**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NETJUMPER SOFTWARE, L.L.C.
a Michigan limited liability corporation,

              Plaintiff,

     v.

GOOGLE INC.,
a Delaware corporation

             Defendant.

Civil Action No. 04-70366-CV
Hon. Julian Abele Cook

Magistrate Judge R. Steven Whalen

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Andrew Kochanowski
Nabeel M. Hamameh
SOMMERS SHWARTZ, PC
2000 Town Center, Suite 900
Southfield, MI 48075

Michael H. Baniak
Gary E. Hood
BANIAK PINE & GANNON
150 North Wacker Drive, Suite 1200
Chicago, IL 60606

Attorneys for NetJumper Software, L.L.C.

Kathleen A. Lang (P34695)
L. Pahl Zinn (P57516)
DICKINSON WRIGHT PLLC
500 Woodward Avenue, Suite 4000
Detroit, MI 48226-3425
(313) 223-3500

Frank E. Scherkenbach
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

Howard G. Pollack
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

Jason W. Wolff
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, CA 92130-2081

Attorneys for Google Inc.

<u>GOOGLE'S OPENING CLAIM CONSTRUCTION BRIEF</u>

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PURSUANT TO THE SCHEDULE AGREED TO AT THE STATUS

CONFERENCE ON MAY 26, 2006, Google Inc. ("Google") submits this brief to address six

remaining unresolved claim construction issues, four of which pertain to a single claim clause.

Some of these six disputed issues were originally raised in Google's motion for summary

judgment of non-infringement and invalidity or in NetJumper's opposition to that motion, while

others have arisen as a result of NetJumper's new infringement allegations, which were first

made after Google had filed its summary judgment motion.[1] Attached as Exhibit 1 is a chart

reflecting what Google believes to be the remaining terms in dispute and the parties' competing

constructions for those terms.

I.   INTRODUCTION

As the Court is aware from the summary judgment briefing, the subject matter of U.S.

Patent No. 5,890,172 (the '172 patent) is a computer software program that works in conjunction

with a Web browser program. In its preferred embodiment, the '172 patent employs a floating

window, which is separate and distinct from a Web browser window. This separate application

from the Web browser was referred to as "Internet Buffet" in the specification, and was named

"NetJumper" in its commercial release. In the '172 patent, NetJumper had attempted to solve

what it called the "drill down" problem, in which users would get lost following hyperlink after

hyperlink in page after page of browsing on the Internet, with no easy way to return from whence

you started other than, for example, repeatedly hitting the "back" button contained in the Web

browser window.[2]

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[1] NetJumper amended its infringement contentions on September 21, 2005, right before the
close of fact discovery and after Google filed its motion for summary judgment of non-
infringement and invalidity. Google is not addressing in this brief and claim construction
issues relating to the Google Viewer, which NetJumper originally accused but has not
pursued. NetJumper has taken no depositions relating to the Viewer and has offered no expert
reports on liability or damages on this technology. At the status conference on May 26, 2006,
the Court ordered NetJumper to decide by June 2, 2006 whether it would pursue any claims
against the Viewer, but NetJumper has not complied with that order. In light of this failure
and the state of the record pertaining to the Viewer, Google believes NetJumper has waived
any claims against the Viewer and will proceed accordingly.

[2] *See, e.g.*, Exhibit 2 ('172 patent), at 2:55-59; 4:63-5:22; and Figure 9A.

The Court has construed the terms relating to the "separate from the search window" limitation[3], but six other disputed terms or limitations remain. For those terms, Google has attached its proposed claim constructions as Exhibit 1. The six issues still in dispute are (1) whether the preambles of claims 1 and 5 are in fact limitations of the claims, the meaning of (2) "parsing" or "parse", (3) "form", (4) "storing", (5) "in response to selection of a first icon", and (6) whether claims 4 and 8 require the presence of every member of the recited group.

