IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC., a Delaware corporation,	)	
	)	
	)	Civil Action No. 08-862-JJF-LPS
Plaintiff-Counterdefendant,	)	
	)	
v.	)	
	)	
FACEBOOK, INC., a Delaware corporation,	)	
	)	
Defendant-Counterclaimant.	)	

PLAINTIFF LEADER TECHNOLOGIES, INC.'S
OPENING CLAIM CONSTRUCTION BRIEF

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I. STATEMENT OF THE NATURE AND STAGE OF THE PROCEEDINGS

Plaintiff Leader Technologies, Inc. ("Leader") filed a complaint on November 19, 2008, alleging Defendant Facebook, Inc.'s ("Facebook") willful infringement of U.S. Patent No. 7,139,761 (the "'761 Patent"). D.I. 1. The '761 Patent generally covers an online collaboration tool. Leader is asserting that Facebook's website available at www.Facebook.com infringes claims of the '761 Patent. Pursuant to the Scheduling Order, the parties completed written discovery and document production on November 20, 2009. D.I. 76 at 2. Fact depositions are currently ongoing, and must be completed by March 1, 2010. D.I. 111 at 2. The Markman hearing, should one be required, is currently scheduled for January 20, 2010. D.I. 76 at 3. Trial is scheduled for June 28, 2010. D.I. 76 at 4.

The parties agreed upon a schedule for claim construction briefing, which required the parties to meet and confer about the claim terms to be construed. Leader has five claim terms that require construction. Facebook, on the other hand, is seeking to have 39 terms construed in addition to the five terms Leader has identified. During the meet and confer process, Leader offered to limit the total number of claim terms to be construed to ten, suggesting that each party select five terms for construction. Facebook refused, and instead, presented Leader with over 60 claim terms. After meet and confer discussions, Facebook agreed to drop approximately 20 claim terms. Leader respectfully submits this claim construction brief in support of its proposed claim constructions for the '761 Patent, which is based on the language of the claims and intrinsic record.

II. SUMMARY OF ARGUMENT

The '761 Patent generally covers an online collaboration tool. The claims of the '761 Patent are exceptionally clear and straightforward, especially to one of ordinary skill in the art. Accordingly, most of the terms do not require construction. From the asserted claims, Leader has identified five terms that require construction. Ex.[1] 1. As part of an effort to limit the

[1] "Ex." refers to the exhibits attached to the Declaration of Paul J. Andre in Support of Plaintiff Leader Technologies, Inc.'s Opening Claim Construction Brief.

number of terms to be construed, Leader sought to identify only those terms that truly require construction for purposes of this litigation with Facebook. Leader's constructions are consistent with, and directly from, the intrinsic record. Facebook, on the other hand, has identified 39 terms it wants the Court to construe in addition to the terms that Leader has identified. Ex. 2. Facebook's proposed constructions are unnecessarily complicated, often importing limitations into the meaning of straight forward claim terms. In many cases, they are directly contrary to the claim themselves, and inconsistent with the intrinsic record.

III. FACTUAL BACKGROUND

A. Technology Background

One of the primary uses of the Internet, aka the World Wide Web, is to stay in touch with friends, colleagues and family. This is often accomplished with online collaboration tools. Online collaboration tools allow a large number of users to share a variety of information with each other. This information can include files, pictures, documents, messages, videos, data or any other content that can be loaded onto the Internet. To enable this functionality, the online collaboration tool must be able to efficiently and effectively handle a large amount of data from and among its users.

Traditional systems for data management are not ideal for online collaboration. Typically, to share documents on the Internet, files are stored in designated folders on a server. Ex. 3, col. 2, ll. 17-23. In order to retrieve a file, a user must log on to the server and navigate to the folder in which the file was saved. Ex. 3, col. 2, ll. 23-30. If the user does not know where the file was saved, the user must hunt around or perform an exhaustive search of the server in order to retrieve the file.

The '761 Patent solves this problem by providing users with an easier way to share and retrieve data on the Internet. It does this by automatically collecting information about the data a user wishes to share. Ex. 3, col. 6, ll. 48-58. This automatically collected information provides other users with a way to retrieve the data without having to know exactly where it is stored on the system. Ex. 3, col. 6, ll. 20-25.

For example, when a user creates or uploads a document using the '761 Patent, the system automatically captures information about the user's environment and associates it with the document. This information can include the identity of the user, the user's environment on the system, and the application that the user employed to create or upload the document. Ex. 3, col. 9, ll. 50-56. When the document is shared, the system can also catalog who accessed the document, when the document was accessed, and where on the system the user was when the document was accessed. Ex. 3, col. 13, ll. 50-54. In other words, the system of the '761 Patent captures the (1) context, or environmental, information about data when it is created on the system, and (2) tracking information relating to the access of the data. All of this information is captured and automatically associated with the data transparent to the user. Id., col. 7, ll. 36-39.

By associating environmental and tracking information with user data, a large community of users is able to share a large amount of data. One advantage of this is that a user does not need to know the particular folder in which the data is stored in order to retrieve the data. Instead, users can retrieve data based on a number of different criteria. Ex. 3, col. 3, ll. 44-50.

The provider of the online collaboration tool also benefits from collecting environmental and tracking information about data that is stored on their system. They can analyze the captured information to improve the online experience for the user. They can also sell this information to third-parties, or use this information for targeted advertisements. Thus, the invention of the '761 Patent provides value for both users and providers of online collaboration tools.

B. Description of '761 Patent

The '761 Patent covers a novel data management tool for online collaboration. Ex. 3, Abstract. In order to use the tool, a user typically registers and selects a user name and password. The user then navigates to the web site address of the system which employs the tool and enters the assigned credentials. Ex. 3, col. 11, ll. 60-65. Once the user logs on, the user is taken to a web page that is on the system. Ex. 3, col. 3, ll. 32-43. This web page is an initial context, or environment, from which the user can choose to do a variety of tasks. Id.

For example, the user can upload a document into the system to share with other users.

Ex. 3, col. 11, ll. 26-30. Once the document is uploaded, the system automatically captures and associates information relating to the context, or environment, within which the document was uploaded. Specifically, the system can associate the uploaded document with information relating to the user who uploaded the document, the current workspace within which the document was uploaded, and the application used to upload the document. Ex. 3, col. 9, ll. 50-54. This environmental information is stored as metadata in a table (or any other suitable data structure) on the system. Ex. 3, col. 6, ll. 55-58.

The system also has a tracking component for capturing when the user accesses the uploaded document from a different environment. For example, from the initial environment, the user can move to a second environment. Ex. 3, col. 7, ll. 1-4. In the second environment, the user is provided access to a number of applications which can be the same or different from the first environment. Ex. 3, col. 6, l. 59 - col. 7, l. 1. Using these applications, the user can access the document that was uploaded in the first environment. Ex. 3, col. 7, ll. 23-38; col. 14, ll. 9-12. Once the user accesses the uploaded document from the second environment, the tracking component updates the stored metadata with this information. Ex. 3, col. 7, ll. 23-39. Specifically, the system will update the metadata with information about the second environment from which the document was accessed and the application used to access the document. Ex. 3, col. 6, l. 59 - col. 7, l. 7.

In order to allow multiple users easy access to the document, the system indexes the document and the metadata. Ex. 3, col. 3, ll. 50-62. Indexing the document and metadata allows other users of the online collaboration tool to obtain the document by searching for the environmental and tracking information associated with the document. Ex. 3, col. 9, ll. 56-67; col. 12, ll. 60-65. For example, other users can search for the document by looking for the user who uploaded the document, where the user was on the system when the document was uploaded, or the particular application used to upload the document. Thus, users of the online collaboration tools can obtain access to the document without knowing its exact location on the system.

IV. CONSTRUCTION OF TERMS

A. Applicable Law

Claim construction is a question of law. Markman v. Westview Instruments, Inc., 52 F.3d 967, 977-78 (Fed. Cir. 1995), aff'd, 517 U.S. 370, 388-90 (1996). When construing the claims of a patent, a court considers the literal language of the claim, the patent specification and the prosecution history. Markman, 52 F.3d at 979. Leader based its construction on this intrinsic evidence. The specification is "always highly relevant to the claim construction analysis. Usually it is dispositive; it is the single best guide to the meaning of a disputed term." Phillips v. AWH Corp., 415 F.3d 1303, 1312-17 (Fed. Cir. 2005), citing Vitronics Corp. v. Conceptronic Inc., 90 F.3d 1576, 1582 (Fed. Cir. 1996). However, "[e]ven when the specification describes only a single embodiment, the claims of the patent will not read restrictively unless the patentee has demonstrated a clear intention to limit the scope using 'words or expressions of manifest exclusion or restriction.'" Liebel-Flarsheim Co. v. Medrad, Inc., 358 F.3d 898, 906 (Fed. Cir. 2004) (quoting Teleflex, Inc. v. Picosa N. Am. Corp., 299 F.3d 1313, 1327 (Fed. Cir. 2002)).

