United States District Court,
N.D. California.

GRACENOTE, INC., a Delaware corporation,
Plaintiff.
v.
MUSICMATCH, INC., a Washington corporation,
Defendant.

No. C 02-3162 CW

Feb. 2, 2004.

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CLAIM CONSTRUCTION ORDER

CLAUDIA WILKEN**, District Judge.**

Plaintiff Gracenote, Inc. and Defendant MusicMatch, Inc. dispute the meaning of several terms and phrases used in U.S. Patent No. 6,230,192 ('192 patent) and U.S. Patent No. 6,330,593 ('593 patent). Gracenote and MusicMatch each ask the Court to adopt its proposed construction of the disputed terms and phrases. FN1 The matter was heard on November 21, 2003. Having considered the parties' papers, the evidence cited therein and oral argument, the Court construes the disputed terms and phrases as set forth herein.

FN1. Gracenote also moves to strike deposition testimony submitted by MusicMatch in support of its claim construction brief. The Court DENIES Gracenote's motion to strike. Because the Federal Circuit has held that extrinsic evidence "may be used ... to help the court come to a proper understanding of the claims," Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1584 (Fed.Cir.1996), the Court will allow MusicMatch the opportunity to present such evidence. However, as demonstrated by the remainder of this Order, the Court has not found the extrinsic evidence that MusicMatch has presented to be relevant or persuasive.

BACKGROUND

Plaintiff Gracenote is the successor-in-interest of the assignee of the '192 and '593 patents. According to the Summary of the Invention, it is the object of the '192 patent to "provide computer programs, systems, and protocols which allow producers to deliver entertainment complementary to musical recordings by means of on-line services such as the Internet" and to "allow such complementary entertainment to be meaningfully interactive for the consumer." '192 patent 1 :59-66. According to the Summary of Invention, it is the object of the '593 patent to collect and provide to record companies "data representative of the users listening habits." '593 patent 2 :5-17. Gracenote alleges that MusicMatch's products infringe these patents. Now before the Court are the parties' respective positions on claim construction.

LEGAL STANDARD

The interpretation of patent claims is a question of law to be decided by the Court. Markman v. Westview Instruments, Inc., 517 U.S. 370, 371-73 (1996). In construing a claim, the Court must look first to the specific words of the claim. Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1582 (Fed.Cir.1996). "[T]he claims define the scope of the right to exclude; the claim construction inquiry, therefore, begins and ends in all cases with the actual words of the claim." Renishaw PLC v. Marposs Societa per Azioni, 158 F.3d 1243, 1248 (Fed.Cir.1998).

Words in the claim are generally given their ordinary meaning. *Id.; see also* Texas Digital Sys. Inc. v. Telegenix Inc., 308 F.3d 1193, 1202 (Fed.Cir.2002) ("The terms used in the claims bear a 'heavy presumption' that they mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art."). "The ordinary meaning of a claim term may be determined by reviewing a variety of sources, including the claims themselves, other intrinsic evidence including the written description and the prosecution history, and dictionaries and treatises." Teleflex, Inc. v. Ficosa N. Am. Corp., 299 F.3d 1313, 1325 (Fed.Cir.2002) (internal citations omitted).

While words in the claim are generally given their ordinary meaning, the specification or prosecution history may indicate otherwise. Vitronics Corp., 90 F.3d at 1582. "[A] patentee may choose to be his own lexicographer and use terms in a manner other than their ordinary meaning, as long as the special definition is clearly stated in the patent specification or file history." *Id*. However, claims are not limited to the preferred embodiment described in the specification. *See* SRI Int'l v. Matsushita Elec. Corp. of Am., 775 F.2d 1107, 1121 (Fed.Cir.1985) (*en banc,* plurality opinion).

DISCUSSION

I. Recording

The parties dispute the meaning of the term "recording" as used in numerous claims of both the '192 and '593 patents. Gracenote proposes to define the term "recording" as "the medium in which data is recorded, or the data itself." Gracenote relies upon the plain meaning of the term "recording" to support this proposed construction. *See, e.g.,* Webster's Third New Int'l Dictionary of the English Language (1993) (defining "recording" as both "what is recorded" and "a phonograph record, magnetic tape, or some other thing ... on which sound or visual images have been recorded for subsequent reproduction"); Am. Heritage Dictionary (2nd College Ed.1985) (defining "recording" as both "something on which sound or visual images have been recorded" and "a recorded sound or picture"). MusicMatch apparently does not dispute that the plain meaning of the term "recording" encompasses both data and the medium on which the data is recorded. MusicMatch, however, argues that the term "recording" as it is used in the patents-in-suit is limited to "audiovisual data registered on a medium." Thus, MusicMatch's proposed construction would limit the meaning of the term "recording" in two ways: (1) by excluding the medium itself, and (2) by limiting the recorded data to audiovisual data.

