

# EXHIBIT 11



**RE: Xerox v. Google, et al. - Claim Terms and Constructions**

**David Perlson <davidperlson@quinnemanuel.com>** to: Scott Leslie

03/10/2011 07:26 PM

"ahale@cravath.com", "aharasymiak@cravath.com",  
"AMayo@ashby-geddes.com", Andrea P Roberts,  
"angela.quach@davispolk.com", "Fenwick, Anthony I.", "Lisson,  
David", "Moore, David E."  
Cc: "felicia.yu@davispolk.com", Google-Xerox,  
"jblumenfeld@mnat.com", "jday@ashby-geddes.com",  
"Brodsky, Jeremy", "Imaguire@ashby-geddes.com",  
"mnoreika@mnat.com", "rhorwitz@Potteranderson.com", 'Richard Stark'

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History: This message has been forwarded.

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Scott, responses below.

One question I have, will Xerox be sticking to its construction of "organized classification of document content" with the "may be" language in it? Thanks

David

**From:** Scott Leslie [mailto:SLeslie@cravath.com]

**Sent:** Thursday, March 10, 2011 3:38 PM

**To:** David Perlson

**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Fenwick, Anthony I.'; 'Lisson, David'; 'Moore, David E.'; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brodsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoreika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'

**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

David -

Thank you for promptly getting us Defendants' revised chart.

First, regarding the limitation in Claim 5 that "the organized classification of document content is defined using a hierarchical organization", we cannot tell from Defendants' proposed construction whether, in order to be hierarchical, every single category in the organized classification must be a parent or a child of another category. We do not believe that a hierarchical organization precludes the presence of some categories that are neither parents nor children of other categories, and that is simply what our proposed construction reflects. Please let us know whether you think we have a substantive disagreement concerning this construction.

--We do not think so.

Second, we notice that Defendants have retained their construction for the "characteristic vocabulary" limitation of Claim 10 (namely, "one or more words or phrases that describe the category of information corresponding to the class"). We are still unsure whether there is a dispute between the parties concerning this claim term because we are unsure what "category of information" Defendants are

referring to in their proposed construction. Are you referring to the "category of information" in the information retrieval system, as referenced in steps (a) and (d) of Claim 1?

--Yes

Finally, regarding the "defining an organized classification of document content" limitation, we want to be absolutely sure that we are in substantive agreement. Defendants have proposed "setting an organized classification of document content", i.e., setting the particular organized classification of document content that is to be used in performing the steps of the claimed method. We thought all parties agreed that, for purposes of whether this construction is satisfied, it is immaterial whether the particular organized classification of document set for use in the claimed method is (1) created by the performer of the method, (2) selected from existing classifications by the performer of the method or (3) modified by the performer of the method from an existing classification. Is that correct, or do Defendants have a different understanding?

--Correct

Thank you.

Best,

Scott

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(212) 474-3700 (fax)

From: David Perlson <davidperlson@quinnemanuel.com>

To: Scott Leslie <SLeslie@cravath.com>

Cc: "ahale@cravath.com" <ahale@cravath.com>, "aharasymiak@cravath.com" <aharasymiak@cravath.com>, "AMayo@ashby-geddes.com" <AMayo@ashby-geddes.com>, Andrea P Roberts <andreaproberts@quinnemanuel.com>, "angela.quach@davispolk.com" <angela.quach@davispolk.com>, "Fenwick, Anthony I." <anthony.fenwick@davispolk.com>, "Lisson, David" <david.lisson@davispolk.com>, "Moore, David E." <dmoore@potteranderson.com>, "felicia.yu@davispolk.com" <felicia.yu@davispolk.com>, Google-Xerox <Google-Xerox@quinnemanuel.com>, "jblumenfeld@mnat.com" <jblumenfeld@mnat.com>, "jday@ashby-geddes.com" <jday@ashby-geddes.com>, "Brodsky, Jeremy" <jeremy.brodsky@davispolk.com>, "Imaguire@ashby-geddes.com" <Imaguire@ashby-geddes.com>, "mnoreika@mnat.com" <mnoreika@mnat.com>, "rhorwitz@Potteranderson.com" <rhorwitz@Potteranderson.com>, 'Richard Stark' <RStark@cravath.com>

Date: 03/10/2011 03:26 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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Scott,

Attached is a revised chart.