In addition to these fundamental claims construction principles, a court should also interpret the language in a claim by applying the ordinary and accustomed meaning of the words in the claim. Envirotech Corp. v. Al George, Inc., 730 F.2d 753, 759 (Fed. Cir. 1984). Generally, there is a strong presumption in favor of the ordinary meaning of claim language as understood by those of ordinary skill in the art. Lucent Techs., Inc. v. Extreme Networks, 367 F.Supp.2d 649, 653 (D. Del. 2005)(Judge Farnan), citing Bell Atl. Network Servs., Inc. v. Covad Communs. Group, Inc., 262 F.3d 1258, 1268 (Fed. Cir. 2001). However, if the patent inventor clearly supplies a different meaning, then the claim should be interpreted according to the meaning supplied by the inventor. Markman, 52 F.3d at 980 (noting that patentee is free to be his own lexicographer, but that any special definitions given to words must be clearly set forth in the patent).

In determining the proper interpretation of a claim term, other claims of the patent in question, both asserted and unasserted, are valuable sources as to the meaning of a claim term.

Phillips, 415 F.3d at 1314, citing Vitronics, 90 F.3d at 1582. Because claim terms are normally used consistently throughout the patent, the usage of a term in one claim can illuminate the meaning of the same term in other claims. Phillips, 415 F.3d at 1314, citing Rexnord Corp. v. Laitram Corp., 274 F.3d 1336, 1342 (Fed. Cir. 2001), also citing CVI/Beta Ventures, Inc. v. Tura LP, 112 F.3d 1146, 1159 (Fed. Cir. 1997). Differences among claims can also be a useful guide in understanding the meaning of particular claim terms. Phillips, 415 F.3d at 1314, citing Laitram Corp. v. Rexnord, Inc., 939 F.2d 1533, 1538 (Fed. Cir. 1991). Courts have consistently determined that "the presence of a dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim." Wyeth v. Impax Labs., Inc., 526 F.Supp.2d 474, 478 (D. Del. 2007)(Judge Farnan), quoting Phillips, 415 F.3d at 1314)(citation omitted).

B. Leader's Proposed Construction of Claim Terms

The claims of the '761 Patent mostly contain terms that are readily understood by anyone with a rudimentary understanding of computers.

1. "Context" means "environment"

Leader's Proposed Construction	Facebook's Proposed Construction
Environment	Collection of interrelated webs

The claim term "context" appears in asserted Claims 1-8, 23-26, 29 and 31-34. For example, "context" appears several times in Claim 1. Claim 1 recites this term, in relevant part, as follows:

> [A] computer-implemented ***context*** component of the network-based system for capturing ***context*** information … created by user interaction of a user in a first ***context*** of the network-based system, the ***context*** component dynamically storing the ***context*** information in metadata associated with the user-defined data… and
>
> a computer-implemented tracking component … for tracking a change of the user from the first ***context*** to a second ***context*** of the network-based system… wherein the user accesses the data from the second ***context***.

Ex. 3, col. 20, ll. 65-67 through col. 21, ll. 1-12 (emphasis added). The proper construction of

this term can be determined by reference to the intrinsic evidence, which is consistent with the term's ordinary meaning. "Context" is a term that is readily understood as "environment." Even to a lay person, a context is the environment which surrounds a particular situation or circumstance. Similarly, when dealing with computers, a context is the environment that is experienced by the user. The term "context" is used throughout the '761 Patent in this way.

The intrinsic evidence supports Leader's construction. The specification specifically provides:

> In support thereof, when a user logs-in to the system 100, user data 102 is generated and associated with at least the user and the login process. ***The user automatically enters*** into a user workspace or ***a first context*** 104 (also denoted CONTEXT.sub.1) ***or environment. This environment*** can be a default user workspace, or workspace environment predesignated by the user or an administrator after login, for example.

Ex. 3, col. 6, ll. 26-33 (emphasis added). Thus, consistent with Leader's construction, the applicant used "context" and "environment" interchangeably when referring to this aspect of the '761 Patent. Accordingly, Leader's construction should be adopted by the Court.

Facebook argues that "context" should be construed to mean "collection of interrelated webs." There is no intrinsic support for Facebook's proposed construction. It is also contrary to how those skilled in the art would understand the ordinary meaning of the term. Declaration of Giovanni Vigna In Support of Plaintiff Leader Technology, Inc.'s Opening Claim Construction Brief ("Vigna Decl."), ¶ 13. Moreover, Facebook's proposed construction improperly narrows the meaning of this claim terms and is inconsistent with the claims themselves. For example, "context" is introduced in Claim 1, and recited in dependent Claims 2, 3 and 4. Claim 2 provides that a context component can be associated with a workspace. Claim 3 provides that a context component can be associated with a web. Claim 4 provides that a context component can be associated with a user environment. Because Claims 2, 3 and 4 are dependent on Claim 1, the term "context" must be, at the very least, broad enough to encompass a web, workspace and user environment. Facebook's proposed construction, however, limits the term "context" to just a

web. Because Facebook's proposed construction does not cover at least a web, workspace and user environment, as recited in the claims of the '761 Patent, its narrow proposal is improper.

2. "Component" means "a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution"

Leader's Proposed Construction	Facebook's Proposed Construction
A computer-related entity, either hardware, a combination of hardware and software, software, or software in execution.	Facebook contends that the term "component" should be construed in reference to the specific components recited in the asserted claims ("context component," "tracking component," "storage component").

The term "component" is recited in Claims 1, 2, 3, 5, 9, 17, 23, 29 and 32 of the '761 Patent. Leader's construction of "component" is the definition that comes directly from the specification of the '761 Patent:

> As used in this application, the terms "component" and "system" are intended to refer to a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution.

Ex. 3, col. 5, ll. 54-57.

The '761 Patent specification provides a precise definition for component. It is well established that a patentee can act as their own lexicographer and define how the terms are used in a patent. Phillips, 415 F.3d at 1316, citing CCS Fitness, Inc. v. Brunswick Corp., 288 F.3d 1359, 1366 (Fed. Cir. 2002). Leader's construction is exactly the same as provided in the specification. Ex. 3, col. 5, ll. 54-57.

Furthermore, this construction is consistent with how the term "component" is used in the claims of the '761 Patent. For example, Claim 1 recites this term, in relevant part, as follows:

> [A] computer-implemented context ***component*** of the network-based system for capturing context information …, the context ***component*** dynamically storing the context information in metadata associated with the user-defined data, the user-defined data and metadata stored on a storage ***component*** of the network-based system; and
>
> a computer-implemented tracking ***component*** of the network-based system for tracking a change of the user….

Ex. 3, col. 20, ll. 65-67 through col. 21, ll. 1-8 (emphasis added).

Facebook does not offer any proposed construction for the term "component." Rather, it refers to its proposed constructions for the claim elements incorporating the term "component" found in the claims, namely the "context component," "storage component, and "tracking component."[2] Since this term is explicitly defined by the patentee and Facebook offers no competing construction, "component" should be construed as "a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution." Ex. 3, col. 5, ll. 54-57.

3. "Ordering" means "organizing"

Leader's Proposed Construction	Facebook's Proposed Construction
Organizing	Placing into a fixed sequence

The claim term "ordering" is recited in Claim 17. Facebook has made an issue out of this term during the parties' meet and confer conferences and during a November 13, 2009 hearing before Magistrate Judge Stark, where Facebook argued that the term "ordering" was not clear and needed to be construed by the Court. Ex. 5 at 16:16-19. While this term is clear to one skilled in the art, Leader, in the spirit of cooperation and in an attempt to address Facebook's concern regarding this term, has agreed to construe "ordering."

"Ordering" is readily understood as "organizing." The terms "ordering" and "organizing" are often used interchangeably in the computer science field when referring to data stored on a computer. The data can be ordered, or organized, for a variety of reasons, including speeding up the system, providing easier access to data that is used most often, or grouping data together that contain similar properties. Thus, the proper construction of "ordering" is "organizing."

Leader's construction is consistent with the claims and specification. Claim 17 recites "ordering" as follows:

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[2] Facebook's proposed constructions for these claim terms are discussed below in Section IV.

