

EXHIBIT D

CLAIM CONSTRUCTIONS

Claim Construction and Side-by-side Comparison

I. Google's Constructions

The following terms must be construed for proper interpretation of the asserted claims:

Claims	Claim term	Google Claim Construction
42, 55	Data Table	Data Table—a table of entries, each may have a different size. An executable program is one example of a data table. It cannot be source or other symbolic code.
8, 21, 42, 55	Compact difference result	<i>Red Bend's definition is acceptable at this stage of the litigation:</i> A difference result of a smaller size as compared to a conventional difference result obtained by using techniques in existence prior to the invention of the patent-in-suit.
8, 21 42, 55	Reference	“Reference—a part of the data appearing in an entry in the data table which is used to refer to some other entry from the same data table. A reference can be either an address or a number used to compute an address. Entries that include references are designated also as reference entries.” <i>(Verbatim from '552 Glossary.)</i> ¹
8, 21 42, 55	Reference entry	An entry that includes a reference (address) referring to another part of the program, e.g. a jump instruction with an associated reference address.
8, 21/ 42,55	Modified Program/ Modified Data Table/ Modified old data table/ Modified old program/ Modified new data table/ Modified new program	A version of the actual program or data table in its original executable form, with certain portions replaced.
8, 21 42, 55	Invariant references	Values made the same in the modified old and new programs (or data tables) for corresponding reference entries so that the reference addresses are excluded from the difference result.
8, 21	Executable Program	A program comprising machine language instructions and corresponding bytes of data used by the program that are ready to be run on a computer, excluding source or other symbolic code.

¹ The '552 patent has a “Glossary” section at 2:30-3:20.

Side-by-side Comparison

II. Claim terms construed by both Google and Red Bend

Claims	Claim term	Red Bend Claim Construction	Google Claim Construction	Google's Evidence in Support or Rebuttal
42, 55	Data Table	A table of entries, where an entry is an addressable unit within the data table. An executable program is one example of a data table. <i>See, e.g.,</i> '552 patent 2:33-36; 2:61-63	Data Table—a table of entries, each may have a different size. An executable program is one example of a data table. It cannot be source or other symbolic code.	Red Bend's construction adds the following sentence to the Glossary definition: "where an entry is an addressable unit within the data table. An executable program is one example of a data table." '552 patent at 2:61 ("A data table can be an executable program."); '552 patent 2:33-34 (<i>Glossary Definition</i>) ² ; '552 File History, Response to Office Action at RedBend0000151 ("[i]n extracting [a] diff between 2 versions of executable files ... there is no source involved, and neither statements, not any textual or other symbolic representation of the program even exist"). RedBend0000154 ("Claims 35 to 68 are basically similar to claims 1 to 34, respectively, except for the fact that they recite data table instead of executable program. <i>Data table is discussed on page 4, line 9 of the application and do not embrace source code as in Okazumi.</i> It is accordingly submitted that ... 42-44 ... 55-57 are not anticipated by Okozumi for the reasons discussed in detail above with reference to claims 1 to 3, 8-10. . . .")

² The '552 patent has a "Glossary" section at 2:30-3:20.

Claims	Claim term	Red Bend Claim Construction	Google Claim Construction	Google's Evidence in Support or Rebuttal
8, 21, 42,55	Compact difference result	A difference result of a smaller size as compared to a conventional difference result obtained by using techniques in existence prior to the invention of the patent-in-suit. <i>See, e.g., '552 patent 3:30-46; 14:5-14</i>	Red Bend's definition is acceptable for purposes of this stage of the litigation.	'552 patent 3:41-46 ("The net effect is that the invariant reference entries (between the modified old program and the modified new program), will not appear in the difference result, thereby reducing its size as compared to a conventional difference result obtained by using hitherto known techniques.")
42,55	Old Data Table	A data table (or portion of a data table) that is to be updated. <i>See, e.g., '552 patent 2:51-54; 2:61-63</i>	A data table [as defined herein] (or portion of a data table) that is to be updated.	'552 patent 2:51-54.
8, 21 42, 55	Reference	Part of the data appearing in an entry in the data table which is used to refer to some other entry from the same data table. A reference can be either an address or a number used to compute an address. <i>See, e.g., '552 patent 2:42-45</i>	"Reference—a part of the data appearing in an entry in the data table which is used to refer to some other entry from the same data table. A reference can be either an address or a number used to compute an address. Entries that include references are designated also as reference entries." <i>(Verbatim from '552 Glossary.)</i>	Red Bend's construction omits last sentence of the Glossary definition. '552 patent 2:42-47.
8, 21 42, 55	Reference entry	An addressable unit containing data that includes a reference. <i>See, e.g., '552 patent 2:35-36; 2:46-47</i>	An entry that includes a reference (address) referring to another part of the program, e.g. a jump instruction with an associated reference address.	'552 patent 1:64-2:2 ("all those entries that jump, jump on condition, call functions, reference to data and possibly others (referred to, collectively, as reference entries--see glossary below) which, by nature, specify a target address (reference) as an integral part of the command."); 2:44-47.