A. Medium

MusicMatch argues that the term "recording" does not encompass the medium on which the data is recorded. In support of this limitation on the use of the term "recording" in the '192 patent, MusicMatch points to the language of claim 11 of the '192 patent, which includes the claim limitation that "the recording is stored on one of a compact disc and a digital versatile disc." ' 192 patent 16 :50-51. MusicMatch also points to a passage in the specification, discussing the traditional method of production of a musical recording, that states: "The recording is produced in a number of recording sessions, subject to careful mixing and editing, and then released to the public. At that point, the recording is in a fixed form, nowadays an audio CD." MusicMatch asserts that these passages demonstrate that the '192 patent draws a distinction

between the data, referred to in the '192 patent as the "recording," and the medium in which that data is fixed.

However, as Gracenote argues, neither of these passages demonstrates that the '192 patent has narrowed the definition of "recording" to encompass only the recorded data. While claim 11 does use the term "recording" to refer only to the data itself, the quoted passage from the specification actually first uses the term "recording" to refer the recorded data and then uses the term "recording" to refer to the medium in which that data is fixed. Additionally, other passages of the '192 patent use the term "recording" to refer to the medium in which the recorded data is fixed. *See, e.g.,* '192 patent 16 :10-11 ("the plurality of recordings are digital versatile discs"); '192 patent 20 :45-46 ("the recording is an electronic file of digitally encoded audio"). Thus, it is clear that the '192 patent uses the term "recording" according to its ordinary meaning to refer to both the recorded data and the medium in which that data is fixed.

Similarly, MusicMatch points to the prosecution history of the '593 patent to support its claim that the term "recording" as used in the '593 patent does not encompass the medium in which the recording is fixed. *See, e.g.,* February 23, 2000 Response to Office Action at 6 ("recording is played from a medium owned by the user"); October 12, 2000 Response to Office Action at 15 ("a recording, fixed in a medium possessed by a user"). However, Gracenote points to other portions of the prosecution history in which the term "recording" is used to mean the medium in which the data is fixed. *See, e.g.,* February 23, 2000 Response to Office Action at 8 ("recordings, such as compact discs"). Thus, it is clear that the '593 patent also uses the term "recording" according to its ordinary meaning to refer to both the recorded data and the medium in which that date is fixed.

B. Audiovisual

MusicMatch also asserts that the term "recording" as used in the '593 patent is limited to recorded audiovisual data, as opposed to simply recorded data. MusicMatch cites no authority in support of this proposed limitation. In fact, the dictionary definition that MusicMatch relies upon defines "record" as "to cause (as sound, visual images, or data) to be registered on something (as a disc or magnetic tape) in reproducible form." Merriam-Webster Online Dictionary, http://www.m-w.com. Therefore, the Court rejects MusicMatch's proposed limitation.

For the foregoing reasons, the Court construes the term "recording," as used in both the '192 and '593 patent, to mean "the medium in which data is recorded, or the data itself."

II. Identifier

The parties dispute the meaning of the term "identifier" as used in claims 10, 12, 18, 20, 26, 34, 45, 53, and 58 of the '192 patent. Gracenote proposes that the term "identifier" be construed to mean "a string of characters, sequences of bits or other data used for identification." MusicMatch proposes that the term "identifier" be construed to mean "a unique character string that establishes identity." These competing proposed constructions embody three disputes between the parties: (1) whether the identifier is information used for identification of the recording FN2 or information that establishes the identity of the recording; (2) whether the identifier must uniquely identify the recording; and (3) whether the identifier is limited to a particular format.

FN2. Claims 10, 45, 53, and 58 involve an "identifier" used to identify a recording. Other claims of the '192 patent involve an "identifier" used to identify a compact disc or local data. For ease of exposition, the Court will refer to the "identifier" as identifying the recording. However, the term "identifier" has the same meaning when it is a compact disc or local data that is being identified.