> ***[O]rdering*** two or more of the plurality of user environments according to different arrangements of the user environments;

Ex. 3, col. 22, ll. 16-18 (emphasis added). Reading "organizing" in the claim where "ordering" is recited makes sense because the user environments are organized according to how the user environments are arranged. Accordingly, construing "ordering" as "organizing" comports with the plain language of the claims.

The specification also supports Leader's construction. It provides in relevant part:

> The system facilitates the use of an array of applications that act independently of the boards from which they were launched, and those boards are capable of being ordered in a myriad of collections of relationships (i.e., webs).

Ex. 3, col. 12, l. 66 - col. 13, l. 4. This excerpt of the specification demonstrates that "organized" is the proper construction of "ordered" because the system is capable of organizing boards in a variety of relationships to one another. Moreover, the description of the boards is consistent if "ordered" is replaced with "organize" within the claim. As such, Leader's construction should be adopted.

Facebook's proposed construction of "ordering" as "placing into a fixed sequence" attempts to read unsupported limitations into the term and adds unnecessary complexity to this claim term. Specifically, Facebook's construction requires a "fixed sequence," when this limitation is not found anywhere in the specification. In fact, the term "fixed" by itself is not found anywhere in the '761 Patent. The only time "sequence" is used is to describe a series of fax pages and work flow of a known LDAP system. Ex. 3, col. 1, ll. 39-40. Thus, Facebook's proposed construction has no support in the intrinsic record and should be rejected.

4. "Traversing" means "searching"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Searching	Navigation by the user according to a specific path or route

"Traversing," found in Claims 17 and 18, is commonly used in computer science to refer to "searching." Because one of ordinary skill in the art understands "traversing" to mean

"searching," Leader's construction should be adopted. The claims also support Leader's definition. For example, Claim 17 uses "traversing" in the following manner:

> ***[T]raversing*** the different arrangements of the user environments with one or more of the applications based on the ordering information ***to locate the data associated with the user environments.***

Ex. 3, col. 22, ll. 31-34 (emphasis added).

Claim 17 recites that "traversing" is used to "locate data associated with the user environments." Ex. 3, col. 22, ll. 31-34. "Searching" is the proper construction of "traversing" because the goal of "traversing" is to locate the data. Ex. 3, col. 22, ll. 31-34. Specifically, "traversing" is properly construed as "searching" because it describes a process where the system searches for, and locates, the different data that is associated with the user environments. Ex. 3, Col. 22, ll. 31-34. Thus, Leader's construction should be adopted.

"Traversing" should not be construed to mean "navigation by the user according to a specific path or route," as Facebook has proposed. Facebook is improperly attempting to read extraneous limitations into the claim, such as "navigation by the user" and "specific path." This is inconsistent with the plain language of Claim 17 because it does not require any action by a user, nor does it specify a specific path. Ex. 3, Col. 22, ll. 12-34. According to Claim 17, "traversing" is done by "one or more applications," and not a user, as Facebook proposes. As such, Facebook's proposed construction is not supported by the claims themselves, and should be rejected.

5. "Many-to-many functionality" means "two or more users able to access two or more data files"

Leader's Proposed Construction	Facebook's Proposed Construction
two or more users able to access two or more data files	No construction provided

The claim term "many-to-many functionality" is a well known concept in computer science that relates to complex relationships between two data sets with a plurality of members.

Only used in Claim 32, this term is properly construed as "two or more users able to access two or more data files." Claim 32 recites in relevant part:

> [S]toring of the metadata in the storage component in association with data facilitates ***many-to-many functionality*** of the data via the metadata.

Ex. 3, col. 24, ll. 28-32 (emphasis added). The specification describes this "many-to-many functionality," and juxtaposes it to prior art systems which were optimized for "many-to-one" and "one-to-many" functionality. It describes these "many-to-one" and "one-to-many" relationships as follows:

> For example, an e-mail message to ten recipients is a one-to-many relationship, while ten customers sending orders to a single vendor exemplifies a many-to-one relationship. In the case of the former, the e-mail is stored in an Outbox, and the ten recipients store the received message in their respective folders, called an Inbox. In the latter case, the ten received orders are placed in an Orders folder for the associated the product.

Ex. 3, col. 2, ll. 36-44.

In contrast, Claim 32 specifies a system which facilitates "many-to-many functionality," meaning that it facilitates allowing "two or more users able to access two or more data files." The specification supports this definition, stating that:

> The tool includes a relational database engine ***that facilitates many-to-many relationships among data elements,*** in addition to, one-to-many and many-to-many relationships.
>
> The data management tool includes a novel architecture where the highest contextual assumption is that there exists an ***entity that consists of one or more users***. The data storage model first assumes that files are associated with the user. Thus, ***data generated by applications is associated with an individual, group of individuals, and topical content, and not simply with a folder, as in traditional systems***.

Ex. 3, col. 3, ll. 22-31 (emphasis added). Thus, the specification describes the "many-to-many functionality" and how it allows multiple pieces of data generated by the applications to be associated with multiple users and/or groups of users simultaneously.

Accordingly, the proper definition of the claim term "many-to-many functionality" is "two or more users able to access two or more data files."

Facebook does not attempt to construe this term, but instead makes the assertion that the term is indefinite. The Federal Circuit has stated that "[i]ndefiniteness requires a determination whether those skilled in the art would understand what is claimed." Young v. Lumenis, Inc., 492 F.3d 1336, 1346 (Fed. Cir. 2007). To determine if a claim term is indefinite, the "general principles of claim construction apply." Id., quoting Datamize, LLC v. Plumtree Software, Inc., 417 F.3d 1342, 1348 (Fed. Cir. 2005). For a claim to be definite, all that is required is "whether those terms can be given any reasonable meaning." Young, 492 F.3d at 1346, quoting Datamize, 417 F.3d at 1347. Here the specification describes the "many-to-many functionality," such that there does not appear to be any basis for Facebook's indefiniteness claim. Ex. 3, col. 3, ll. 22-31. Moreover, many-to-many functionality is a well-known concept in the computer science industry (any search on the Internet will provide numerous links to this term), and those skilled in the art know what this term means. Accordingly, Leader's proposed construction should be accepted.

C. Facebook's Proposed Construction of 39 Additional Claim Terms

Facebook is seeking construction of 39 claim terms in addition to the five terms Leader identified. All of these claim terms are easily understood by one of ordinary skill in the art and do not require construction. For example, it is difficult to imagine a situation in which one of ordinary skill in the art, or even a lay person, would be confused by the terms "accesses," "capturing," "create," "relationship," or "locate."

Furthermore, Facebook's proposed constructions are complicated, confusing or convoluted and directly contrary to the claims and specification. For instance, Facebook's construction of the term "generating" is "creating." Facebook's proposed construction of "create" is "bring into existence." Therefore, it appears that the real proposed definition of "generating" is "bring into existence." Facebook also offers two entirely different proposed constructions for "accesses" and "accessed," and three completely different proposals for "employs." Furthermore, many of Facebook's proposed constructions utilize words that

implement other proposed constructions, turning the claim construction process on its head, transforming what should be simple terms into convoluted proposed definitions. Review of Facebook's proposed interpretations reveals an attempt to deconstruct, not interpret, the claims into a complex nonsensical mess. Facebook's proposals should be rejected, and the plain and ordinary meaning of these straightforward claim terms should apply. Leader's position of the additional 39 claim terms Facebook is seeking to have the Court construe is based on the information Facebook has provided thus far.

1. "Accesses [the data]"[3]

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Retrieves information in the second context as distinct from uploading, adding or creating it

"Accesses" should be given its plain and ordinary meaning as it is readily understood by one of skill in the art and lay persons. A court must presume that the terms in the claim mean what they say, and, unless otherwise compelled, give full effect to the ordinary and accustomed meaning of claim terms. See, e.g., Nike Inc. v. Wolverine World Wide, Inc., 43 F.3d 644, 646 (Fed. Cir. 1994)(citation omitted); see also E.I. Du Pont de Nemours & Co. v. Phillips Petroleum, 849 F.2d 1430, 1433 (Fed. Cir. 1988); Envirotech, 730 F.2d at 759 (citations omitted). Here, there is nothing unique about the term "accesses" as it is used in the '761 Patent as it is used in the same manner as it is used in everyday language. Moreover, one skilled in the art would not impart any special meaning to the term "accesses." Vigna Decl., ¶5. Accordingly, the term should be given its plain and ordinary meaning.