We have moved the order of steps to be a disputed term.

Also, for “organized classification of document content,” we have included the following construction “the organized classification of document content is defined using categories that are “parents” or “children” of other categories.” This is the construction that you had proposed on the call and then emailed to us. We cannot agree to your revised construction of “the categories in the organized classification of document content may be “parents” or “children” of other categories.” In particular, the “may be” language renders what follows an essentially meaningless addition. Please advise promptly if you will agree to what you previously proposed.

We confirm as you request regarding “memory.”

As to your confirmation regarding the “defining an organized classification of document content” limitation, we will confirm as follows: Defendants will not argue that this construction (“setting an organized classification of document content”) of this limitation (“defining an organized classification of document content”) distinguishes among classifications on the basis of whether they were (1) created by the performer of the method, vs. (2) selected by the performer of the method, vs. (3) modified by the performer of the method from an existing classification.”

David

**From:** Scott Leslie [<mailto:SLeslie@cravath.com>]

**Sent:** Thursday, March 10, 2011 10:46 AM

**To:** David Perlson

**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Fenwick, Anthony I.'; 'Lisson, David'; 'Moore, David E.'; Eugene Novikov; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brotsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoreika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'

**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

David -

I'm not sure what rhetoric you're referring to. But in any event, Xerox will consent to seek an extension for the chart until Tuesday if Defendants will provide their edits to the chart, and the confirmation requested in my prior email, by close of business today.

Best,

Scott

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New York, NY 10019  
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From: David Perlson <davidperlson@quinnemanuel.com>  
To: Scott Leslie <SLeslie@cravath.com>, "Fenwick, Anthony I." <anthony.fenwick@davispolk.com>  
Cc: "ahale@cravath.com" <ahale@cravath.com>, "aharasymiak@cravath.com" <aharasymiak@cravath.com>, "AMayo@ashby-geddes.com" <AMayo@ashby-geddes.com>, Andrea P Roberts <andreaproberts@quinnemanuel.com>, "angela.quach@davispolk.com" <angela.quach@davispolk.com>, "Lisson, David" <david.lisson@davispolk.com>, "Moore, David E." <dmoore@potteranderson.com>, Eugene Novikov <eugenenovikov@quinnemanuel.com>, "felicia.yu@davispolk.com" <felicia.yu@davispolk.com>, Google-Xerox <Google-Xerox@quinnemanuel.com>, "jblumenfeld@mnat.com" <jblumenfeld@mnat.com>, "jday@ashby-geddes.com" <jday@ashby-geddes.com>, "Brodsky, Jeremy" <jeremy.brodsky@davispolk.com>, "Imaguire@ashby-geddes.com" <Imaguire@ashby-geddes.com>, "mnoreika@mnat.com" <mnoreika@mnat.com>, "rhorwitz@Potteranderson.com" <rhorwitz@Potteranderson.com>, 'Richard Stark' <RStark@cravath.com>  
Date: 03/10/2011 01:30 PM  
Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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Scott, I won't respond to you rhetoric.

Lets do an extension to Tuesday.

We will respond with our edits to your chart in the next few hours or so.

David

**From:** Scott Leslie [<mailto:SLeslie@cravath.com>]  
**Sent:** Thursday, March 10, 2011 10:28 AM  
**To:** David Perlson; 'Fenwick, Anthony I.'  
**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Lisson, David'; 'Moore, David E.'; Eugene Novikov; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brodsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoreika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'  
**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

David and Tony -

We have not received any response to my email below, and we do not even know whether Defendants still want to request an extension for the Joint Claim Construction Chart, which is due today. If not, please immediately provide any comments on the draft chart as well as the confirmation requested in my email, and please let us know when we can expect to receive Defendants' intrinsic evidence citations.

