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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

GOOGLE INC., a Delaware corporation,

Civil No.: 09-642-HU

Plaintiff,

v.

**TRAFFIC INFORMATION, LLC'S  
OPENING CLAIM  
CONSTRUCTION BRIEF**

TRAFFIC INFORMATION, LLC, a Texas  
limited liability company,

Defendant.

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## **I. INTRODUCTION AND BACKGROUND**

Traffic Information, LLC's ("Traffic") patents – U.S. Patent No. 6,466,862 ("the '862 patent") and U.S. Patent No. 6,785,606 ("the '606 patent") (collectively "the Traffic patents") (A000001-57) – generally relate to a system for providing traffic information to mobile users connected to a network.<sup>1</sup> The Traffic patents derive from a line of related applications beginning with a provisional application, Application No. 60/130,399, filed on April 19, 1999. The application that ultimately issued as the '862 patent, Application No. 09/550,476, was filed on April 14, 2000. The '606 patent issued from a continuation of that application. (A000001-57). The file histories of these two patents are included in the Appendix attached hereto for reference. (A000058-433).

The claims of the '862 and '606 patents are generally directed to various systems for providing traffic information to mobile users connected to a network, and they share several common elements. For example, they describe devices or systems to detect a variety of different types of data representative of vehicular movement using a variety of different types of traffic monitors. The patents further describe the traffic monitors sending the data representative of the vehicular movement to a computer system that may process the data. The processed data is then provided as traffic information via a network to mobile user stations, where the traffic information is displayed.

## **II. THE LAW OF CLAIM CONSTRUCTION**

Claim construction is a legal question for the courts. *See Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995). The claims of a patent define what the patentee is entitled the right to exclude. *See Innova/Pure Water, Inc. v. Safari Water Filtration Systems, Inc.*, 381 F.3d 1111 (Fed. Cir. 2004).

The principles used in properly construing claims were outlined by the Federal Circuit in *Philips v. AWH Corporation*, 415 F.3d 1303 (Fed. Cir. 2005). Claim terms are generally given their ordinary and customary meaning as understood by a person of ordinary skill in the art in question at the time of the filing of the patent. *Id.* at 1313. In determining the ordinary and customary meaning of a term, deference is given to the intrinsic evidence of a patent (*i.e.*, the patent and its file history). *Id.* at 1315. The *Philips* court stated that the “specification, informed, as needed, by the prosecution history,” is the “best source for understanding a technical term.” *Id.* The claims themselves often provide substantial guidance as to the meaning of disputed terms. *Id.* at 1314. A person skilled in the art is “deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.* at 1313. The specification is “[u]sually...dispositive; it is the single best guide to the meaning of a disputed term.” *Id.* at 1315.

The claims should not be interpreted by importing limitations from the specification into the claims. *Id.* at 1323; *see also E.I. Dupont de Nemours & Co. v. Phillips Petroleum, Co.*, 849 F.2d 1430, 1433 (Fed. Cir. 1988). The Federal Circuit has made clear that using the specification to read limitations into the chosen claim language is a “cardinal sin” of claim construction. *See, e.g., Phillips*, 415 F.3d at 1320 (“[O]ne of the cardinal sins of patent law [is] reading a limitation from the written description into the claims.”). As explained below, Google commits this “cardinal sin” numerous times in its claim constructions.

Although “the distinction between using the specification to interpret the meaning of a claim and importing limitations from the specification into the claim can be a difficult one to apply in practice,” the line should be reasonably clear if the district court remains focused on how a person of

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1 All references herein are to “A\_\_\_\_\_” are to the pages numbers of the Appendix submitted

ordinary skill in the art would understand the claim terms. *Id.* Reading the claims and specification in context will usually inform the court whether the patentee is merely setting out specific examples of embodiments or whether the patentee, instead, intends for the claims to cover only the described embodiments in the specification. *Id.* When the specification simply describes specific embodiments, the claims should not be confined to those embodiments. *Id.*; *see also Nazomi Communic'ns, Inc. v. ARM Holdings, PLC*, 403 F.3d 1364, 1369 (Fed. Cir. 2005) (claims may embrace “different subject matter than is illustrated in the specific embodiments in the specification”). Accordingly, the written description contained in the specification does not limit the scope of the claims set forth in the patent. *Markman*, 52 F.3d at 980.

Courts are also authorized to consult extrinsic evidence to determine the meaning of a disputed claim term. *Id.* at 1317. Extrinsic evidence “consists of all evidence external to the patent and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises.” *Markman*, 52 F.3d at 980. Technical dictionaries, in particular, are important sources of extrinsic evidence, because they “endeavor to collect the accepted meanings of terms used in various fields of science and technology.” *Philips*, 415 F.3d at 1317. Extrinsic evidence can therefore be helpful in determining the meaning of claims. *Id.* Although extrinsic evidence may be helpful, the intrinsic record is more important in determining the meaning of claim terms. *C.R. Bard, Inc. v. U.S. Surgical Corp.*, 388 F.3d 858, 862 (Fed. Cir. 2004).