Google believes the disputed terms should be given the plain and ordinary meaning that is apparent from the claims. NetJumper's positions, on the other hand, are dictated either by the need to read limitations into the claims to avoid the prior art or the need to effectively ignore other claim requirements to be able to argue infringement. Thus, at times, NetJumper finds itself in the unusual position, for a patentee, of arguing that the claims contain requirements ***in addition to*** those apparent from the face of the claims. This is the genesis of the dispute over the preambles (number (1)) and the dispute with respect to claims 4 and 8 (number (6)). At other times, NetJumper seeks to broaden the claims either by ignoring plainly stated limitations (numbers (3), (4) and (5)) or by seeking an unduly broad meaning for a key word (number (2)).

Of the remaining terms in dispute, the group consisting of (2)–(5) appear in a single claim clause (the "parsing" clause) that affects all of the asserted claims. This clause reads (emphasis added):

> **parsing** the location identifiers from the initial data file **to form** an initial list of location identifiers **together with storing** the initial list, **responsive to a selection of the first icon**

This limitation is found in the two independent claims (1 and 5) and is thus required by all of the dependent claims (2-4 and 6-8, respectively) as well. Likewise, the dispute over the preambles to independent claims 1 and 5 also affects all of the asserted claims (1-8). The last dispute

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[3] For the reasons explained in its summary judgment submissions, Google continues to respectfully object to the Court's construction of the "separate from the search window" limitation but understands that construction is now settled for the purpose of proceedings in this Court.

relates to dependent claims 4 and 8, which are substantively the same as one another. Thus, the Court's remaining claim construction tasks are to determine whether the preambles are limitations, to construe the parsing clause, and to decide whether the language of claims 4 and 8 requires each and every member of the recited group, or only one member.

II.   LAW OF CLAIM CONSTRUCTION

Google will not belabor the applicable claim construction law already set out in its summary judgment submissions. There are, however, some additional principles relevant to the terms now before the Court.

Claim construction involves determining the meaning of the claim to someone having an ordinary level of skill in the field of the invention when the invention was made (sometimes known as "an artisan of ordinary skill").[4] This task requires the court to place the claim language in its proper technological and temporal context.[5] The best tools for this job are the intrinsic patent evidence and, when the intrinsic evidence does not provide a meaning, certain extrinsic evidence.[6] The intrinsic evidence, "i.e., the patent itself, including the claims, the specification and, if in evidence, the prosecution history . . . is the most significant source of the legally operative meaning of disputed claim language."[7] There is a "heavy presumption" in favor of the ordinary meaning of claim terms.[8] As for extrinsic evidence, technical dictionaries are "among the many tools that can assist the court in determining the meaning of particular terminology to those of skill in the art of the invention."[9]

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[4]   *See Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (*en banc*); *ResQNet.com, Inc. v. Lansa, Inc.*, 346 F.3d 1374, 1378 (Fed. Cir. 2003); *Phillips Petroleum Co. v. Huntsman Polymers Corp.*, 157 F.3d 866, 871 (Fed. Cir. 1998).

[5]   *Gillette Co. v. Energizer Holdings, Inc.*, 405 F.3d 1367, 1370 (Fed. Cir. 2005).

[6]   *Id.* (citing *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

[7]   *Vitronics Corp.*, 90 F.3d at 1582.

[8]   *Johnson Worldwide Assocs., Inc. v. Zebco Corp.*, 175 F.3d 985, 989 (Fed. Cir. 1999).

[9]   *Phillips*, 415 F.3d at 1318; *see also The Toro Co. v. White Consolidated Indus., Inc.*, 199 F.3d 1295, 1299 (Fed. Cir. 1999) (even "words of ordinary usage must nonetheless be construed in the context of the patent documents").

