought in Parts IV.A-C above, that would necessarily entail striking the limited allegations as to ExoPlayer in the Contentions. If the Court does not, however, grant all the relief requested in Parts IV.A-C above, it should nonetheless strike any references to ExoPlayer. Withrow does not even attempt to show how ExoPlayer meets any claim limitations, and ExoPlayer is not in Withrow's list of accused instrumentalities. *See supra* Part IV.A.1. Rather, Withrow refers to ExoPlayer only as an exemplary multimedia player in its claim charts. *E.g.*, Charts 1-5 at 2. Regardless of what Withrow's purpose is in naming ExoPlayer, its Contentions as to ExoPlayer are inadequate because they fail to map ExoPlayer to any claim elements. *See supra* Part IV.A.1. Withrow likewise fails to show how, if at all, ExoPlayer complies with either identified streaming standard. *See id.* Thus, the Court should strike all references to ExoPlayer across the claim charts.

F. The Court should strike all references to Google TV.

Withrow's Contentions make passing reference to Google TV, asserting that "discovery is expected to show that Google TV is an Accused Instrumentality." PLR 3-1 Disclosure at 3. This passing reference is insufficient under Rule 3-1. *See, e.g., Mediatek, Inc. v. Freescale Semiconductor, Inc.*, No. 11-5341-YGR-JSC, 2013 WL 588760, *2-4 (N.D. Cal. Feb. 13, 2013) (denying discovery of products not specifically identified in infringement contentions and requiring patentee seek leave to amend its ICs to add those products before permitting any discovery); *Bender v. Micrel Inc.*, No. 09-cv-01144, 2010 WL 520513, at *3 (N.D. Cal. Feb. 6, 2010) ("Simply asserting that a patent is ubiquitous within an industry, or that every product defendant has created contains the patented [invention] because one product does, is insufficient to satisfy the Patent Local Rules."). "[I]nfraction contentions are supposed to establish a basis for taking discovery, not the other way around." *Uniloc I*, 2019 WL 8810168, at *10. For the reasons stated in Part IV.A.1, if Withrow intends to identify Google TV as an accused instrumentality, it must provide a chart identifying how Google TV meets each limitation of each

1 asserted claim. Withrow cannot deny it has failed to meet this standard and the Court should thus
2 strike all references to Google TV.

3 **G. The Court should stay discovery until Withrow serves compliant contentions.**

4 Given the significant deficiencies in Withrow’s Contentions, Defendants are left without
5 the requisite notice of Withrow’s theory of infringement necessary to prepare for claim
6 construction and defend against Withrow’s claims. In similar circumstances, courts in this District
7 routinely stay a defendant’s discovery obligations until after the plaintiff meets its burden to
8 provide compliant infringement contentions. *See, e.g., Tech. Props.*, 114 F. Supp. 3d at
9 852. Non-compliant Contentions also inhibit the Court’s ability to “make a principled decision
10 on whether discovery will proceed.” *Geovector*, 2017 WL 76950, at *5. “[C]ourts in this district
11 generally do not order defendants to proceed with discovery in patent cases until the plaintiff
12 provides infringement contentions that comply with Patent L.R. 3–1.” *Tech. Props.*, 114 F. Supp.
13 3d at 852 (internal quotation marks and citation omitted); *Geovector*, 2017 WL 76950, at *8
14 (“When a plaintiff’s infringement contentions are insufficient to meet the requirements of the
15 Patent Local Rules, courts in this district often stay discovery . . .”). Furthermore, Defendants
16 also cannot fully develop their non-infringement defenses until Withrow provides contentions that
17 satisfy Rule 3-1.

18 Thus, the Court should stay discovery, including that relating to claim construction, until
19 after Withrow serves compliant Contentions.

20 **V. CONCLUSION**

21 Withrow’s Contentions fail to satisfy Rule 3-1. Defendants thus respectfully request that
22 the Court strike Withrow’s Contentions (a) as to Transcoder API in their entirety, including to the
23 extent they purport to combine Transcoder API with Shaka Player or ExoPlayer, or rely on open-
24 ended language (*e.g.* “any multimedia player”), (b) as to Live Stream API in their entirety,
25 including to the extent they purport to combine Live Stream API with Shaka Player or ExoPlayer,
26 or rely on open-ended language (*e.g.* “any multimedia player”), (c) as to YouTube, to the extent
27 they purport to combine YouTube with Shaka Player or ExoPlayer, or rely on open-ended
28 language (*e.g.* “any multimedia player”), (d) rely on open-ended language (*i.e.* “all Google Pixel

Phones” and “all Google Pixel Tablets,” (e) to the extent they purport to identify instrumentalities but fail to show how each instrumentality practices each limitation of each asserted claim (*i.e.* ExoPlayer); and (f) as to any instrumentality mentioned but not actually accused (*i.e.*, Google TV).

Defendants further move this Court for an order staying discovery until Withrow provides compliant Contentions.

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