The Court agrees with MusicMatch that, as used in the '192 patent, the term "identifier" is more than "data used for identification of the recording," rather it is data that "identifies the recording." The '192 patent makes clear that the "identifier" does more than describe the recording; instead, the "identifier" identifies the recording. '192 patent 5 :44-6 :60. However, the Court agrees with Gracenote that the '192 patent does not require that the identifier uniquely identify the recording. First, in the section discussing the invention's disclosure of a technique for identifying recordings, the specification recites both an "algorithm suitable for determining whether two audio CDs are exactly or approximately the same" as well as an "algorithm suitable for determining whether two audio CDs are exactly the same." '192 patent 5 :55-6 :20. Thus, the specification discloses both a means for creating an identifier, as well as a means for creating a unique identifier. Second, while the specification frequently uses the phrase "unique identifier," the claims themselves instead use the term "identifier." Thus, requiring that the claimed "identifier" be a "unique identifier" would improperly read into the claim language a limitation that it does not contain. Further, the Court agrees with Gracenote that the format of the identifier is not limited to a character string. Nothing about the term "identifier" in any way implies that it is so limited, and MusicMatch has not pointed to any language in the '192 patent or its prosecution history that would suggest such a limitation.

Therefore, the Court construes the term "identifier" as "a string of characters, sequences of bits or other data that establishes identity."

III. Determining an Identifier

The parties dispute the meaning of the phrase "determining an identifier" as used in claims 10, 12, 26, 45, and 58 of the '192 patent. Gracenote construes this phrase to mean "creating an identifier." MusicMatch construes this phrase to mean "fixing conclusively or authoritatively by computation." The Court finds both proposed constructions inapposite. Gracenote's proposed construction, which substitutes "creating" for "determining," does not increase the clarity of the claim language. Further, the word "creating" has a different connotation than the word "determining," with the former suggesting an act of creativity and the latter suggesting a routinized process of deciding or discovering. MusicMatch's proposed construction adds a limitation, that the identifier be determined through "computation," that is not supported by the plain meaning of the term "determining" nor by the language of the patent. However, the Court believes that "fixing conclusively or authoritatively" is an appropriate definition for the term "determining" as it is used in the '192 patent. Further, at the claim construction hearing, both parties indicated that they had no objection to this construction. Therefore, the Court construes the term "determining" to mean "fixing conclusively or authoritatively."

The parties further dispute the meaning of the phrase "from information associated with the recording" as used in the claim limitation "determining an identifier from information associated with the recording." Gracenote asserts that this limitation simply means that the information used to determine the identifier must be "related, affiliated, linked, connected, or joined in some kind of relationship with the recording." MusicMatch asserts that this phrase is unintelligible. The Court agrees with Gracenote that the phrase "from information associated with the recording" is used in the '192 patent in its ordinary sense, to mean "information related, affiliated, linked, connected, or joined in some kind of relationship with the recording."

IV. Identifying a Recording

The parties dispute the meaning of various phrases used in the '593 patent to describe the process and information used to identify the recordings.

A. Contents of the Recording Used to Play Back Contents of the Recording Perceived by a User

More specifically, several claims of the '593 patent provide that the recording is identified through "information obtained from contents of the recording used to play back contents of the recording perceived by the user." *See, e.g.,* '593 patent claims 1, 43, 93, 95, and 96. Gracenote proposes that this claim language

should be construed to mean that "the information used to identify the recording must be information which enables playback of the recording." MusicMatch offers no construction of this claim term, instead asserting that the language is vague and ambiguous and cannot be defined with particularity.

MusicMatch does, however, assert that regardless of what this language might mean, it requires that the information used to identify the recording be limited to the contents of the recording as perceived by the user, because the use of other information to identify the recording was explicitly disclaimed by Gracenote during the prosecution of the '593 patent. Thus, MusicMatch proposes to read the phrase "used to play back contents of the recording" out of the claim language. MusicMatch's contention is not supported by the claim language, which clearly states that it is the contents of the recording that are used to play the contents of the recording that the user perceives, and not the contents of the recording that the user perceives, that are used to identify the recording.

MusicMatch contends that its proposed limitation is supported, however, by the prosecution history. Specifically, MusicMatch points to the following passage from the prosecution history:

[T]he present invention differs from what is taught (and claimed) by *Fischer* in that the recording is identified by the "contents of the recording perceived by the user" rather than some additional information that is added either at the time of broadcast or at the time that the broadcast is recorded by the user.