III. ANALYSIS

A.   Issue (1): The claim preambles are not limitations.

The language in a claim preamble (*e.g.* the part of the claim before the first colon) is not construed as a claim limitation when it simply states an intended use of the invention.[10] Stated another way, a preamble is not limiting "where the patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention."[11] That is the case here—the claim stands complete without reference to the preamble, and the language NetJumper says is a claim limitation ("for searching on a local computer") merely reflects the context, or intended use, of the invention. The only exceptions to this rule are when the applicants used the preamble language to overcome the prior art during prosecution, or the preamble language provides "antecedent basis" for the claim body, i.e., the exact term in the preamble alleged to be a limitation is repeated in the body of the claim.[12] Neither exception applies to claims 1 or 5 of the '172 patent: the preamble language was added to the claim because the examiner had found the earlier language confusing, not because it was necessary to avoid the prior art.[13] And the term "searching" is not repeated in the claim body.[14] Therefore, there is no reason to construe "searching" as a claim limitation at all, let alone one requiring (as NetJumper says) a particular type of search, because there is simply nothing in the preamble language that is further referred to, or is necessary to understand the body of the claim.

B.   Issues (2)-(5): The parsing clause.

There are at least two questions to be answered in construing the parsing clause in the independent claims. The first is: what does "parsing" mean? The second is: what is the

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[10] *Catalina Mktg. Int'l v. Coolsavings.com, Inc.*, 289 F.3d 801, 809 (Fed. Cir. 2002); *Intirtool, Ltd., v. Texar Corp.*, 369 F.3d 1289, 1295-1296 (Fed. Cir. 2004).

[11] *Rowe v. Dror*, 112 F.3d 473, 478 (Fed. Cir. 1997).

[12] *Catalina Mktg.*, 289 F.3d at 808-809.

[13] Exhibit C, at G 207 (patent examiner rejecting then pending claims 1-6 as indefinite, not based on the prior art, and making no rejection of the other claims on this ground) and G 258-59 (NetJumper expressly pointing to the non-prior art reason as the basis for its amendment of the preambles).

[14] *See* Google's Reply Brief to NetJumper's Opposition to Google's Motion for Summary Judgment (Document No. 62), at 7-8.

relationship of the phrase "responsive to selection of the first icon" to the rest of the parsing

clause?

> ### 1. "Parsing" is the act of examining a string of text, breaking it into subunits and establishing the relationships among the subunits.

With regard to the first issue, the patent uses the term "parse" in many forms—

particularly in referring to a "parser" that "extracts" items from a web page file—but the patent

never defines the term "parsing."[15] The most relevant discussion from the written description of

the patent regarding parsing is as follows:

> In the event, a determination is made that refresh/update button
> 326 shown in FIG. 3 has been selected, then control is passed to
> fetch and parse process 804 in which an HTML encoded page
> displayed in the browser view window is uploaded and parsed into
> an advertisement and hot-links. These are displayed in the jumper
> advertisement area 306 and the jumper drop-down window 586,
> respectively. Then in history decision 806, the determination is
> made as to whether the jumper history maintain option has been
> selected. This option is found under the edit portion of the menu
> bar 302. In the event that this option has been selected, then control
> is passed to append and store process 808 in which the hot-links
> extracted in fetch and parse process 804 are appended and stored
> with previous hot-links in the parsed HTML files in storage
> segment 230 shown on FIG. 2.[16]

Thus, the written description does not say how parsing is performed, just that it is itself a

"process," the result of which is an extracted list of "hot-links" that may be subsequently

"stored." The dispute over the term "parsing" is this: NetJumper says the term means only "to

extract," while Google says it means more, and in particular means what the technical

dictionaries say it means.

Turning first to the intrinsic evidence, as already noted, the specification itself does not

define "parse." However, the prosecution history is instructive. It shows that "parse" cannot

only mean "extract," as NetJumper suggested in its earlier papers, because the claims as

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[15] *See, e.g.*, Exhibit 2 ('172 patent), at 6:26-39.
[16] *Id.*, at 10:17.

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originally filed said "parsing…to extract."[17] This language shows that parsing is something more than extraction. Under NetJumper's construction, the claim would have been circular and its limitations superfluous: it would mean "extracting . . . to extract." Though the claims as issued use somewhat different language, nothing in that language suggests parsing is equivalent to "extracting," and nothing in the process by which the original claims were amended to delete the term "extract" suggests that the reason for the deletion was that "parse" and "extract" meant the same thing. The Federal Circuit has indicated that the use of two distinct terms in close proximity in the same claim gives rise to a strong inference that a different meaning should be assigned to each.[18] Therefore, "parse" means something different than "extract."