Best,

Scott

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(212) 474-3700 (fax)

From: Scott Leslie/NYC/Cravath

To: David Perlson <davidperlson@quinnemanuel.com>, "Fenwick, Anthony I." <anthony.fenwick@davispolk.com>  
Cc: "ahale@cravath.com" <ahale@cravath.com>, "aharasymiak@cravath.com" <aharasymiak@cravath.com>, "AMayo@ashby-geddes.com" <AMayo@ashby-geddes.com>, Andrea P Roberts <andreaproberts@quinnemanuel.com>, "angela.quach@davispolk.com" <angela.quach@davispolk.com>, "Lisson, David" <david.lisson@davispolk.com>, "Moore, David E." <dmoore@potteranderson.com>, Eugene Novikov <eugenenovikov@quinnemanuel.com>, "felicia.yu@davispolk.com" <felicia.yu@davispolk.com>, Google-Xerox <Google-Xerox@quinnemanuel.com>, "jblumenfeld@mnat.com" <jblumenfeld@mnat.com>, "jday@ashby-geddes.com" <jday@ashby-geddes.com>, "Brodsky, Jeremy" <jeremy.brodsky@davispolk.com>, "Imaguire@ashby-geddes.com" <Imaguire@ashby-geddes.com>, "mnoreika@mnat.com" <mnoreika@mnat.com>, "rhorwitz@Potteranderson.com" <rhorwitz@Potteranderson.com>, 'Richard Stark' <RStark@cravath.com>

Date: 03/09/2011 07:52 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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David and Tony -

Please use the joint claim chart and accompanying comparison that are attached to this email, as opposed to the files attached to my earlier email. The files I previously sent were not the most updated versions.

Apologies for any confusion.

Best,

Scott

Scott A. Leslie  
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[attachment "Joint Claim Construction Chart (Xerox rev. 3-9-11).doc" deleted by Scott Leslie/NYC/Cravath] [attachment "Joint Claim Chart Comparison.pdf" deleted by Scott Leslie/NYC/Cravath]

From: Scott Leslie/NYC/Cravath

To: David Perlson <davidperlson@quinnemanuel.com>

Cc: "ahale@cravath.com" <ahale@cravath.com>, "aharasymiak@cravath.com" <aharasymiak@cravath.com>, "AMayo@ashby-geddes.com" <AMayo@ashby-geddes.com>, Andrea P Roberts <andreaproberts@quinnemanuel.com>, "angela.quach@davispolk.com" <angela.quach@davispolk.com>, "Fenwick, Anthony I." <anthony.fenwick@davispolk.com>, "Lisson, David" <david.lisson@davispolk.com>, "Moore, David E." <dmoore@potteranderson.com>, Eugene Novikov <eugenenovikov@quinnemanuel.com>, "felicia.yu@davispolk.com" <felicia.yu@davispolk.com>, Google-Xerox <Google-Xerox@quinnemanuel.com>, "jblumenfeld@mnat.com" <jblumenfeld@mnat.com>, "jday@ashby-geddes.com" <jday@ashby-geddes.com>, "Brodsky, Jeremy" <jeremy.brodsky@davispolk.com>, "Imaguire@ashby-geddes.com" <Imaguire@ashby-geddes.com>, "mnoeika@mnat.com" <mnoeika@mnat.com>, "rhorwitz@Potteranderson.com" <rhorwitz@Potteranderson.com>, 'Richard Stark' <RStark@cravath.com>

Date: 03/09/2011 07:18 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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David and Tony -

As discussed on our call today, attached is a revised version of the joint claim construction chart and a comparison showing changes from the version David circulated last night. Please note that, as we indicated during the call, we have modified the first row in the "order of steps" section, which is currently in the "Agreed Constructions" section. If Defendants do not agree with these modifications, please let us know what language Defendants wish to use, and we will move this element into the "Disputed Constructions" section.

As discussed during the call, Xerox agrees with Defendants' proposal that "memory" (Claim 18) does not require construction based on Defendants' representation that they will not contend that "memory" excludes any of the categories of memory devices (e.g., disk drives, floppy disks (or diskettes), optical disks, magnetic tape, semiconductor memories such as RAM, ROM, PROMs, etc.) expressly enumerated in the specification of the '979 Patent. If Defendants do not agree with this understanding, please let us know.

