From:	Anna Schmidt
To:	Michael Shore; bnash@mofo.com; kpundeff@mofo.com; Neil Benchell; nkiaei@mofo.com; rhung@mofo.com; rmalloy@mofo.com; Timothy Devlin; Zachary Della Porta
Subject:	Re: 1:24-cv-1199 HBCU Messaging v. Apple Preliminary Constructions
Date:	Wednesday, January 28, 2026 3:00:33 PM
Attachments:	~~image[redacted].png~~ ~~Outlook [redacted].png~~

Counsel,

Thank you for this clarifying email. Judge Albright would like to see more briefing at the summary judgment stage and has ordered plain and ordinary meaning for the "wherein...when" terms at this stage. A claim construction order is forthcoming.

Please reach out if there are any questions.

Best,

Anna Schmidt
Law Clerk to the Honorable Alan D Albright
United States District Court, Western District of Texas
Anna_Schmidt@txwd.uscourts.gov

From: Michael Shore <mshore@shorefirm.com>
Sent: Monday, January 26, 2026 7:01 PM
To: Anna Schmidt <Anna_Schmidt@txwd.uscourts.gov>; bnash@mofo.com <bnash@mofo.com>; kpundeff@mofo.com <kpundeff@mofo.com>; nbenchell@devlinlawfirm.com <nbenchell@devlinlawfirm.com>; nkiaei@mofo.com <nkiaei@mofo.com>; rhung@mofo.com <rhung@mofo.com>; rmalloy@mofo.com <rmalloy@mofo.com>; tdevlin@devlinlawfirm.com <tdevlin@devlinlawfirm.com>; Zachary Della Porta <zdellaporta@shorefirm.com>
Subject: RE: 1:24-cv-1199 HBCU Messaging v. Apple Preliminary Constructions

CAUTION - EXTERNAL:

Dear Judge Albright,
As instructed Friday, the parties inform the Court of the agreed claims construction issues and those still requiring guidance or a ruling.

- "third party provider": The parties agree with the Court's preliminary construction of "plain and ordinary" meaning.
- "cellular core network": The parties request that the Court construe this term on the briefing.

- "bearer": The parties propose the Court construe this term to have its "plain and ordinary" meaning.
- "wherein . . . when": The parties have differing positions on what the plain and ordinary meaning for these four terms should be. If the Court chooses to wait for a fuller summary judgment record to decide that issue, the parties can proceed with discovery and the issue can be postponed to the summary judgment phase. If the Court would like to decide that issue now, the parties are prepared to supply the Court with additional briefing or a hearing, if requested.

Best,
Counsel

From: Anna Schmidt <Anna_Schmidt@txwd.uscourts.gov>
Sent: Friday, January 23, 2026 7:44 AM
To: bnash@mofo.com; kpundeff@mofo.com; Michael Shore <mshore@shorefirm.com>; nbenchell@devlinlawfirm.com; nkiaei@mofo.com; rhung@mofo.com; rmalloy@mofo.com; tdevlin@devlinlawfirm.com; Zachary Della Porta <zdellaporta@shorefirm.com>
Subject: Re: 1:24-cv-1199 HBCU Messaging v. Apple Preliminary Constructions

CAUTION: External Email!

Good morning, Counsel,

The Court will need to push today's hearing to 1:30 PM CT, rather than 1:00 PM. The Zoom link remains the same.

Best,

Anna Schmidt
Law Clerk to the Honorable Alan D Albright
United States District Court, Western District of Texas
Anna_Schmidt@txwd.uscourts.gov

From: Anna Schmidt <Anna_Schmidt@txwd.uscourts.gov>
Sent: Thursday, January 22, 2026 11:17 AM
To: bnash@mofo.com <bnash@mofo.com>; kpundeff@mofo.com <kpundeff@mofo.com>;

mshore@shorefirm.com <mshore@shorefirm.com>; nbenchell@devlinlawfirm.com <nbenchell@devlinlawfirm.com>; nkiaei@mofo.com <nkiaei@mofo.com>; rhung@mofo.com <rhung@mofo.com>; rmalloy@mofo.com <rmalloy@mofo.com>; tdevlin@devlinlawfirm.com <tdevlin@devlinlawfirm.com>; zdellaporta@shorefirm.com <zdellaporta@shorefirm.com>
Subject: Re: 1:24-cv-1199 HBCU Messaging v. Apple Preliminary Constructions

Counsel,

With this not being confidential, the public may attend by dialing in to the relevant number below. We ask that only counsel attend by video link, and that the public dial in.

CIVIL/PUBLIC:

Jennifer Clark is inviting you to a scheduled ZoomGov meeting.

Topic: Judge Albright - Civil Proceedings
Time: This is a recurring meeting Meet anytime

Join ZoomGov Meeting
https://txwd-uscourts.zoomgov.com/j/1613131172?pwd=YlROMDgzWlVicURyNHJiNTl4RFdXUT09

Meeting ID: 161 313 1172
Passcode: 120804

One tap mobile
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Dial by your location
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• +1 646 828 7666 US (New York)
• +1 646 964 1167 US (US Spanish Line)
• +1 551 285 1373 US (New Jersey)
• +1 669 216 1590 US (San Jose)
• +1 415 449 4000 US (US Spanish Line)

Meeting ID: 161 313 1172
Passcode: 120804

Find your local number: https://txwd-uscourts.zoomgov.com/u/ae3OuAb5i

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Join by SIP
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Join by H.323
• 161.199.138.10 (US West)
• 161.199.136.10 (US East)

Meeting ID: 161 313 1172
Passcode: 120804

Please reach out if there are any questions.