A second piece of intrinsic evidence comes from a related prosecution history. The Federal Circuit has noted the importance of using the prosecution histories from later, related patents to construe identical terms in an earlier patent.[19] Claim 1 of U.S. Patent No. 6,226,655 (the '655 patent)[20], which is a continuation of the '172 patent, reads "parsing…to extract," as did the original claim in the '172 patent.[21] The Court's construction should be the same for the term "parsing" for both patents, since both use the identical term, both share a common written description, and both patents are directly related. Substituting NetJumper's construction of "parsing" into claim 1 of the '655 patent would make the claim circular and the limitations superfluous in the same way as its substitution into original claim 1 of the '172 patent, and should be rejected for the same reasons. This, alone, should dispel NetJumper's construction, but there is yet another independent reason for rejecting NetJumper's construction. During the

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[17] Exhibit 3 ('172 patent prosecution history), at G 125.

[18] *Ethicon Endo-Surgery, Inc., v. U.S. Surgical Corp.*, 93 F.3d 1572, 1579 (Fed. Cir. 1996).

[19] *Microsoft Corp. v. Multi-Tech Sys., Inc*., 357 F.3d 1340, 1350 (Fed. Cir. 2004) (using prosecution history from later patent to construe terms of an earlier patent).

[20] NetJumper originally asserted the '655 patent against the Google Viewer. Since NetJumper has yet to formally drop its allegations against the Viewer, it has yet to formally drop the '655 patent, as well as claims 10-14 of the '172 patent.

[21] Exhibit 5 ('655 patent prosecution history), at G 351 (claim 1).

prosecution history of the '655 patent, NetJumper argued that "parsing" was not "extracting" to distinguish these two terms from each other and the prior art Netscape browser:

> In particular, the search engine does not parse the first file to **extract a list** of site identifiers as disclosed and claimed by Applicants. While the browser may underline the URL links in a particular received file, the Netscape browser illustrated and described with reference to Figures 4 and 5 does not extract a list of site identifiers as disclosed and claimed by Applicants. **This function is in addition to parsing the file**.[22]

In other words, NetJumper argued that "to extract" was a function that was *in addition to* the function of "parsing." This statement by NetJumper was a representation of its own understanding of the inventions disclosed in the '655 and '172 patents, and as such it is relevant to the construction of this common term.[23] It simply cannot be that "parsing" means "to extract" given these statements made during the prosecution history of the related '655 patent.

That disposes of NetJumper's proposed construction. To gain insight into what the term "parsing" would have meant to a person of ordinary skill in the art at the time of the alleged invention, it is appropriate for the Court to look to a standard technical dictionary available at the time: the Institute of Electrical and Electronics Engineers ("IEEE") Standard Dictionary of Electrical and Electronics Terms (1996). This dictionary defines the term "parse" as "to determine the syntactic structure of a language unit by decomposing it into more elementary subunits and establishing the relationships among the subunits."[24] This objective definition is the basis for Google's proposed construction.

Turning back to the language of the claim and the written description of the '172 patent, and applying this definition to the term "parsing," Google's construction is entirely consistent

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[22] Exhibit 5, at G 446-447 (NetJumper's response to the patent examiner's finding that the parsing performed by the Netscape browser—at G 429—anticipated the "parsing" clause) (emphasis added).

[23] *Microsoft*, 357 F.3d, at 1349-1350.

[24] Exhibit 4 (IEEE dictionary), at 747. While the parties disagree on the exact number of years of experience of a person of ordinary skill in the art, they do agree that the person is likely to have a degree in electrical engineering or computer science, which makes the IEEE Dictionary from 1996 a logical starting place for contemporaneous extrinsic evidence.

with both. For instance, the claim says that after parsing the initial data file, an initial list of

location identifiers is formed. It follows that after the initial data file is broken into subunits,

which would include the location identifiers and other structural information about the file, an in-

memory representation of the location identifiers is formed as this initial list.[25] Then, after this

initial list is formed, it is persistently stored (*e.g.*, in storage element 230), as is claimed and

described above (and below).

