

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

CELLULAR SOUTH, INC.

*Plaintiff,*

v.

GOOGLE, LLC,

*Defendants.*

**Civil Action No. 6:24-cv-00245**

**JURY TRIAL DEMANDED**

**PLAINTIFF CELLULAR SOUTH, INC.'S DISCLOSURE OF ASSERTED CLAIMS  
AND PRELIMINARY INFRINGEMENT CONTENTIONS**

Plaintiff Cellular South, Inc. (“CSI” or “Plaintiff”) hereby provides its Disclosure of Asserted Claims and Preliminary Infringement Contentions relevant to U.S. Patent Nos. 9,940,972 (“the ’972 Patent”), 10,218,954 (“the ’954 Patent”), and 11,126,853 (“the ’853 Patent”) (collectively, the “Asserted Patents”) to Defendant Google, LLC (“Google” or “Defendant”). CSI’s investigation is ongoing and discovery is in its preliminary stages. Accordingly, these disclosures are based on information available to CSI at this time. CSI reserves the right to supplement this disclosure after further discovery from Google and non-parties, particularly documents and other discovery regarding Google’s Accused Products. CSI also reserves the right to assert additional claims of the Asserted Patents, accuse different products, or find alternative literal and/or equivalent infringing elements in Google’s Accused Products, including if merited by further discovery, the Court’s claim constructions, or other circumstances. CSI incorporates by reference the allegations contained in CSI’s Complaint (Dkt. 1) and any amendments or supplements thereto.

**I. DISCLOSURE OF ASSERTED CLAIMS AND APPLICABLE SUBSECTIONS OF 35 U.S.C. § 271**

Google has infringed and continues to infringe, under one or more of 35 U.S.C. § 271(a)-(c), at least the following Asserted Claims:

<b>Patent</b>	<b>Claims</b>
'972 Patent	1-20
'954 Patent	1-13
'853 Patent	1-6, 8-11

CSI reserves the right to amend or supplement this disclosure after further discovery, particularly documents and other discovery regarding Google’s Accused Products.

**II. ACCUSED PRODUCTS**

**A. U.S. Patent No. 9,992,972**

As described in more detail in Exhibits 972-1 and 972-2, CSI asserts that the following Accused Products infringe the '972 Patent:

1. Google’s Video AI platform, including without limitation Google’s Video Intelligence API (“Video Intelligence”), AutoML video functionality (“AutoML Video”), and video understanding functionality within Vertex AI (“Vertex AI Video,” and together with Video Intelligence and AutoML Video, “Video AI”);
2. Google’s YouTube video sharing platform (“YouTube”).

The Accused Products include those specifically pictured and described in Exhibits 972-1 and 972-2, and the systems associated therewith, which provide contextual video analysis functionalities to the Accused Products. The accused functionalities within Google’s Video AI and YouTube products is implemented in a combination of software and hardware elements. For the avoidance of doubt, the Accused Products include all prior and current versions of software and/or hardware elements used to provide the accused video analysis functionality irrespective of differences between or changes to the names, monikers, codewords, or other terms used to refer to the Accused Products either internally within Google or externally to the general public.

CSI reserves the right to refine the identification of the Accused Products, as well as other information contained in this document and Exhibits 972-1 and 972-2, to incorporate new information learned during the course of discovery, including, but not limited to, the inclusion of newly-discovered or newly-released products, versions, or any other equivalent devices ascertained through discovery.

**B. U.S. Patent No. 10,218,954**

As described in more detail in Exhibits 954-1 and 954-2, CSI asserts that the following Accused Products infringe the '954 Patent:

1. Video AI
2. YouTube

The Accused Products include those specifically pictured and described in Exhibits 954-1 and 954-2, and the systems associated therewith, which provide contextual video analysis functionalities to the Accused Products. The accused functionality within Google's Video AI and YouTube products is implemented in a combination of software and hardware elements. For the avoidance of doubt, the Accused Products include all prior and current versions of software and/or hardware elements used to provide the accused video analysis functionality irrespective of differences between or changes to the names, monikers, codewords, or other terms used to refer to the Accused Products either internally within Google or externally to the general public.

CSI reserves the right to refine the identification of the Accused Products, as well as other information contained in this document and Exhibits 954-1 and 954-2, to incorporate new information learned during the course of discovery, including, but not limited to, the inclusion of newly-discovered or newly-released products, versions, or any other equivalent devices ascertained through discovery.