Facebook's proposed construction attempts to read in several limitations into a simple term. For example, Facebook's construction includes the concept of "in the second context" and also excludes "uploading, adding or creating" from its proposed interpretation of this claim term. Importing these limitations is improper because "the claims of the patent will not read

[3] Based on the parties' meet and confer efforts and Facebook's proposed constructions, Leader understands that the bracketed terms are not being offered for construction. See Ex. 2.

restrictively unless the patentee has demonstrated a clear intention to limit the scope using 'words or expressions of manifest exclusion or restriction.'" Liebel-Flarsheim, 358 F.3d at 906, quoting Teleflex, 299 F.3d at 1327. The patentee has demonstrated no such intention to limit the scope of the term "accesses."

Facebook's proposed construction should be rejected because it renders the claims nonsensical. In re Yamamoto, 740 F.2d 1569, 1571 (Fed. Cir. 1984) ("the starting point is the rule that patent claims should be construed liberally to uphold the patent's validity rather than to destroy the inventor's right to protect the substance of his invention..."). Claims 1 and 23 both contain the limitation "accesses the data." Ex. 3, col. 21, l. 12; col. 23, l. 37. As set forth above, Facebook's construction imports the limitation of a "second context." Facebook's construction does not make sense in the context of Claim 23 because Claim 23 does not mention "context" at all. Ex. 3, col. 23, ll. 20-37. Moreover, if Facebook's construction were to stand, Claim 23 would contain a reference to a second context without the introduction of a first context. For these reasons, Facebook's construction is improper and is inconsistent with the claims.

Facebook's proposed construction is also contrary to the specification because it excludes uploading, adding, or creating data. The specification, however, plainly states "[d]ata of any kind and size can be uploaded to a common shared workspace or board. Varying levels of access can be provided to the uploaded data." Ex. 3, col. 11, ll. 29-31. The '761 Patent provides "[a]ny user operating within any board has access to the suite of applications associated with that board, and can obtain access to any data in any form (e.g., documents and files) created by the applications and to which he or she has permission." Ex. 3, col. 3, ll. 37-41. These are two of many citations that support that a user can access uploaded, added or created data. Ex. 3, col. 3, ll. 41-43; col. 6, ll. 42-44; col. 10, ll. 61-66; col. 13, ll. 50-54. Thus, the term "accesses" should be given its plain and ordinary meaning.

Furthermore, the ultimate goal of Facebook's proposed constructions is an attempt to "deconstruct," not construe, the claims of the '761 Patent. This proposal presents a good example of Facebook's effort to render the claims meaningless. According to Facebook,

"accesses" is defined in part to mean "in the second context." Facebook also contends that "context" has a special meaning, namely a "collection of interrelated webs." However, "interrelated" and "web" also require construction, as Facebook is seeking to construe "interrelated" as "related to each other," and "web" as "collection of interrelated boards/workspaces." Facebook does not stop here, as it claims that "workspaces" also needs to be defined. It contends that "workspace" means "a collection of data and application functionality related to a user-defined topic." The proposed construction for "application" is "a computer program designed to accomplish a specific task." Thus, according to Facebook, in order to understand the simple term "accesses," one must incorporate numerous definitions of multiple terms. The result is a meaningless or an unbelievably convoluted proposed construction for the straight forward term "accesses." This technique violates the fundamental tenet of construing patent claims to uphold their validity. Yamamoto, 740 F.2d at 1571. If permitted, it would make the claim construction process pointless.

2. "[The data is] accessed"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Plain and ordinary meaning	The information is retrieved in the second user environment, as distinct from uploading, adding or creating it

Facebook's proposed construction of "accessed" suffers from the same problems as its definition of "accesses." This term which appears in Claims 17 (and dependent claims thereof) and 29 incorporates numerous definitions from multiple terms, rendering this simple term meaningless.

Facebook's proposed construction is also contrary to the claims, specification and what one of ordinary skill in the art would understand the term to mean. Vigna Decl., ¶5. It imports the limitation "second user environment" into this straight forward term. Claim 29, which uses the term "accessed," never mentions a "user environment." Ex. 3, col. 24, ll. 11-15. Instead, Claim 29 discusses a first and second user workspace. Ex. 3, col. 24, ll. 11-15. Thus, Facebook's construction is improper because it does not make sense given the plain language of

Claim 29 because a "user environment" is not present in the claim. See Yamamoto, 740 F.2d at 1571. Facebook's proposal is also contrary to the disclosure of the '761 Patent because the specification clearly states that accessed data can be uploaded, added or created. Ex. 3, col. 3, ll. 41-43; col. 6, ll. 42-44; col. 10, ll. 61-66; col. 13, ll. 50-54. Because Facebook's construction of "accessed" is contrary to the intrinsic evidence, the term should be given its plain and ordinary meaning. Envirotech, 730 F.2d at 759.

Facebook's proposed constructions for "accesses" and "accessed" should also be rejected because it completely changes the meaning of the term depending on its tense. According to Facebook, when one "accesses data," the information must be retrieved from a second context. However, if the data is "accessed," the data must be retrieved from a second user environment. This inexplicable differentiation between the present and past tense of "access" highlights Facebook's attempts to import unsupported limitations into straight forward terms that do not require construction.

3. "Application(s)"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	A computer program designed to accomplish a specific task

The term "application" should be given its plain and ordinary meaning. Anyone with a rudimentary understanding of computers understands the meaning of "application." Vigna Decl., ¶6. An application is a broad term and that refers to software programs in general. This term appears in Claims 2, 4, 9, 12, 17, 20-23, 26, 28, 30 and 34, and nothing in those claims suggest otherwise. The '761 Patent does not provide a special meaning or limitation for this term which would change this ordinary meaning. Accordingly, the Court does not need to construe "application."

Furthermore, Facebook's proposed construction improperly limits the term and is undermined by the intrinsic evidence. Facebook attempts to limit the term "application" to a program that performs a specific task. However, the claims provide that applications can provide

a variety of tasks. For example, Claim 17 states that applications can generate data, process data, and traverse user environments. Ex. 3, col. 22, ll. 14-34. Claim 21 provides that the applications can create and associate data. Ex. 3, col. 22, ll. 49-56. Claim 30 lists over 20 tasks an application can perform. Ex. 3, col. 24, ll. 16-24. Thus, Facebook's narrow construction when considered within the context of the claims, improperly renders the claims meaningless. See Yamamoto, 740 F.2d at 1571.

Moreover, Facebook's construction is contrary to the specification. The '761 Patent teaches that an application can perform a wide variety of tasks and is not limited to a specific task. For example, the specification contemplates applications that can create, generate, manipulate, store, view, edit, copy, move, and associate data. Ex. 3, col. 2, ll. 17-18; col. 3, ll. 32-37; col. 6, ll. 37-42. Thus, this term should not be construed and the plain and ordinary meaning should apply.

4. "Arrangements"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Plain and ordinary meaning	A specifically-ordered set of items

The term "arrangements" is used in the '761 Patent as it is used in everyday language. It is a term that is understood by lay persons, and carries the same definition in the English language as it does in the '761 Patent. Vigna Decl., ¶7. Because the term does not have a special meaning in the '761 Patent, it does not require construction. Phillips, 415 F.3d at 1314.

Nonetheless, Facebook is seeking to construe this term, adding limitations into the meaning of the term. Facebook's narrow proposed construction does not comport with the claims. Claim 17 provides "ordering two or more of the plurality of user environments according to different arrangements of the user environments." Ex. 3, col. 22, ll. 16-18. The claim plainly states that the user environments are ordered, and ***not*** the arrangements, *.i.e.,* not a "set of items." Further, the "arrangement" is of the user environments, ***not*** a set of items, as required by Facebook's proposed construction. Applying Facebook's proposal to Claim 17, the claim element would recite "different [a specifically-ordered set of items] of the user

environments," which makes no sense. Facebook's proposed construction should be rejected and the plain and ordinary meaning of "arrangements" should apply.

5. "Associated/association/associating"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Linked, or linking

The various tenses of "associate" is another term which has a common meaning that is known in everyday language. Vigna Decl., ¶8. The '761 Patent does not offer any specialized meaning for this term in the intrinsic record. Accordingly, the term should retain its plain and ordinary meaning and not be construed. See Environtech, 730 F.2d at 759.