Similarly, Xerox accepts Defendants' proposed construction for "defining an organized classification of document content" (Claims 1 and 18) given Defendants' representation that they will not argue that this construction precludes either creating an organized classification of document content or

selecting/modifying an existing organized classification of document content in performing the claimed method. Please confirm Defendants' agreement on this issue.

Defendants indicated on the call that they may wish to get an extension to complete their citations to intrinsic evidence. Please let us know if that is the case and, if so, what time frame Defendants are proposing. Otherwise, if the parties will be filing the joint claim construction chart tomorrow, we would appreciate receiving Defendants' responses to the attached as soon as possible, and no later than tomorrow morning.

Thank you.

Best,

Scott

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(212) 474-3700 (fax)

[attachment "Joint Claim Construction Chart (Xerox rev. 3-9-11).doc" deleted by Scott Leslie/NYC/Cravath] [attachment "Joint Claim Chart Comparison.pdf" deleted by Scott Leslie/NYC/Cravath]

From: David Perlson <davidperlson@quinnemanuel.com>

To: Scott Leslie <SLeslie@cravath.com>

Cc: "ahale@cravath.com" <ahale@cravath.com>, "aharasymiak@cravath.com" <aharasymiak@cravath.com>, "AMayo@ashby-geddes.com" <AMayo@ashby-geddes.com>, Andrea P Roberts <andreaproberts@quinnemanuel.com>, "angela.quach@davispolk.com" <angela.quach@davispolk.com>, "Fenwick, Anthony I." <anthony.fenwick@davispolk.com>, "Lisson, David" <david.lisson@davispolk.com>, "Moore, David E." <dmoore@potteranderson.com>, Eugene Novikov <eugenenovikov@quinnemanuel.com>, "felicia.yu@davispolk.com" <felicia.yu@davispolk.com>, Google-Xerox <Google-Xerox@quinnemanuel.com>, "jblumenfeld@mnat.com" <jblumenfeld@mnat.com>, "jday@ashby-geddes.com" <jday@ashby-geddes.com>, "Brodsky, Jeremy" <jeremy.brodsky@davispolk.com>, "Imaguire@ashby-geddes.com" <Imaguire@ashby-geddes.com>, "mnoreika@mnat.com" <mnoreika@mnat.com>, "rhorwitz@Potteranderson.com" <rhorwitz@Potteranderson.com>, 'Richard Stark' <RStark@cravath.com>

Date: 03/09/2011 04:00 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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866-939-8416

Part. Passcode: 518165



**From:** Scott Leslie [<mailto:SLeslie@cravath.com>]

**Sent:** Wednesday, March 09, 2011 12:56 PM

**To:** David Perlson

**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Fenwick, Anthony I.'; 'Lisson, David'; 'Moore, David E.'; Eugene Novikov; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brodsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoreika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'

**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

David -

Do you have a dial-in number that we should use for the call?

Thanks.

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To: Scott Leslie <SLeslie@cravath.com>

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Date: 03/09/2011 12:39 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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1 pm pacific would work for Google.

**From:** Scott Leslie [<mailto:SLeslie@cravath.com>]

**Sent:** Tuesday, March 08, 2011 7:42 PM

**To:** David Perlson

**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Fenwick, Anthony I.'; 'Lisson, David'; 'Moore, David E.'; Eugene Novikov; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brodsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoeika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'

**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

David -

A call tomorrow in the early afternoon Pacific time would work for Xerox.

Best,

Scott

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(212) 474-3700 (fax)

From: David Perlson <davidperlson@quinnemanuel.com>

To: David Perlson <davidperlson@quinnemanuel.com>, Scott Leslie <SLeslie@cravath.com>

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Date: 03/08/2011 10:04 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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Scott, attached is a clean version and redline from your prior document.

One thing to note, you see that for “organized classification of document content” we have noted to be discussed. We have been trying to come up with a compromise using your construction, which uses ontology—a term that the jury may need help with. Perhaps if we can discuss the claim term on a meet and confer we can reach agreement. Would tomorrow afternoon pacific time work for Xerox?