For the foregoing reasons, Google submits that the term "parsing" means the act of

examining a string of text, breaking it into subunits, and establishing the relationships among the

subunits.

> **2. "Responsive to selection of the first icon" means that the acts of parsing, forming, and storing are performed in direct response to, and only if, the first icon was selected, which cannot happen until after the initial data file is retrieved and displayed.**

Regardless of the Court's construction of "parsing," the claims require a particular

sequence of operations. The inventors added the phrase "responsive to selection of the first

icon" to the claims by amendment, to avoid prior art references that performed "automatic"

parsing. That amendment, and the overall structure of the parsing clause, thus require that the

"parsing," "forming," and "storing" steps be performed in direct response to, and only if, the first

icon is selected. Moreover, looking to the rest of the claim as a whole as well as the supporting

written description and prosecution history, it is clear that the selection of the first icon by the

user cannot happen until after the initial data file is **retrieved** and **displayed**.[26]

The original claim clause did not contain any temporal limitation as to when or how

"parsing" was to occur. It simply read:

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[25] *See, e.g.*, Exhibit 2, at 6:32-37 (describing how the parser passes URLs between software modules) and 10:12-17 (describing the "append and store" process described with reference to Figure 8A, item 808).

[26] The original "receiving" clause was amended to "retrieving an initial data file from the network **together with** displaying the initial data file in the search window . . ." and is performed before the "parsing" clause, since the parsing clause operates on this retrieved and displayed initial data file. *See, e.g.*, Exhibit 3, at G 250 (emphasis added).

> parsing said 1st file of information to extract a list comprising site identifiers[27]

But the Patent Office found that the claims as written were no different from, among other prior art, the Netscape browser program itself, which automatically parsed the first file of information (*e.g.*, a web page) to extract a list of site identifiers:

> Claims 1-5, 7-11, and 13-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's admitted known prior art . . . parsing said first file information to extract a list comprising site identifiers (*since the "NETSCAPE" browser in FIGs. 4 and 5, parses the HTML document* and underlines the URL hotlinks.)[28]

In view of this rejection by the Patent Office, the inventors changed the claim to overcome the Netscape browser prior art by requiring that the acts of parsing, forming, and storing the location identifiers from the received initial data file be performed ***after*** and in direct response to selection of the first icon—that is, ***only if*** the first icon was selected. The claim was specifically amended as follows (brackets indicate deletions, underline indicates additions):

> parsing [said 1st file of information] the location [to extract a list comprising site] identifiers from the initial data file to form an initial list of location identifiers together with storing the initial list, responsive to a selection of the first icon[29]

The inventors explained their amendment by arguing that "**parsing**" and "**storing**" are "**optional treatment accorded to a Web page**," meaning that the initial data file was retrieved and displayed in the browser window, then the first icon is selected, and selecting of that first icon is the direct cause of the **parsing**, **forming**, and **storing** steps:

> First, the Netscape browser does not provide a "first icon" for selecting which of the pages displayed in the search window will be parsed to form an initial list. Second, the Netscape browser does not store the initial list of location identifiers as claimed by the applicant. In the specification at page 17 the applicant indicates that: ". . . *if a determination is made that the refresh/update button [FIRST ICON] … has been selected, then an HTML encoded page*

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[27] *Id*. at G 125 (original claim).

[28] *Id*. at G 209 (Office action, page 5, emphasis added).