The intrinsic evidence does not support Facebook's proposed construction of various forms of "associate" as "linked, or linking." Quite the contrary, as the term "link" has a different meaning in the '761 Patent. Throughout the specification, a link is used to refer to a communication link. Ex. 3, col. 10, ll. 50-52; col. 11, ll. 60-65. In fact, a link 830 is illustrated in Fig. 8 as the connection between an embodiment of the system and the global communications network. Ex. 3, Fig. 8. "Associate," on the other hand, does not refer to a network connection. For example, in Claim 1, "associate" is used to refer to the association between context information and user-defined data, as the claim recites "context information associated with user-defined data...." Ex. 3, col. 20, ll. 66-67. Thus, the plain and ordinary meaning should apply.

6. "Based on the change"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	In response to the user's movement from the first context to the second context

"Based on the change" is a simple phrase that requires no construction, especially when read in light of the claims. Claim 1, for example, provides for a system that tracks "a change of the user from the first context to the second context...." Ex. 3, col. 21, ll. 8-10. The system then "dynamically updat[es] the stored metadata ***based on the change*** wherein the user accesses the data from the second context." Ex. 3, col. 21, ll. 10-12 (emphasis added). This phrase is recited the same way throughout the claims. Thus, when it is read with the rest of the claim language,

"based on the change" refers to "a change of the user from the first context to the second context." As such, no construction is necessary because its meaning is apparent when read in the claims.

Facebook's proposed construction is flawed for a number of reasons. As described above, no construction is necessary in light of the plain claim language. Vigna Decl., ¶9. Further, Facebook imports the limitations of "in response to" and "movement" into its proposed construction. Since "based on the change" refers to "a change of the user from the first context to the second context," there is no need to include these additional limitations into this phrase. The claim does not contain the limitations "in response to" or "movement" and requiring these limitations improperly narrows the scope of the phrase.

Moreover, Facebook's proposed construction requires reference to another one of its proposed constructions. Facebook also proposes a construction for "in response to which," such that, according to Facebook, multiple proposed claim constructions are needed for the definition of a straight forward claim term. As such, this phrase should be afforded its plain and ordinary meaning.

7. "Capturing"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Obtaining

"Capturing" is a term used in everyday language and is understood by lay persons. The term is also not assigned a special meaning in the '761 Patent. Thus, "capturing" does not require construction. Vigna Decl., ¶10. The specification undermines Facebook's proposed construction because it uses "capturing" and "obtaining" in different ways. For example, the specification uses "capturing" when referring to the actions of the computer system. Ex. 3, col. 13, ll. 47-54. At the same time, the specification uses "obtaining" when referring to the action of the user. Ex. 3, col. 3, ll. 37-41. Thus, Facebook's proposed construction is contrary to the intrinsic evidence and cause confusion about the meaning of the claims when read in light of the specification. The plain and ordinary meaning should apply to this straight forward claim term.

8. "Change in access of the user"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Movement of a user from the first workspace to the second workspace to facilitate access in the second workspace

"Change in access of the user," found in Claim 23 and dependent claims thereof, does not need construction because this term is straightforward and easily understood. Its plain and ordinary meaning should apply. Vigna Decl., ¶11. Facebook's proposed construction does nothing to clarify the meaning of the claims and improperly imports limitations into the term. As a preliminary matter, Facebook's proposed definition is another example of Facebook's "deconstruction" of the patent. Its proposal includes "access," a term for which Facebook is advocating a meaningless construction because it includes many other proposed constructions, as described above.

Like "based on the change," Facebook improperly attempts to add the limitation of "movement" into the claims. Claim 23, which contains the limitation "change in access of the user" does not mention "movement" at all. Ex. 3, col. 23, ll. 20-37. The ridiculousness of Facebook's request to construe this term is evident when this claim term and its proposed construction are put side by side. Facebook's proposed definition uses five (5) out of the six (6) words of the same phrase it is attempting to define. Rearranging these words and adding limitations renders Facebook's proposal a tangled mesh of words without intrinsic support. The plain and ordinary meaning should apply to this term.

9. "Change information"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Data that records the movement of a user from one user workspace to another

"Change information" should be given its plain and ordinary meaning. One of ordinary skill in the art would understand the term, especially when read in light of the claims. Vigna Decl., ¶12. Claim 23 provides that "change information [is] associated with a change in access of the user from the first user workspace to a second user workspace...." Ex. 3, col. 23, ll. 32-34.

Once the data is accessed from a second user workspace, the system "dynamically stor[es] the change information on the storage component as part of the metadata...." Ex. 3, col. 23, ll. 35-36. Thus, Claim 23 makes apparent that the "change information" is being associated with a change in access of the user from first workspace to a second workspace. Because Facebook's proposed construction differs from how the term is used in Claim 23, it should be rejected.

Facebook's proposal also improperly reads limitations into the claim. Claim 23 does not require, much less, mention anything about "data that records the movement of a user." Facebook is improperly attempting to include the limitation of "movement" into the claims. However, "change information" is associated with a change in access of the user, not the movement of a user, as recited by the claim language. The plain and ordinary meaning should apply.

10. "Context component"

Leader's Proposed Construction	Facebook's Proposed Construction
"Context" and "component" are already being construed so there is no need to construe "context component"	Facebook contends that "context component" is a means-plus-function limitation

"Context component" is found throughout most of the '761 Patent's claims. Facebook's claim that "context component" is a means-plus-function element governed by 35 U.S.C. §112 paragraph 6 is meritless. When a claim element does not use the word "means," there is a rebuttable presumption that § 112, ¶ 6 ***does not*** apply. TIP Sys., LLC v. Phillips & Brooks/Gladwin, Inc., 529 F.3d 1364, 1373-74 (Fed. Cir. 2008)(citations omitted). The word "means" is not recited in connection with the term "context component." The only way to rebut this presumption is to show that the claims do not recite sufficiently definite structure. See id. at 1374. The presumption that § 112, ¶ 6 does not apply can only be overcome where the claim phrase is functional, does not have a reasonably well understood meaning in the art, and does not recite sufficient structure for performing the function. See id.; see also Linear Tech. Corp. v. Impala Linear Corp., 379 F.3d 1311, 1320 (Fed. Cir. 2004).

Facebook cannot rebut this strong presumption. First, the structure of a "component" is a defined in the specification, and is not a "means" for performing a function. Secondly, the language following "context component" in the claims is used merely provide the type of context component, rather than the function of an undefined means. Additionally, in Claim 22, when the patentee choose to draft a means-plus-function claims, the patentee explicitly recited a means-plus-function claim limitation by explicitly invoking the "means" term. Ex. 3, col. 23, ll. 1-19 ("computer-implemented means for creating data"). To read "context component" in Claim 1 as a means-plus-function claim would result in it overlapping the scope of Claim 22. For this reason, "context component" should not be construed to be a means-plus-function claim term.

Facebook's assertion that "context component" is indefinite falls with its means-plus-function claim and is undermined by the fact that Facebook offers a construction for the term "context" and the term "component" is explicitly defined in the specification. As discussed above, there is intrinsic support for Leader's constructions of "context" and "component." Accordingly, there is nothing indefinite about the term "context component."

11. "Context information"

Leader's Proposed Construction	Facebook's Proposed Construction
Does not need construction because "context" is already being construed, and "information" does not need construction	Data that identifies at least a specific context

"Context information," found in Claims 1, 4-6, 8 and 10, does not need construction given that "context" will be construed and the term "information" has an ordinary meaning to both lay people and those skilled in the art. Vigna Decl., ¶14. The parties agree that "context," by itself, is a term that would benefit from construction and assist in understanding the claims of the '761 Patent. The term "information," however, is a term that is universally understood. Accordingly, apart from the term "context," the phrase "context information" does not need construction.

Facebook's proposed construction of this term is inconsistent with its other constructions. For example, it proposed a completely different construction for "context information" than for

"context." Such inherently contradictory constructions only assist in confusing the meaning of the claim terms. Further, "context information" requires implementing proposed constructions for other terms. Facebook's definition of "context information" includes the term "context," rendering its proposed construction meaningless.

Facebook's construction is also contrary to the claims. Claim 4 provides that "context information includes a relationship between the user and at least one of an application, application data, and user environment." Ex. 3, col. 21, ll. 22-24. After performing the cumbersome task of integrating the multitude of Facebook's proposed constructions that are required for this term given Facebook's proposed claim terms and constructions, one finds that, according to Facebook, "context information" never includes "a relationship between the user and at least one of an application, application data, and user environment." Because Facebook's proposed construction does not include the aspects of dependent Claim 4, Facebook's construction is improper. See Baldwin Graphic Sys., Inc. v. Siebert, Inc., 512 F.3d 1338, 1345 (Fed. Cir. 2008) (stating that independent claims are naturally broader than their dependent counterparts). For these reasons, "context information" does not require construction.