**C. U.S. Patent No. 11,126,853**

As described in more detail in Exhibits 853-1, 853-2, and 853-3, CSI asserts that the following Accused Products infringe the '853 Patent:

1. Video AI;
2. YouTube;
3. Google Photos photo-sharing app and storage service made and/or developed for use with iOS and Android devices including, without limitation, Google Pixel devices (“Pixel,” collectively with Google’s Photos app, “Photos”)

The Accused Products include those specifically pictured and described in Exhibits 853-1, 853-2, and 853-3 and the systems associated therewith, which provide contextual video analysis functionalities to the accused products. The accused functionality within Google’s Video AI, YouTube, and Photos products is implemented in a combination of software and hardware elements. For the avoidance of doubt, the Accused Products include all prior and current versions of software and/or hardware elements used to provide the accused video analysis functionality irrespective of differences between or changes to the names, monikers, codewords, or other terms used to refer to the Accused Products either internally within Google or externally to the general public.

CSI reserves the right to refine the identification of the Accused Products, as well as other information contained in this document and Exhibits 853-1, 853-2, and 853-3, to incorporate new information learned during the course of discovery, including, but not limited to, the inclusion of newly-discovered or newly-released products, versions, or any other equivalent devices ascertained through discovery.

**III. CLAIM CHARTS**

Claim charts identifying where in the Accused Products each element of the asserted claims of the '972 Patent is found are attached hereto as Exhibits 972-1 and 972-2, respectively. Claim

charts identifying where in the Accused Products each element of the asserted claims of the '954 Patent is found are attached hereto as Exhibits 954-1 and 954-2, respectively. Claim charts identifying where in the Accused Products each element of the asserted claims of the '853 Patent is found are attached hereto as Exhibits 853-1, 853-2, and 853-3, respectively.

CSI reserves the right to amend the claim charts, as well as other information contained in this document and the exhibits hereto, to incorporate new information learned during the course of discovery, including, but not limited to, information that is not publicly available or readily discernable without discovery.

#### **IV. PRIORITY DATE**

The '972 Patent was filed as U.S. Patent Application No. 14/175,741, which was filed on February 7, 2014, and claims priority to U.S. Provisional Application No. 61/866,175, filed on August 15, 2013. Each of the Asserted Claims of the '972 Patent is entitled to at least the priority date of August 15, 2013.

The '954 Patent was filed as U.S. Patent Application No. 14/910,698, the national stage patent application of International Application No. PCT/US2015/014940, which was filed on February 7, 2015, and claims priority to: U.S. Patent Application No. 14/175,741, filed on February 7, 2014 (now the '972 Patent); U.S. Provisional Application No. 62/021,666, filed on July 7, 2014; and U.S. Provisional Application No. 61/866,175, filed on August 15, 2013. Each of the Asserted Claims of the '954 Patent is entitled to at least the priority date of August 15, 2013.

The '853 Patent was filed as U.S. Patent Application No. 16/271,773, which was filed on February 8, 2019, and claims priority to U.S. Patent Application No. 15/197,727, filed on June 29, 2016 (now U.S. Patent No. 10,204,274). Each of the Asserted Claims of the '853 Patent is entitled to at least the priority date of June 29, 2016.

**V. DOCUMENTS EVIDENCING CONCEPTION AND REDUCTION TO PRACTICE FOR EACH CLAIMED INVENTION**

Concurrent with these Infringement Contentions, CSI is producing all documents evidencing the conception and reduction to practice for each Asserted Claim of the Asserted Patents of which CSI is presently aware and has been able to locate after a reasonable and diligent search. In addition, CSI is producing a copy of each of the Asserted Patents and their respective file histories. Discovery in this case and CSI's investigation is ongoing, and CSI therefore reserves the right to supplement and amend these contentions as discovery in this matter progresses.

**VI. DIRECT INFRINGEMENT UNDER 35 U.S.C. § 271(A)**

Google makes, has made, uses, has used, imports, has imported, offers to sell, has offered to sell, sells and/or has sold the Accused Products and has directly infringed and continues to directly infringe the Asserted Claims as specified in Exhibits 972-1, 972-2, 954-1, 954-2, 853-1, 853-2, and 853-3. For example, the Asserted Claims are infringed when Google makes, uses, and sells Video AI to provide contextual analysis of videos on its and/or its customers' behalf. In addition, the claims are infringed when Google makes and uses the accused functionalities to provide contextual analysis of YouTube videos to enhance Google's YouTube, Search, and/or Ads capabilities. Further, the claims are infringed when Google makes, uses, sells, and offers to sell its Pixel devices equipped with the Google Photos app. Google directly infringes because it at least uses, makes, has made, sells, offers for sale, or has sold each element of the claimed inventions in the United States.

To the extent it is argued that an entity other than Google, such as a provider, supplier, customer, or user performs or satisfies one or more elements of an Asserted Claim(s) under a "use" infringement theory, CSI asserts that Google is also liable for direct infringement because it either practices every element of the Asserted Claims by "use" (e.g., Google put the invention into service

by controlling the system as a whole and obtaining benefit from it) or exercises direction and control (e.g., through an agent, contractual relationship, the conditioning of participation in an activity or receipt of a benefit upon performance, and establishment of the manner or timing of that performance, a joint enterprise, etc.) such that the system as a whole is put into service by using all portions of the claimed invention.