David

**From:** David Perlson

**Sent:** Monday, March 07, 2011 5:27 PM

**To:** Scott Leslie

**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Fenwick, Anthony I.'; 'Lisson, David'; 'Moore, David E.'; Eugene Novikov; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brodsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoreika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'

**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

Thanks Scott. We will be looking to get you a revised chart tomorrow.

David

**From:** Scott Leslie [<mailto:SLeslie@cravath.com>]

**Sent:** Monday, March 07, 2011 1:14 PM

**To:** David Perlson

**Cc:** 'ahale@cravath.com'; 'aharasymiak@cravath.com'; 'AMayo@ashby-geddes.com'; Andrea P Roberts; 'angela.quach@davispolk.com'; 'Fenwick, Anthony I.'; 'Lisson, David'; 'Moore, David E.'; Eugene Novikov; 'felicia.yu@davispolk.com'; Google-Xerox; 'jblumenfeld@mnat.com'; 'jday@ashby-geddes.com'; 'Brodsky, Jeremy'; 'Imaguire@ashby-geddes.com'; 'mnoreika@mnat.com'; 'rhorwitz@Potteranderson.com'; 'Richard Stark'

**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

David -

Regarding "memory", if there is nothing about Xerox's definition (which simply tracks the examples of "memory" set forth in the specification) that Defendants disagree with, Xerox would agree to remove this term from the chart.

Regarding Claim 10, an "organized classification of document content" consists of categories (i.e., classes). Claim 10 simply requires that each category/class be associated with a "characteristic vocabulary." It seems to us that "vocabulary" is self-explanatory, and a "characteristic vocabulary" would, self-evidently, be a vocabulary that is characteristic of the category. If Defendants believe this term requires construction, please let us know what construction defendants would propose.

As you know, the parties must file the joint claim construction chart on Thursday. Defendants have now had Xerox's draft claim chart for over 10 days, since February 24, and have raised only the two issues addressed above. Please let us know Defendants' positions on those two issues no later than tomorrow. With respect to all other issues, please send us Defendants' response to the February 24 chart today.

Best,

Scott

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To: 'Scott Leslie' <SLeslie@cravath.com>

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Date: 03/06/2011 11:13 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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Scott,

As we continue to consider Xerox's proposals we have a few questions.

Xerox has sought to construe "memory." Our initial reaction is that this is not a term that should need construction. Is there some reason why Xerox feels this is needed to be explained to the jury?

Xerox did not identify “characteristic vocabulary” in claim 10 as a term for construction. Can you explain what Xerox believes this phrase intends to convey? This term seems to be one that would warrant a construction, but we have not yet formulated one. Perhaps Xerox’s explanation of this term could assist in this process given the short time we have to provide constructions.

Thanks,

David

**From:** Scott Leslie [<mailto:SLeslie@cravath.com>]

**Sent:** Thursday, February 24, 2011 1:01 PM

**To:** David Perlson

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**Subject:** RE: Xerox v. Google, et al. - Claim Terms and Constructions

Counsel -

Attached is an updated Joint Claim Construction Chart with Xerox's additions. As you will see, we have reformatted the document for filing and have updated various sections of the charts themselves. To the extent we have altered anything in the charts beyond Xerox's own proposed constructions and mere formatting, we have shaded those changes in gray.

Please let us know if you have any questions.

Best,

Scott

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From: David Perlson <davidperlson@quinnemanuel.com>

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Date: 02/17/2011 02:10 PM

Subject: RE: Xerox v. Google, et al. - Claim Terms and Constructions

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Scott, here is the chart we discussed on call yesterday.

David

[attachment "3972040\_Joint Claim Construction Chart (2).doc" deleted by Scott Leslie/NYC/Cravath]

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[attachment "Redline.pdf" deleted by Scott Leslie/NYC/Cravath] [attachment "Joint Claim Construction Chart (with Xerox additions) (2-24-11) (2).doc.doc" deleted by Scott Leslie/NYC/Cravath]

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[attachment "4006305\_Joint Claim Construction Chart (3-10-11).doc" deleted by Scott Leslie/NYC/Cravath]

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