United States District Court,
D. Massachusetts.

AKAMAI TECHNOLOGIES, INC. and,
v.
DIGITAL ISLAND, INC. and v. and.

Civil Action No. 00-11851-RWZ

Nov. 8, 2001.

David H. Judson, Addison, TX, for Akamai Technologies, Inc. and Massachusetts Institute of Technology.

Arthur Wineburg, Brian J. Beatus, Pillsbury Winthrop L.L.P., McLean, VA, Eileen M. Herlihy, Palmer & Dodge, LLP, Boston, MA, Lynn E. Eccleston, Pillsbury, Winthrop LLP, Washington, DC, for Digital Island, Inc.

ORDER REGARDING CLAIM CONSTRUCTION

ZOBEL**, District Judge.**

The parties have requested the Court to construe certain claim language in U.S. Patent No. 6,108,703 ("the '703 Patent"), U.S. Patent No, 6,003,030 ("the '030 Patent") and U.S. Patent No. 5.978,791 ("The '791 Patent"). Both parties have filed briefs offering suggested interpretations of the disputed claim terms, and they advocated their respective interpretations at a *Markman* hearing on October 25, 2001, held pursuant to the decision in Markman v. Westview Instruments, Inc., 52 F.3d 967 (Fed.Cir.1995), *aff'd* 517 U.S. 370, 116 S.Ct. 1384, 134 L.Ed.2d 577 (1996). Having reviewed the parties' arguments and considered the central claim terms at issue, I construe these terms as indicated below. In the interest of time, and given the parties' concerns regarding the trial schedule, I enter this claim construction now without an explanatory memorandum. An accompanying memorandum will follow at a later date.

Construction of Terms in the 703 Patent:	
"tagging"	providing a "pointer" or "hook" so that the object resolves to a domain other than the content provider domain
"to resolve a domain other than the content provider domain"	to to specify a particular group of computers that does not include the content provider from which an optimal server is to be selected
"resolving the ARL to identify a content server"	identifying an IP address for a specific content server in the network using one or more DNS lookups
Construction of Terms in the '030 Patent:	
"network traffic test"	test performed by any entity on the "client" side of the network to evaluate traffic on the network

Construction of Terms in the 791 Patent:

"substantially unique identifier"	an identity for a data item generated by processing *all* of the data in the data item, and *only* the data in the data item, through an algorithm
"using identifier"	the employing the unique identifier of the data item, with or without other information, to carry out the recited function

At the time of the *Markman* hearing, the parties had abandoned a number of claims relating to the 791 Patent and did not appear to have a common understanding as to which additional claim terms were still in dispute. The parties' written and oral presentations offer little assistance in this regard. I therefore limit my ruling to the terms above.

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