## **VII. INDIRECT INFRINGEMENT UNDER 35 U.S.C. § 271(B)**

Google has induced infringement, and will continue to induce infringement, of the Asserted Claims of the Asserted Patents for at least the following reasons. Direct infringement is the result of activities performed by third-party customers and/or users of the Accused Products as detailed above. Google has actual notice of the '972, '954, and '853 Patents based on its involvement in the 2015 SPROCKIT conference, its attendance at conferences, trade shows, and/or events at which Vu Digital's Video-to-Data ("V2D") product was presented, and/or at least by way of receiving service of the Complaint. *See* Dkt. 1. Despite Google's actual notice of infringement, Google continues to induce others to make, use, sell, offer to sell, and import into the United States the Accused Products, and/or provide installation, operational support, and instructions related to the Accused Products, with the knowledge or willful blindness that its conduct will induce infringement of the Asserted Patents. Google engages in many activities that encourage its customers and users to infringe the Asserted Patents, including by providing directions, designs, and/or instructions to customers and users to make or use the contextual video analysis capabilities that are involved in the Accused Products. Through at least these activities (which are also discussed and cited in the attached charts at Exhibits 972-1, 972-2, 954-1, 954-2, 853-1, 853-2, 853-3 and the Complaint (Dkt. 1)), Google specifically intends that its customers and users directly infringe the Asserted Patents.

## **VIII. INDIRECT INFRINGEMENT UNDER 35 U.S.C. § 271(C)**

Google has contributed to infringement, and will continue to contribute to infringement, of the Asserted Claims of the Asserted Patents for at least the following reasons. Direct infringement is the result of activities performed by third-party customers and/or users of the Accused Products as detailed above. Google has actual notice of the '972, '954, and '853 Patents based on its involvement in the 2015 SPROCKIT conference, its attendance at conferences, trade shows, and/or events at which Vu Digital's Video-to-Data ("V2D") product was presented, and/or at least by way of receiving service of the Complaint. *See* Dkt. 1. Despite Google's actual notice of infringement, Google continues to offer for sale and sell within the United States or import into the United States the Accused Products which constitute a material part of the patented inventions, knowing the Accused Products are especially made or especially adapted for use in infringement of the Asserted Patents, and not a staple article or commodity of commerce suitable for substantial noninfringing use. Further, Google continues to provide installation, operational support, and instructions related to the Accused Products, with the knowledge or willful blindness that its conduct will contribute to infringement of the Asserted Patents. Google engages in many activities that encourage its customers and users to infringe the Asserted Patents, including by providing directions, designs, and/or instructions to customers and users to make or use the contextual video analysis capabilities that are involved in the Accused Products. Through at least these activities (which are also discussed and cited in the attached charts at Exhibits 972-1, 972-2, 954-1, 954-2, 853-1, 853-2, 853-3 and the Complaint (Dkt. 1)), Google specifically intends that its customers and users directly infringe the Asserted Patents.

## **IX. LITERAL INFRINGEMENT AND DOCTRINE OF EQUIVALENTS**

CSI asserts that, under the proper construction of the Asserted Claims and their claim terms, the limitations of the Asserted Claims of the Asserted Patents are literally present in the

Accused Products, as set forth in the claim charts attached hereto as Exhibits 972-1, 972-2, 954-1, 954-2, 853-1, 853-2, and 853-3. CSI contends that any and all elements found not to be literally infringed are infringed under the doctrine of equivalents because the differences between the claimed inventions and the Accused Produces, if any, are insubstantial.

CSI's contention is that each limitation is literally met, and necessarily also would be met under the doctrine of equivalents because there are no substantial differences at all between the Accused Products and the Asserted Claims, in function, way, or result. As such, CSI's current description of the function, way, and result for each limitation would be the same as the claim language itself. If Google attempts to argue that there is no infringement literally and no infringement under doctrine of equivalents, and/or draws any distinction between the claimed feature(s) and the Accused Products, then CSI reserves its right to rebut the alleged distinction as a matter of literal infringement and/or as to whether any such distinction is substantial under the doctrine of equivalents.

CSI reserves the right to amend its Infringement Contentions as to literal infringement or infringement under the doctrine of equivalents in light of new information learned during the course of discovery, the Court's claim constructions, and/or as otherwise permitted by the Court.

Dated: December 13, 2024

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*Attorneys For Cellular South, Inc.*

**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that, on December 13, 2024, a true and correct copy of the foregoing document was served on all counsel of record via electronic mail.

/s/ Robert S. Hill  
Robert S. Hill