Best,

Anna Schmidt
Law Clerk to the Honorable Alan D Albright
United States District Court, Western District of Texas
Anna_Schmidt@txwd.uscourts.gov

From: Anna Schmidt
Sent: Wednesday, January 21, 2026 9:33 AM
To: bnash@mofo.com <bnash@mofo.com>; kpundeff@mofo.com <kpundeff@mofo.com>; mshore@shorefirm.com <mshore@shorefirm.com>; nbenchell@devlinlawfirm.com <nbenchell@devlinlawfirm.com>; nkiaei@mofo.com <nkiaei@mofo.com>; rhung@mofo.com <rhung@mofo.com>; rmalloy@mofo.com <rmalloy@mofo.com>; tdevlin@devlinlawfirm.com <tdevlin@devlinlawfirm.com>; zdellaporta@shorefirm.com <zdellaporta@shorefirm.com>

Subject: 1:24-cv-1199 HBCU Messaging v. Apple Preliminary Constructions

Counselors,

The Court provides the following preliminary constructions in advance of **Friday's 1:00 PM CT Zoom** *Markman* hearing. The purpose of preliminary constructions is to streamline the hearing by providing the parties an indication of the Court's current position for each term. Although the parties are, of course, free to argue for their originally proposed construction, it is generally unlikely that the Court will select a party's originally proposed construction over the preliminary construction. As such, the Court believes that making arguments to fine-tune the preliminary construction may be more helpful. The preliminary constructions are not final as the Court may change some of those constructions based on the arguments at the hearing.

Of the below terms, please let me know what terms each side would like to argue at least 30 minutes before the hearing. Each side may email their list separately (but please CC the other side) or jointly (please indicate which side, or both, wants to argue each term). To the extent a junior attorney will be arguing a term, please let me know which term(s) the junior attorney will be arguing.
Zoom Link: https://txwd-uscourts.zoomgov.com/j/1613131172?pwd=YlROMDgzWlVicURyNHJiNTl4RFdXUT09
Meeting ID: 161 313 1172
Passcode: 120804
Please distribute draft slides, if any, to Ms. Kristie Davis (for her eyes only) as soon as you are able and then distribute final copies when they are ready. Also, please let Ms. Davis know who will attend and who will speak: Kristie_Davis@txwd.uscourts.gov.

Additionally, please let me know if parties anticipate any confidential information will be shared & would like the hearing to be sealed.

TERM	HBCU'S Proposed Construction	Apple's Proposed Construction	Court's Preliminary Construction
"Wherein...When" [...] "wherein the wireless device of			

the sender selects the first transmission mode **when** the indication corresponds to a subscriber of the service" ('127 patent);

"wherein, **when** the selected transmission mode is the first transmission mode, the wireless device of the sender sends the outgoing message as one or more Internet protocol (IP) packets to the wireless device of the recipient via the packet switched WLAN base station" ('127 patent);

"wherein, **when** the selected transmission mode is the second transmission mode, the wireless device of the sender sends the outgoing message as a short message service (SMS) message to the wireless device

of the recipient using the destination address via a base station that is associated with a cellular core network that is independent of the packet switched WLAN base station" ('127 patent); and "wherein the PSMS receives and queues message addressed to a message recipient **when** the message recipient is not connected to the PSMS" ('182 Patent).		
Plain and ordinary meaning	For each: "Wherein [X] **whenever** [Y]" where text in red indicates a condition Y, while text in blue indicates a response X.	For each: "Wherein [X] **whenever** [Y]" where text in red indicates a condition Y, while text in blue indicates a response X.

“Third Party Provider”
Plain and ordinary meaning
Indefinite

Plain and ordinary meaning
"Bearer"
“A protocol running on a channel for transmitting data including SS7, GSM SS7, HSDPA, WCDMA, CDMA2000, GPRS, Bluetooth, WiFi, WiMax, or any other WPAN, WLAN, or WWAN wireless data transfer protocol”
“A communication channel or protocol"
“A communication channel or protocol"
"Cellular Core Network"
“One or more entities responsible for: maintaining a database of subscriber information for a cellular network, for example, a home location register (HLR) and/or a home subscriber server (HSS); providing access to a short message service center (SMSC) or

multimedia message (MMS) server; and providing Internet access to one or more mobile devices via at least mobile operator base stations"
"A network connecting cellular base stations"
"One or more entities responsible for: maintaining a database of subscriber information for a cellular network, for example, a home location register (HLR) and/or a home subscriber server (HSS); providing access to a short message service center (SMSC) or multimedia message (MMS) server; and providing Internet access to one or more mobile devices via at least mobile operator base stations"

Please let me know if there are any questions.

Best,

Anna Schmidt
Law Clerk to the Honorable Alan D Albright
United States District Court, Western District of Texas
Anna_Schmidt@txwd.uscourts.gov

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.