12. "Created or create"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Plain and ordinary meaning	Brought/to bring into existence

"Create" is another term which is easily understood by a lay person and does not require construction. The '761 Patent does not assign a special meaning to the term "create," such that it should be afforded its plain and ordinary meaning. Vigna Decl., ¶15. There is no support for Facebook's position that these terms, found throughout the claims, require construction, much less any support for its proposed construction in intrinsic evidence. The word "existence" is not found anywhere in the intrinsic record. Construction of this straight forward term unnecessarily complicates the claims of the '761 Patent. Accordingly, the plain and ordinary meaning should apply.

13. "Dynamically"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Automatically and in response to the preceding event

One of ordinary skill in the art understands the term "dynamically." It is a commonly used term in the computer science field. Vigna Decl., ¶16. The '761 Patent does not provide a special meaning for it. Thus, "dynamically," found in Claims 1, 9, 17, and 21-23 (and dependent claims thereof), requires no construction.

Facebook's proposed construction imports unnecessary limitations into the meaning of the term, which are not supported by the specification. Indeed, a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, at the very least, point to a term or terms in the claim with which to draw in those statements. Without any claim term that is susceptible of clarification by the written description, there is no legitimate way to narrow the property right. Renishaw PLC v. Marposs Societa' per Azioni, 158 F.3d 1243, 1249 (Fed. Cir. 1998). While the ordinary meaning of "dynamically" can be interpreted as "automatically," the remainder of the proposed construction is unsupported and thus incorrect. When read in light of the claims, Facebook's proposal implies that one must look to the preceding limitation in order to determine the action that must be done automatically. For instance, in Claim 9, the limitation provides "dynamically updating the stored metadata." Ex. 3, col. 21, l. 53. Facebook's proposed construction requires that one must look to the preceding limitation as the "preceding event." However, Claim 9 recites that the metadata is dynamically updated when the user employs the data from the second user environment. Ex. 3, col. 21, l. 53. While "employing" is technically the preceding event, Facebook's construction may confuse one reading the claims, especially since the claim is clear on its face. Moreover, the specification does not support Facebook's proposal. The word "precede" or "preceding" is not found in the intrinsic record. The plain and ordinary meaning should be afforded to this claim term.

14-16. "employs, employs [the application and data], employs [at least one of] [the application and data]"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	uses something already available as distinct from uploading, adding or creating uses the application and data that is already in the second user environment, as distinct from uploading, adding or creating uses at least one of the application and data that is already in the second user environment, as distinct from uploading, adding or creating

"Employs" is a term used in everyday language and is understood by a person of skill in the art and lay persons. Vigna Decl., ¶17. Recited in Claims 9 and 21 (and dependent claims thereof), this term is unambiguous and does not require construction. Facebook, nonetheless, offers ***three*** completely different constructions for the term "employs." There is no reasonable basis for doing so, other than an attempt to "deconstruct" the meaning of the claim into oblivion.

In order to overcome the heavy presumption in favor of the ordinary meaning of claim language, it is clear that "a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, at the very least, point to a term or terms in the claim with which to draw in those statements." Johnson Worldwide Assocs., Inc. v Zebco, Inc., 175 F.3d 985, 989 (Fed. Cir. 1999), quoting Renishaw, 158 F.3d at 1248. Facebook cannot overcome the heavy burden in favor of the ordinary meaning of "employs." Here Facebook's proposed constructions are visibly inconsistent with the claims. For example, Facebook advocates that the term "employs [the application and data]" requires a "second user environment." However, implementing this definition in Claim 21, which does not discuss a user environment at all, would improperly make Claim 21 nonsensical because it would recite a second user environment without introducing a first user environment. Ex. 3, col. 22, ll. 46-67. For these reasons, "employs" should be given its plain and ordinary meaning.

17. "Environment"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Collection of interrelated contexts

"Environment," found in Claims 9-20, is a term well understood by those of ordinary skill in the art. Vigna Decl., ¶18. No construction of this term is required. Facebook's proposed construction is another attempt at "deconstruction", not construction, of the claim term until it is meaningless, because it includes "contexts" within the definition, which necessarily includes numerous other constructions proposed by Facebook. The plain and ordinary meaning should apply to this term.

18. "File storage pointers"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Information that identifies the specific folders in which specific files are located

"File storage pointers," found in Claim 34, is term well understood by one of ordinary skill in the art. Vigna Decl., ¶19. "File storage pointers" are references in the computer code which, literally, point to stored files. While the term is not generally known to lay persons, it is readily understood by one of skill in the art. Id. As such, "file storage pointers" does not require construction.

Facebook's proposed construction should be rejected because it contradicts the intrinsic evidence. Throughout the intrinsic record, the applicant explicitly states that the '761 Patent avoids the pitfalls associated with storing files in folders. Ex. 3, col. 6, ll. 22-25. This problem is avoided by collecting environmental and tracking information about the data that is created on the system. Thus, Facebook's proposed construction contradicts a fundamental premise of the '761 Patent by requiring specific folders in which files are located. Rather than adopting Facebook's questionable construction, "file storage pointers" should be given its plain and ordinary meaning.

19. "Generating"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Creating

Facebook's attempt to construe "generating," found in Claim 17 (and dependent claims thereof), as "creating" is unnecessary. There can be no debate that the term "generating" is a known term. Vigna Decl., ¶20. Facebook, on the other hand, is advocating a proposed construction that is unnecessarily limiting and refers to another term that Facebook claims must be construed. Specifically, Facebook proposes that "generating" should be construed to mean "creating," and proposes that "creating" should be construed to mean "bring into existence." However, something can be generated without being created, so Facebook's attempt to define "creating" as the same as "generating" is improper. No construction is required for this term.

20. "In response to which"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Causing

There is no special meaning for the term "in response to which." Vigna Decl., ¶21. Found only in Claim 29, the term appears as follows: "wherein when the data [is] created in the first user workspace is accessed from the second user workspace, ***in response to which*** the context component adds information to the metadata about the second user workspace." Ex. 3, col. 24, ll. 11-15 (emphasis added). The claim is unambiguous, and recites that the "context component" adds information to the metadata once the data is accessed from the second user workspace. Ex. 3, col. 24, ll. 11-15. Construing this term is unnecessary, especially in light of the claims. There is no mention of the word "causing" in the intrinsic record, and nothing to support Facebook's proposed construction. Accordingly, this term should be given its plain and ordinary meaning.

21. "Indexing"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	The creation and use of a list or table that contains reference information pointing to

	stored data

Claims 11 and 21 (and dependent claims thereof) recite "indexing," another term well understood by lay persons and those of skilled in the art. Vigna Decl., ¶22. Just as library books are indexed so that readers can get access to them, data is indexed so that users can access it. The plain language of Claim 21 makes the meaning of this term apparent: "indexing the data created in the user workspace such that a plurality of different users can access the data...." Ex. 3, col. 22, ll. 64-65.

In addition to being unnecessary, Facebook's proposed construction improperly imports several limitations, the most egregious of which are the requirements of a list or a table. There is simply nothing in the specification or prosecution history that defines "indexing" as requiring a list or table. Moreover, the '761 Patent specification explicitly states that data can be stored in the form of a table or any other suitable data structure for access and processing, and at any location. Ex. 3, col. 6, ll. 55-58. Thus, there is no reason to construe this term.

22. "Interrelated"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Related to each other

Facebook's request to construe the term "interrelated," found in Claim 3, is another straightforward term that does not require construction. "Interrelated" has a plain and ordinary meaning to one of ordinary skill in the art and any lay person as indicating that two things are not only related but reciprocally related to each other. Vigna Decl., ¶23. Accordingly, "interrelated" should be given its plain and ordinary meaning.

23. "Interrelationship"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning.	Defining a parent-child relationship between two or more workspaces.

This straight forward term does not require construction. Vigna Decl., ¶24. It makes no sense that Facebook would propose such disparate definitions for the related terms "interrelated" and "interrelationship." Facebook's proposed construction of "interrelationship" renders Claim

3 nonsensical, as it requires the noun "interrelationship" to be interpreted as a verb "defining a parent-child relationship..." Id., ¶24. More importantly is the fact that the '761 Patent specification explicitly discusses interrelationships as all child, all siblings, or descendents such as parent-child. Ex. 3, col. 9, ll. 26-29. As such, Facebook's attempt to limit interrelationships to parent-child is undermined by the intrinsic evidence. There is also no basis for Facebook's inclusion of workspace as part of the definition. This proposal also is unnecessarily complicated, requiring implementing the proposed construction of the claim term, such as workspaces. "Interrelationship" should be given its plain and ordinary meaning.