August 6, 2001 Response to Office Action. This sentence, read in isolation, supports MusicMatch's contention that the claim language should be limited as MusicMatch asserts. However, a reading of the prosecution history as a whole suggests that this sentence is simply a typographical error; if written properly, the sentence would require that the recording be identified by the "contents of the recording used to play back the contents of the recording perceived by the user."

The prosecution history makes clear that Gracenote's argument to the Patent Examiner was that the present invention was distinct from Fischer because it allowed for the identification of the recording based on information put in the recording for some purpose relevant to the recording itself, whereas Fischer taught a method for adding an identifier to a recording. *See, e.g.,* March 20, 2001 Response to Office Action at 7 ("[T]he present invention can be used to obtain use information regarding recordings that were distributed without any plan to later obtain use data. This is a significant benefit of the present invention, because there are a large number of recordings, such as compact discs and digital versatile discs (DVDs), as well as audio and video recordings in various formats that have been distributed without any such codes added."); id. ("[T]he present invention does not require foresight on the part of the publisher of the recording and is not limited to broadcast signals, because the information identifying the recording and use data associated therewith is 'obtained from the contents of the recording used for playback to the user' (claim 2, lines 5-6), not information identifying the channel and time of the broadcast content or codes that someone had the foresight to include prior to receipt by the user."); August 6, 2001 Response to Office Action at 7 ("Claims 22, 41 and 62 recite identifying the recording based on 'information obtained from contents of the recording stored in the medium for a purpose other than identifying the recording' (e.g., claim 22, lines 5-6). This is the exact opposite of what is taught by *Fischer* which is identifying the recording from information specifically added, either by the broadcaster or the device making the recording, to identify the recording."). Further, the prosecution history does not distinguish *Fischer* on the basis that the present invention teaches identification based on information perceived by the user, while *Fischer* teaches identification based on information not perceived by the user. In fact, Gracenote could not distinguish *Fischer* in this manner, because at least one embodiment of *Fischer* teaches identification based on information that can be perceived by the user. Id. ("[T]he Examiner has recognized that *Fischer* displays data 'in a minor area of the TV picture.' ").

Thus, MusicMatch's attempt to rely on one sentence of the prosecution history to read the phrase "used to play back contents of the recording" out of the claim language is inconsistent with the prosecution history

read as a whole, as well as the claim language itself. For these reasons, the Court declines to adopt MusicMatch's proposed limitations. Instead, the Court construes the phrase "information obtained from contents of the recording used to play back contents of the recording perceived by the user" as "the information used to identify the recording must be information which enables playback of the recording."

B. Contents of the Recording Stored in the Medium for a Purpose Other Than Identifying the Recording

Several claims of the '593 patent provide that the recording is identified through "information obtained from contents of the recording stored in the medium for a purpose other than identifying the recording." *See, e.g.,* '593 patent claims 41 and 62. Gracenote proposes to construe this language to mean that "the information used to identify the recording must be contained in the recording medium (i.e. physical substance, such as a disc, electronic file or computer hardware) for some reason other than identifying the recording." MusicMatch does not dispute this construction. However, MusicMatch asserts that this claim language excludes table of contents (TOC) data, because such data is the de facto standard for the identification of recordings. However, resolving this dispute would require the Court to make factual findings regarding the nature and purpose of TOC data and thus would be inappropriate at this stage in the proceedings. The Court therefore construes the phrase "information obtained from contents of the recording stored in the medium for a purpose other than identifying the recording" as "information used to identify the recording must be contained in the recording medium (i.e. physical substance, such as a disc, electronic file or computer hardware) for some reason other than identifying the recording."