[29] *Id*. at G 250 (response to Office action, page 2).

displayed in the browser view window is parsed into . . . hot links
. . . [t]hen the hot-links [are stored] … in a storage segment 230"
(Specification at page 17, lines 19-31). *Thus the parsing in the*
applicant's invention is an optional treatment accorded to a web
page displayed in the browser's view window, the selection of
which option results in the extraction from the selected web page
of specific information, i.e., hot links, and the storage of that
information for later use.[30]

Turning to other intrinsic evidence, this construction is consistent with the written description, which describes selecting the "refresh/update button 326" (the "first icon") in the '172 patent's jumper window 300 to cause the hyperlinks to be parsed from a file already retrieved and displayed by the browser.[31] Figure 8A of the '172 patent diagrams the steps required by the parsing clause and argued by NetJumper during prosecution to distinguish over the prior art:
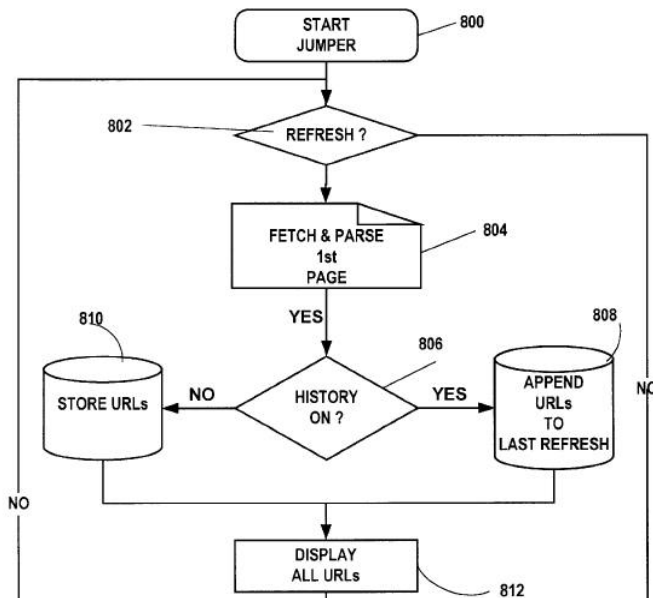
The corresponding portion of the written description describing Figure 8A is found in the application as filed at page 17, lines 19-31, which is the same portion of the application cited by

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[30] *Id.* at G 260 (response to Office action, page 12, emphasis added).
[31] Exhibit 2, at 7:15-21; *see also* 6:41-7:15 (describing Figure 3), 8:22-28 (describing Figure 5B), and 10:1-17 (describing Figure 8A, steps 802 and 804).

NetJumper in its argument to the Patent Office.[32] In Figure 8A, NetJumper shows a test in step

802 to determine if the first icon (*e.g.*, "refresh/update button 326") has been selected. If so

("responsive to selection of the first icon"), the hot-links are then parsed from the page (step

804), appended to an in-memory version of the list of location identifiers ("form an initial list of

location identifiers")[33], and stored in persistent storage segment 230 (*e.g.* step 810) ("storing the

initial list").

As noted above, when NetJumper argued for patentability of its claims, it used this very

limitation—responsive to selection of the first icon—repeatedly to distinguish the claims from

the prior art.[34] All of the intrinsic evidence points to one conclusion: that the limitation

"responsive to selection of the first icon" means that *parsing* hyperlinks from the initial data file,

forming an initial list of location identifiers, and *storing* the initial list of location identifiers in a

storage segment, are all steps that are performed in direct response to, and only if, the first icon

was selected. The amendment and argument that the parsing clause refers to "**an optional**

treatment accorded to a web page" conditioned upon the "selection of the first icon" both

underscored what the plain language of the claim requires and *disclaimed* and *disavowed*

coverage of automatic (or unconditional) parsing, forming, and storing—which was performed

by the Web browser itself in the case of the cited prior art. The same evidence shows that the

claim does not cover, and NetJumper affirmatively disclaimed, any coverage of selecting the first

icon **before** the initial data file is retrieved and displayed in the browser window.[35]

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[32] Exhibit 3, at G 117 (page 17, lines 19-31); the corresponding portion of the '172 patent is
found at 10:1-17.

[33] The term "form" is also not defined in the written description, but based upon the fact that
form and store are used together in this claim clause, and "append and store" are used together
in the written description, the intrinsic record as a whole suggests that forming is a
precondition to storing, since "storing" plainly saves the initial list that has been formed.