24. "Locating/locate"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Finding/find

Facebook insists on having the Court construe "locating/locate." The meanings of these terms are readily apparent, and the '761 Patent does not attempt to impart any special meaning to this term. Vigna Decl., ¶25. Facebook has no basis for seeking construction of unambiguous terms. These terms "locating/locate" should be given their plain and ordinary meaning.

25. "Metadata"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning.	A stored item of information associated with a user's data that identifies at least the context, user workspace or user environment in which the user and the data currently reside.

"Metadata" is a term universally understood by one of ordinary skill in the art. Vigna Decl., ¶26. Any one with a computer science degree or equivalent experience knows that metadata is data about data. Because the plain meaning of metadata is known throughout the computer industry, there is no reason to construe this term. Facebook departs from the commonly understood meaning of the term and attempts to read in a complicated disarray of unsupported limitations. Id. Its proposed construction improperly (1) incorporates limitations

that are inconsistent with the specification and prosecution history, (2) creates ambiguity in an otherwise universally understood term, and (3) needlessly attempts to "deconstruct" this term.

Facebook's proposed construction of "metadata" implies that "metadata" is a single stored item of information. By limiting "metadata" to "a stored item of information," Facebook's proposed construction appears to differentiate "metadata" with multiple stored items of information. Nothing in the specification or prosecution history teaches such a limitation. In fact, the prosecution history states that "...the metadata is a means of accumulating a history of all interaction information for any piece of data. As there can be millions of data files or documents stored on a storage medium, this corresponding metadata for each of the millions of data files or document is the means by which the data can be searched." Ex. 4, at LTI 000610-11 (05/05/06 Resp. at 15-16). This is further supported by the term itself, as "metadata" is plural term.

Facebook also attempts to read in additional unsupported limitations into the claim with its proposed construction. The patentee purposefully left metadata to encompass all types of metadata. For example, Facebook's proposed construction also pointlessly singles out only particular types of information. In effect, its proposal limits "metadata" to "context, user workspace or user environment in which the user and the data currently reside," as types of information included as metadata. The plain language of the Claims 1, 9, 10, 17, 21, 23, 28, and 29 explicitly demonstrate that metadata can also include several other types of information. For example, Claim 9 states that "metadata" can also include items of information relating to (1) the user; (2) the data; (3) the application; and (4) the user environment. See Ex. 3, col. 21, ll. 46-48. The specification and prosecution history further demonstrate other types of information omitted in Facebook's proposed construction. See Ex. 3, col. 7, ll. 4-7; col. 2, ll. 55-56; col. 3, ll. 44-51; Ex. 4 at LTI 000610-11 (05/05/06 Response at 15-16).

Facebook's proposal is rendered meaningless because it implements four other proposed constructions. Specifically, its proposed definition includes "context," "workspace,"

"environment," and "associated," other terms that Facebook seeks to construe. This straightforward term should be given its plain and ordinary meaning.

26. "Ordering information"

Leader's Proposed Construction	Facebook's Proposed Construction
Does not need construction because "ordering" is already being construed, and information does not need construction	The information is retrieved in the second user environment, as distinct from uploading, adding or creating it

"Ordering information," found in Claim 17 (and dependent claims thereof), does not need construction as "ordering" is already being construed. Furthermore, Facebook's proposed construction is incongruous, as if by attaching the term "information" to "ordering," the meaning of "ordering information" means something completely different than "ordering." There is no relationship under Facebook's proposals, between the meaning of the terms "ordering" and "ordering information." Despite this, Facebook proposed to construe "ordering" alone to mean "placing into a fixed sequence," while asserting that when "information" is added to "ordering," then the meaning of ordering changes entirely. First, Facebook drops the requirement that things are "placed into a fixed sequence" as previously proposed in their construction of "ordering" Second, the new definition of "the information is retrieved in the second environment, as distinct from uploading, adding or created it" is used. There is no reasonable basis for giving the claim terms such disparate meanings when coupled with such a straight forward term as "information." Facebook's proposed construction adds at least four unsupported limitations including: (1) retrieved in the second user environment; (2) as distinct from uploading; (3) as distinct from adding; (4) as distinct from creating it. As such, Facebook's construction should be disregarded and the plain and ordinary meaning should be used.

27. "Portable wireless device"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Device that can communicate with a computer network over a wireless communications medium

Claim 16 recites the term "portable wireless device" which should be given its plain and ordinary meaning, as it is readily understood by one of skill in the art and lay persons. Vigna Decl., ¶29. The term is self explanatory: a device which is portable and is able to communicate wirelessly. There is no need to further construe this term beyond its plain meaning. Facebook's proposed construction of "device that can communicate with a computer network over a wireless communication medium" adds unnecessary complexity and unsupported limitations to a clear term. Id., ¶29. For example, it reads an unsupported limitation into the term by requiring the device to "communicate with a computer network." However, the intrinsic evidence is clear that a portable wireless device is not limited to communication with a computer network. Specifically, the '761 Patent specification and claims specifically identify communication with telephone networks. Ex. 3, col. 4, ll. 24-31; col. 24, ll. 16-24. Accordingly, Facebook's proposed construction should be rejected and the plain and ordinary meaning should be applied.

28. "Relational storage methodology"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Storing items in a database based on their relationships to each other

Facebook's choice to seek construction of this term is odd, as this term is not in the claims. The closest claim term is a "relational and an object storage methodology." Ex. 3, col. 24, l. 27. It is unclear why Facebook opted to construe a portion of disjointed claim language, as opposed to the complete claim term. In any case, "relational storage methodology" needs no construction because a person of ordinary skill in the art would recognize that a "relational storage methodology" is a common and well defined manner of structuring information stored in a database. Vigna Decl., ¶30. Thus, no special definition is required.

29. "Relationship"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Information defining a connection between two or more things

"Relationship" is a common and self-explanatory term. Vigna Decl., ¶31. The '761

Patent uses the term in its ordinary sense. Facebook's proposed construction, if adopted, would convolute the meaning of the claims reciting this term, with nonsensical results. For example, using Facebook's proposed construction, Claim 4 would read, "The system of claim 1, the context information includes a [information defining a connection between two or more things] between the user and at least one of an application, application data, and user environment." Ex. 3, col. 21, ll. 22-24. There no reason to require such an interpretation when a lay person would understand the meaning of the term on its face.

Nothing in the intrinsic record supports Facebook's attempts to read the additional limitation of "information defining" into the term. Accordingly, "relationship" does not need construction and should be given its plain and ordinary meaning.

30. "Remote location"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	A place different from the web-based computing platform

"Remote location," recited in Claim 15, is a term readily understood and does not need construction. Vigna Decl., ¶32. In the context of the claims, a person of skill in the art would understand that term "remote location" indicates, not physical proximity, but the manner in which a user is connected. Id. In other words, the user was not directly connected to the network or computer, but was connected remotely, for example, through an interface on a web browser. The specification supports this, stating that "remote users can access the platform system ... by way of the associated browser." Ex. 3, col. 14, ll. 57-60.

Facebook's proposed definition of "a place different from the web-based computing platform" adds a limitation that the user is in a different physical location than the web-based computing platform. This is not correct because physical location is irrelevant. Thus, this proposed construction should be rejected and the plain and ordinary meaning should be applied.

31. "Search and association criteria"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	No construction provided

Facebook requests the Court to construe "search and association criteria," but insists that Facebook itself cannot construe this term, claiming it is indefinite. Contrary to Facebook's claims, "search and association criteria" is a readily understood term when read in the context of claims. Vigna Decl., ¶33. For a claim to be definite, all that is required is "whether those terms can be given any reasonable meaning." Young, 492 F. 3d at 1346, quoting Datamize, 417 F.3d 1347. The term is only used in Claim 6, which states that "the context information of the at least one other context is at least one of stipulated by the user and suggested automatically by the system based upon search and association criteria set by the user." Ex. 3, col. 21, ll. 28-31. The term is simply describing the type of criteria used, namely search and association criteria, which can be set by the user in order to get the desired information. Accordingly, "search and association criteria" has a well understood meaning and is therefore definite.