Claims	Claim term	Red Bend Claim Construction	Google Claim Construction	Google's Evidence in Support or Rebuttal
42,55	Modified old data table/ modified old program	A data table generated using the old data table. <i>See, e.g.</i> , '552 patent claims 42,55.	Modified (old or new) program or data table: A version of the actual program or data table in its original executable form, with certain portions replaced.	The asserted independent claims each use the term "modified" similarly. <i>See</i> claims 8, 21 and claims 42, 55. <i>See</i> "modified" as used in the claims themselves. <i>See</i> '552 12:11-28 ("step e)" describing "replacing" address references associated within certain reference entries of a program with label marks). <i>Id.</i> at Abstract ("replacing the reference of the entry by a distinct label mark, whereby a modified old [or new] program is generated."); 3:53-62; 4:8-19 (describing replacement of references in reference entries to create the modification). Exhibit B file history at RedBend0000151 (Arguing to the Examiner that the modified old and new programs (or data tables) remain in executable format after modification.)
42,55	Modified new data table/ modified new program	A data table generated using the old data table. <i>See, e.g.</i> , '552 patent claims 42,55.		<i>Id.</i> at RedBend0000173 (arguing the applicant "[does] not agree with the Examiner's contention that Miller creates modified old programs in the sense of the invention." <i>Id.</i> at RedBend0000173. "Miller refers to the generation of auxiliary index data structure." <i>Id.</i> at RedBend0000174. Miller does not disclose the generation of a modified old file "replacing the reference of said entry by distinct label mark." <i>Id.</i>
8, 21/ 42,55	Modified Program/ Modified Data Table	[none offered]		
8, 21 42, 55	Invariant	Unvarying, invariable, constant. <i>Random House Webster's Unabridged Dictionary</i> 1003 (2nd ed. 1998).	<i>See</i> "Invariant references" below	<i>See</i> "Invariant references" below

Claims	Claim term	Red Bend Claim Construction	Google Claim Construction	Google's Evidence in Support or Rebuttal
8, 21 42, 55	Invariant references	References that are the same. <i>See, e.g.</i> , '552 patent 10: 10-15.	Values made the same in the modified old and new programs (or data tables) for corresponding reference entries so that the reference addresses are excluded from the difference result.	<i>See, e.g.</i> , '552 patent at 3:31-46; <i>Id.</i> at 9:66-10:15. <i>See also</i> RedBend0000150, '552 File History, May 21, 2002 Response to Office Action at 7.

III. Claim terms construed by Red Bend Only

Claims	Claim term	Red Bend Claim Construction	Google Claim Construction	Google's Evidence in Support or Rebuttal
[Does not appear in any claim (asserted or unasserted)]	Address	A number which is uniquely assigned to a single entry by which that entry is accessed. <i>See, e.g., '552 patent 2:37-38.</i>	<p><i>No construction necessary as this term does not appear in any asserted claim.</i></p> <p><i>If the court nevertheless decides to construe this claim, it should be construed in accordance with the '552 Glossary: "Address--a number which is uniquely assigned to a single entry by which that entry is accessed; In the following description, the terms entry and address are occasionally used interchangeably."</i></p>	<p>Red Bend's construction fails to note that address and entry are interchangeable.</p> <p>'552 patent 2:37-40.</p>