V. Uniform Resource Locator

The parties dispute the meaning of the term "uniform resource locator" (URL) as used in claims 12, 18, 20, 26, 34, 45, 53, and 58 of the '192 patent. Gracenote proposes to define "URL" as "an address or request for resources on the Internet, that includes both an identification of the server and an identification of a particular item of data within the server." MusicMatch proposes to define "URL" more narrowly as "a character string in a particular format, defined in T. Berners-Lee et al., Hypertext Transfer Protocol-HTTP/1.0 (Internet Request for Comments No.1945, 1996). In support of this construction, MusicMatch points to the specification, which defines URL exactly as MusicMatch proposes to do. '192 patent 3 :27-29. Gracenote contends that the specification does not so limit the meaning of the term "URL," pointing to passages in the specification that emphasize the patentees' desire to "retain[ ] the flexibility to adapt to the continuing evolution of standards for on-line services." '192 patent 2 :4-6. However, the passage that Gracenote identifies to demonstrate this flexibility addresses the patent's coverage of evolving transport protocols, not evolving address or pointer standards. *See* '192 patent 3 :18-22 ("[T]he invention described here is not limited to HTTP running over any particular kind of network software or hardware. The principles of the invention apply to other protocols for access to remote information that may come to compete with or supplant HTTP."). Therefore, this passage does not address, much less overcome, the clear definition of URL in the specification. Because the specification defines "URL" exactly as MusicMatch proposes, the Court adopts MusicMatch's construction. FN3

FN3. The Court notes that T. Berner-Lee et al., Hypertext Transfer Protocol-HTTP/1.0 (Internet Request for Comments No.1945, 1996) defines URLs as "formatted strings which identify-via name, location, or any other characteristic-a network resource."

VI. Database

Unlike other claims of the '192 patent which specifically recite the retrieval of URLs over a network- *see, e.g.* claim 12 ("retrieving from a remote computer via the network a uniform resource locator related to the identifier") and claim 18 ("retrieving of the uniform resource locator related to the identifier")-claim 10 of the '192 patent does not specifically recite the retrieval of a URL. MusicMatch, however, argues that this

claim does require retrieval of a URL. In support of this position, MusicMatch points to the prosecution history of the '192 patent, which it asserts demonstrates that Gracenote defined the term "database" to include an implicit requirement of the retrieval of a URL:

Unlike the system taught by Portuesi the present invention is directed to providing data from any source that has been determined to be related to a recording or other data possessed by a user regardless of when the recording or data was obtained. The present invention is able to be more flexible than the system taught by Portuesi by not using embedded URLs, but rather determining what URLs are related to the recording by using a recording identifier to select associated URLs in a database stored on a network connected to the local computer where the recording was played.

February 22, 2000 Response to Office Action at 21. MusicMatch reads too much into this language. As Gracenote argues, in this portion of the prosecution history, Gracenote was attempting to distinguish the present invention from the Portuesi prior art patent by pointing out that the Portuesi patent teaches the use of URLs embedded in the relevant medium, whereas the present invention does not. Nothing in this prosecution history, however, explicitly limits the present invention to providing URLs from a database. Indeed, this passage of the prosecution history refers broadly to "providing data from any source." This prosecution history is simply not sufficient to limit the claim language as MusicMatch argues it should. *See* Standard Oil Co. v. Am. Cyanamid Co., 774 F.2d 448, 452 (Fed.Cir.1985) ("[T]he prosecution history (or file wrapper) limits interpretation of claims so as to exclude any interpretation that may have been disavowed or disclaimed during prosecution in order to obtain claim allowance."). Therefore, the Court declines to construe the term "database" to include the implicit requirement that the database contain identifiers associated with URLs.

VII. Dynamically

The parties dispute the meaning of the term "dynamically" as used in the phrase "storage location dynamically determined based on the identifier" in claim 10 of the '192 patent. Gracenote proposes to construe this phrase to mean that "the storage location is derived from the identifier and may be changed." MusicMatch asserts that this limitation also requires that the storage location be determined "in real time as the user is playing the recording." The Court believes that the term "dynamically, as used in the ' 192 patent, encompasses all of these limitations. *See* February 22, 2000 Response to Office Action at 21 (clarifying that "dynamically determined" means that the storage location "can be changed at any time" as well as that the storage location is "dynamically determined" when "the recording is played or the data is accessed"). Therefore, the Court defines the term "dynamically" as used in the phrase "storage location dynamically determined based on the identifier" to mean that the storage location is determined "in real time as the user is playing the recording and may be changed."

