



District Court, Peeved at the Plaintiff's Incessant Use of Inter Alia, "and/or," and "Including but Not Limited To" Expressions, Struck Infringement Contentions For Lack of Particularity

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The plaintiff failed the first requirement because of its repeated use of "and/or," "inter alia," "etc.," and "including but not limited to" expressions. This usage, the court noted, "puts one in mind of a Choose Your Own Adventure with its fulsome array of possible infringement theories." In particular, the plaintiff could not satisfy the "computer processor" claim limitation by simply pointing to the defendant's "interconnected computer systems/servers/devices/routers, including but not limited to the regional connectivity centers at Schaumburg and Knoxville." An infringing component cannot be an "infinitely expandable, open set of systems, devices, and facilities as [the] use of 'including but not limited to' suggests."

The plaintiff did not meet the second requirement because it failed show how the accused components performed the claimed functions. The plaintiff did not specify how "regional connectivity centers" performed the claimed steps of receiving, and storing information from a video storage center. It was insufficient to simply assert that a connectivity center was "connected" to a videophone. The plaintiff should have identified how the servers in the connectivity center connected to videophones to receive and store information.

Visual Interactive Phone Concepts, Inc. v. U.S. Cellular Corp., 111cv05289 (N.D. Ill., May 26, 2015) (E. Bucklo).

Categories

District Court

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