[34] *See, e.g.*, *id.* at G 260 ("Thus the parsing in applicant's invention is an optional treatment
accorded to a web page displayed in the browser's view window."), and G 261 ("The
applicant claims the ability to select a parsing and storage operation responsive to a selection
of a first icon, *e.g.* the update button.").

[35] *Cooper Cameron Corp. v. Kvaerner Oilfield Prods., Inc.*, 291 F.3d 1317, 1322 (Fed. Cir.
2002); *Fin Control Sys. Pty., Ltd. v. OAM, Inc.*, 265 F.3d 1311, 1320-1321 (Fed. Cir. 2001)

C.   Issue (6): Claims 4 and 8 require only one of the "location identifiers," not all four.

As is noted above, claims 4 and 8 are substantively the same as one another, so only claim 4 is presented here. It reads (emphasis added):

> The computer implemented method of claim 1 wherein said retrieving act further comprises;
>> retrieving the first data file corresponding to the one of the location identifiers in the stored initial list **selected from a group consisting of:**
>>> a next location identifier, a prior location identifier, a first location identifier and a last location identifier, together with displaying the first data file in the search window, responsive to a selection of the second icon.

This type of claim, with the language "a group consisting of A, B, C, and D," is referred to as a Markush type claim. "A Markush group is a sort of homemade generic expression covering a group of two or more different materials (elements, radicals, compounds, etc.), mechanical elements, or process steps, *any one of which* would work in the combination claimed."[36] It requires that "the one of the location identifiers" be only one of the four types of location identifiers in the group.[37] Therefore, claims 4 and 8 require that an additional "retrieval" step be made by selecting a second icon, and that the second icon correspond to any one of: (1) a next location identifier, (2) a prior location identifier, (3) a first location identifier, or (4) a last location identifier, the location identifiers being the URLs in the initial list identified in the parsing clause. The claim does not require all of the members of the Markush group, as

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(allowing "front" or "back" to be the equivalent of "lateral" would cause a vitiation of the claim limitation); *Ecolab, Inc. v. Envirochem, Inc.*, 264 F.3d 1358, 1371 (Fed. Cir. 2001).

[36] *Abbott Labs. v. Baxter Pharm. Prods., Inc.*, 334 F.3d 1274, 1280 (Fed. Cir. 2003) ("A Markush group is a listing of specified alternatives of a group in a patent claim, typically expressed in the form: a member selected from the group consisting of A, B, and C.").

[37] *See also, id. at* 1281 ("although 'a' without more generally could mean one or more in an open-ended patent claim, 'a' with 'consisting of' in this case indicates only one member of a Markush group…If a patentee desires mixtures or combinations of the members of the Markush group, the patentee would need to add qualifying language while drafting the claim.").

NetJumper has previously argued without providing any support.[38] Such a construction would, in fact, be directly contrary to the authority on interpreting Markush group claims. Also, as with the parsing clause, here the "retrieval" recited in the claim is performed in direct response to, and only if, the second icon is selected.

IV.   CONCLUSION

For the reasons cited above and evidenced in the accompanying Exhibits 1-5, Google requests that the Court adopt the claim constructions described above and shown in Exhibit 1.

Respectfully Submitted,

FISH & RICHARDSON P.C.

Dated: July 11, 2006   By: /s/ Jason W. Wolff
                                             12390 El Camino Real
                                             San Diego, CA 92130
                                             (858) 678-5070
                                             wolff@fr.com

                                        Attorneys for Google Inc.

CERTIFICATE OF SERVICE

I hereby certify that on JULY 11, 2006, I electronically filed GOOGLE'S OPENING CLAIM CONSTRUCTION BRIEF, together with its attached exhibits, with the Clerk of the Court using the ECF system, which will send notice of such filing upon the following attorneys: ANDREW KOCHANOWSKI AND MICHAEL H. BANIAK.

                                        By: /s/ Jason W. Wolff

                                        FISH & RICHARDSON P.C.
                                        12390 El Camino Real
                                        San Diego, CA 92130
                                        (858) 678-5070
                                        wolff@fr.com

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[38] NetJumper's Opposition to Google's Motion for Summary Judgment (Document No. 54), at 36-37.