32. "Storage component"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Does not need construction because "component" is already being construed, and storage does not need construction	Memory

As discussed above, "component" requires construction, because the patentee provided an explicit definition of this term. "Storage component," however, does not need construction outside of the term "component" because "storage" is a commonly understood term. As described above, component is defined as "a computer-related entity, either hardware, a combination of hardware and software, software, or software in execution." Ex. 3, col. 5, ll. 54-57. A storage component, therefore, is a computer-related entity which stores data.

Facebook's proposed construction implies that a "storage component" is restricted to hardware only. However, this is directly contrary to the specification which provides that a component can be either hardware, software, a combination of hardware and software, or software in execution. Ex. 3, col. 5, ll. 54-57. Because Facebook's construction is contrary to the intrinsic record and unnecessary limited, it should be rejected.

33. "Tagged"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Attached

One of ordinary skill in the art understands the term "tagged" recited in Claim 8 refers to a connection between data items, but does not require any sort of physical proximity. Vigna Decl., ¶35. The plain and ordinary meaning of "tagged" should be used because it accurately describes the connection when considered in a computer-based system.

Facebook's construction is pulled out of thin air. The term "attached" is not used in the '761 Patent. Furthermore, in the context of a computer system, the term "attached" is inherently more ambiguous than "tagged" because it implies physical proximity, which is nonsensical considering that what is described is performed on a computer system. There is no intrinsic support for Facebook's proposed construction. The plain and ordinary meaning should be applied for the term "tagged."

34. "Tracking component"

Leader's Proposed Construction	Facebook's Proposed Construction
Does not need construction because "component" is already being construed, and tracking does not need construction	Facebook contends that "tracking component is a means-plus-function limitation.

"Tracking component," which appears in claims 1 and 23 (and dependent claims thereof), does not require construction. As discussed above, the claim term "component" is defined. The term "tracking component" identifies a specific type of component. Furthermore, the claims recite what the tracking component does. For example, Claim 1 recites "a computer-implemented tracking component of the network-based system for tracking a change of the user from the first context to a second context of the network-based system and dynamically updating the stored metadata based on the change." Ex. 3, col. 21, ll. 7-11. Given that the claims recite tracking component, there is no need for construction. Furthermore, for the same reasons set forth in connection with "context component," Facebook has no basis to contend it is a means-

plus-function element. As such, "tracking component" is not a means-plus-function term and construction is unnecessary.

35. "Updating"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	Modifying existing data to make it current

"Updating," found in Claims 1 and 9 (and dependent claims thereof) should be given its plain and ordinary meaning as it is readily understood by one of ordinary skill in the art and a lay person. Vigna Decl., ¶37. Facebook is attempting to read additional limitations into the claim. Facebook's proposed definition requires that existing data must be modified. This definition would exclude the addition of new data as part of the definition, which is an overly narrow construction, because new data might be added when something is being updated. Indeed, the commonly understood meaning of the term only requires something to be brought up to date, however that process is completed. Facebook is also attempting to add unnecessary complexity to an unambiguous claim term. Facebook's proposed construction renders the claims nonsensical and redundant. For example, Claim 9 would read in part "dynamically [modifying existing data to make it current] the stored metadata with association of the data." This "existing data" limitation and "modifying" requirements make no sense in the context of the claim. Claims 1 and 9 make no distinction between new and existing metadata in respect to updating. Indeed, nothing in the intrinsic record supports such a construction. The plain and ordinary meaning of "updating" should be used.

36. "User interaction"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	User actions resulting in the creation of data

"User interaction," found in Claims 1, 9, 21 and 23 and dependent claims thereof, is another term plainly understood by lay persons and those skilled in the art. Vigna Decl., ¶38. "User interaction" is the interaction of a user, plain and simple. No construction is necessary for this term.

Facebook's proposed construction is redundant in some instances and contrary to the plain language of the claims in other instances. The term is recited in Claim 1 as follows: "user-defined data created by user interaction of a user in a first context." The claim provides for the creation of data by user interaction. However, not all of the claims recite the same language when it comes to the term "user interaction." For example, Claim 23 provides "capturing context data associated with user interaction of a user...." Ex. 3, col. 23, ll. 25-26. Thus, user interaction does not necessarily result in the creation of data, but will at least result in the capturing of context data based on the claims where the term appear. Thus, Facebook's construction is redundant for some claims, and not consistent with others.

Facebook is also attempting to read extraneous limitations into a claim term that is clear on its face. For example, Claim 9 would read in part "creating data within a user environment of a web-based computing platform via [user actions resulting in the creation of data] with the user environment." Ex. 3, col. 21, ll. 40-42. Accordingly, "user interaction" should be given its plain and ordinary meaning.

37. "User-defined data"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Plain and ordinary meaning	Data created by user interaction of a user in a first context of the network-based system

Like "user interaction," "user-defined data" is self-explanatory and does not require construction. Vigna Decl., ¶39. Specifically, "user-defined data" is data defined by a user. This simple and straightforward term, found in Claims 1, 2 and 8 (and dependent claims thereof) does not require construction.

Facebook's proposed construction is another example of attempting to hopelessly "deconstruct" the claims so it has no meaning. Its proposed construction for this term incorporates the claim terms "user interaction" and "context," which Facebook also contends must be construed. Thus, to construe this term under Facebook's proposals, one would need to refer to numerous other proposed constructions, including "user interaction" and "create."

Moreover, Facebook's construction results in a tortured reading of the claims. For example, Claim 1 would read in part "action of a user in a first context of the network-based system, the context component dynamically storing the context information in metadata associated with the [data created by the user interaction of a user in a first context of the network-based system]." Ex. 3, col. 21, ll. 1-4. Facebook's proposed construction unnecessarily repeats the limitation "first context of the network based system." While "user-defined data" may be "data created by user interaction of a user in a first context of the network-based system," it is not limited to the first context only and there is nothing in the specification or prosecution history that would require such a narrow interpretation. Accordingly, "user-defined data" should be given its plain and ordinary meaning.

38. "Web"

Leader's Proposed Construction	**Facebook's Proposed Construction**
Plain and ordinary meaning	Collection of interrelated boards/workspaces

"Web" does not need to be construed because each time the term "web" is recited in the claims, there is nothing unusual in its use that would require construction. Vigna Decl., ¶40. For example, Claim 3 provides that a "web is a collection of interrelated workspaces." Because an explicit definition of "web" is already set forth within the language Claim 3, further construing "web" is unnecessary. In Claims 30 and 33, "web" is always recited as "web and video conferencing." One of ordinary skill in the art knows that web conferencing refers to meetings or presentations via the Internet. Thus further construction is unnecessary.

Facebook's proposed construction only causes confusion for a different claim term, "web-based," which appears in many of the patent's independent claims. Based on the intrinsic record, and as known in the computer industry, "web-based" refers to the World Wide Web or the Internet. Thus, any attempt to implement Facebook's proposal of "web" into the term "web-based" would result in an incorrect interpretation. Accordingly, construction of "web" is unnecessary.

39. "Workspace"

Leader's Proposed Construction	Facebook's Proposed Construction
Plain and ordinary meaning	A collection of data and application functionality related to a user-defined topic

"Workspace" should be given its plain and ordinary meaning as readily understood by one of ordinary of skill in the art. Vigna Decl., ¶41. "Workspace" is also known to lay persons and has a commonly understood meaning. The '761 Patent does not assign the term any special meaning. Accordingly, the terms plain and ordinary meaning should be used.

Facebook's construction is inconsistent with how a person of ordinary skill in the art would understand the term. Id. By way of example, a person of ordinary skill in the art would not narrowly interpret just the term "workspace" by itself, to also include the concept of a user-defined topic. Id. A workspace does not require a topic. Id.

Leader deduces that Facebook's flawed construction of "workspace" stems from Facebook's confusion with another term called "board." Indeed, Facebook's construction of "workspace" is precisely how the specification defines "board." See Ex. 3, col. 7, ll. 49-51. However the intrinsic record never defines all workspaces as boards. Instead only a specific type of workspace is ever referred to as a board. Particularly only a "personal workspace environment" is a called board. Ex. 3, col. 3, ll. 32-35. Thus Facebook construction is clearly flawed. Furthermore, Facebook's construction is inconsistent with Claim 2. For example, Claim 2 uses "workspace" with the broad term "user-defined **data**." Conversely, Facebook's construction limits "workspace" with the narrow term "user-defined **topic**." As such, Facebook's proposed construction improperly attempts to import limitations into this term where none exist, and should be rejected.

V. CONCLUSION

For the reasons set forth above, Leader's proposed constructions should be adopted by this Court. The remaining terms should be given their plain and ordinary meaning because the terms are well known and do not require construction.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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