VIII. Automatically

The parties dispute the meaning of the term "automatically" as used in various claims of the '192 patent. Gracenote proposes that "automatically" should be construed to mean "in a manner, once begun, that is largely or completely without human assistance." MusicMatch asserts that "automatically" means "without further intervention or assistance by a human." In support of its proposed construction, Gracenote relies upon the ordinary meaning of the term, namely "acting or operating in a manner essentially independent of external influence or control." Am. Heritage Dictionary (2nd College Ed.1985). MusicMatch offers no basis for defining "automatically" more narrowly. In fact, the dictionary that MusicMatch relies upon defines "automatically" in accordance with Gracenote's proposed construction, as "operating with little or no direct human control." Oxford Paperback Dictionary & Thesaurus, http://www.askoxford.com/dictionary/automatic. Thus, the Court construes "automatically," as Gracenote proposes, to mean "in a manner, once begun, that is largely or completely without human assistance."

IX. Upon

The parties dispute the meaning of the term "upon" as used in various claims of the '192 patent. *See, e.g.*, '192 patent claim 53 ("upon access to local data"); '192 patent claim 18 ("upon determination of the identifier"); '192 patent claim 10 ("upon verification of access to the recording"). Gracenote argues that "upon" means "after or during," while MusicMatch argues that "upon" means "in response to and as the next step after." In support of its proposed construction, Gracenote cites to the ordinary meaning of the term "upon" as "immediately following" or "at the time of." Webster's Third New Int'l Dictionary (1993). MusicMatch also cites to the ordinary meaning of the term "upon" in support of its proposed construction. However, the authority that it relies upon, The American Heritage Dictionary of the English Language (2000), defines "upon" as "on," not "in response to and as the next step after." Thus, MusicMatch has offered no support for construing the term "upon" more narrowly than its ordinary meaning. Therefore, the Court construes the term "upon" to mean "after or during."

X. Use Data, Use Data Associated with the Recording, and User Demographic Data

The parties dispute the meaning of the phrases "use data," "use data associated with the recording," and "user demographic data" as used in various claims of the '593 patent. Gracenote proposes to define "use data" as "data reflecting or relating to use of recordings, use of portions or segments of recordings, or use of software or hardware, which may include data representative of a user's listening behavior and habits." Gracenote proposes to define "use data associated with the recording" as "use data related to the recording." Finally, Gracenote proposes to define "user demographic data" as "data reflecting the identification, contact information, physical location or other information representative of a user." MusicMatch argues that these terms are vague and ambiguous and cannot be understood by someone of ordinary skill in the art. The Court disagrees, and adopts Gracenote's proposed constructions.

XI. Complementary Content

The parties dispute the meaning of the phrase "complementary content" as used in various claims of both the '192 and '593 patents. Gracenote proposes to construe this phrase to mean "information that can be perceived by a user, which corresponds or relates to the compact disc or recording in some manner." MusicMatch argues that "complementary content" cannot include "data or content based on what is likely to be of interest to the user." In support of this proposed limitation, MusicMatch points to the prosecution history of the ' 593 patent, in which Gracenote distinguished the prior art by stating "Kaplan suggests that the data or content that is supplied is based on what is likely to be of interest to the user. No suggestion of supplying information that is 'complementary ... for the recording' has been found in this or any other portion of Kaplan." February 23, 2000 Response to Office Action at 8. Gracenote does not dispute that it so limited the phrase "complementary content" during the prosecution of the '593 patent. However, Gracenote points out that this limitation does not mean that the information provided cannot be of interest to the user, only that such information is not selected on the basis that it is likely to be of interest to the user. Gracenote also argues that this limitation is inapplicable to the use of the phrase "complementary content" in the '192 patent because the prosecution history of the '593 patent is irrelevant to the construction of the terms of the ' 192 patent. Gracenote is incorrect; the Federal Circuit has held that the prosecution history of one patent is relevant to interpreting the terms of a related patent. *See* Jonsson v. The Stanley Works, 903 F.2d 812, 818 (Fed.Cir.1990). Taking these considerations into account, at the claim construction hearing, the Court proposed to construe the phrase "complementary content" as used in both the '192 and '593 patents to mean "information that can be perceived by a user, selected because it corresponds or relates to the compact disc or recording in some manner and not because it is likely to be of interest to the user." Neither Gracenote nor MusicMatch expressed any objection to this proposed construction. Therefore, the Court construes the phrase "complementary content" as used in both the '192 and '593 patents to mean "information that can be perceived by a user, selected because it corresponds or relates to the compact disc or recording in some manner and not because it is likely to be of interest to the user."

CONCLUSION

The Court construes the disputed terms and phrases as stated.

IT IS SO ORDERED.

N.D.Cal.,2004.
Gracenote, Inc. v. Musicmatch, Inc.

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