### **III. CLAIM CONSTRUCTION ANALYSIS**

Traffic has asserted 10 claims of the combined 57 claims of the ‘862 and ‘606 patents. Nine of Traffic’s asserted claims (claims 1, 4, 9, 10, 21, 22, 23, 25, and 31) are from the ‘862 patent and the

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herewith, which includes the ‘862 and ‘606 patents, their file histories, and Traffic’s extrinsic evidence.



remaining claim (claim 22) is from the '606 patent. Traffic has identified a small number of claim terms and phrases that should be construed. Google has identified a number of other terms and phrases that are ordinary, easily understood concepts that should not require construction. Google's proposed constructions are improper in view of the intrinsic and extrinsic evidence, and Federal Circuit case law. Several of the disputed terms and phrases are common to many of the asserted claims, and will be discussed in detail only the first time the term/phrase appears in a claim.

**A. Claim 1 of the '862 Patent**

Claim 1 (A0026) reads as follows, with the disputed terms and phrases bolded:

1	A system for providing <b>traffic information</b> to a plurality of mobile users connected to a network, comprising:
a.	a plurality of <b>traffic monitors</b> , each said traffic monitor comprising at least a detector and a transmitter, said detector providing a signal including data representative of <b>vehicular movement</b> and said transmitter transmitting said signals;
b.	a receiver, remotely located from said transmitter, that receives said signals transmitted by said traffic monitors; and
c.	a <b>computer system interconnected</b> with said receiver and said network;
d.	a <b>mobile user station</b> connected to a global positioning system receiver, a display, and a communicating device; and
e.	said computer system, in response to a request for traffic information from one of said mobile user stations, <b>providing in response thereto</b> to said one of said mobile user stations <b>traffic information representative of said signals transmitted by said traffic monitors</b> ;
f.	wherein said traffic information transmitted by said computer system is <b>displayed graphically</b> on said display; and
g.	wherein said computer system has a <b>map database</b> , and said computer system, in response to said request for information, transmits map information representative of a portion of said map database, and said map information representative of said database is displayed graphically together with said traffic information.

## 1. Traffic Information<sup>2</sup>

Traffic's Construction	Google's Construction
"traffic information" means data regarding traffic conditions, which data can include, but is not limited to, the speed, velocity, motion, density, flow, frequency of vehicles on a road, and/or other data representative of the movement of vehicles on a road.	Google's view is that "traffic information" should be construed in the context of "traffic information representative of said signals transmitted by said traffic monitors". (See below under heading A.9).

As discussed above, the '862 patent is directed to a system for detecting data representative of vehicular movement that is provided to a computer system, and wherein the computer system provides traffic information to mobile user stations connected to a network. (See generally discussion at 4:30-44) (A000017).<sup>3</sup> The traffic information discussed in the '862 patent can take on a number of forms and is generally based upon data detected by traffic monitors (see below). (6:16-17) (A000018). The meaning of "traffic information" is very clear from the specification of the '862 patent – as discussed in the specification, the vehicular movement data provided by the traffic monitors is the data that the computer system uses to provide traffic information. For example, the "traffic monitors 20 measure traffic information by detecting the speed (velocity) or frequency of vehicles traveling along the road."

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<sup>2</sup> The term "traffic information" also appears in claims 10 and 21 of the '862 patent and claim 22 of the '606 patent and should have the same meaning in those claims as here. *See, e.g., Rextord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342 (Fed. Cir. 2001) (noting that because claim terms are frequently used in a consistent manner throughout the patent, the use of a term in one claim often will illuminate the meaning of the same term that appears in other claims.); *see also NTP, Inc. v. Research In Motion, Ltd.*, 418 F.3d 1282, 1293 (Fed. Cir. 2005) (stating that where "patents all derive from the same parent application and share many common terms, we must interpret the claims consistently across all asserted patents.").

(6:15-18) (A000018). The traffic monitors may also measure “the average speed of the vehicles (cars or trucks) 14 at locations along the road 12, or it could measure the individual speed (velocities) of each vehicle 14.” (6:32-35) (A000018). The traffic monitors may also measure “the frequency at which vehicles pass a certain point, or traffic flow, consisting of the number of vehicles passing a certain point for a unit time.” (6:35-38) (A000018). The traffic monitors may also measure the number of vehicles in a video image of a road. (7:52-62) (A000018). The collection of data representative of vehicular movement provided by traffic monitors, which is provided as traffic information by the computer system, is described elsewhere in the specification, as well. For example, “[t]he traffic monitors 20 may detect or otherwise calculate vehicle speed, average vehicle speed, traffic flow, vehicle frequency, or other data representative of the traffic.” (9:58-61; 10:15-26) (A000020). Traffic density is another type of data that is considered “traffic information.” (13:28-32) (A000022). The specification therefore describes a number of possible types of data that may be included within the scope of “traffic information,” such as average vehicle speed, individual vehicle speed, vehicle frequency, and/or traffic flow. *Id.* The claims and specification do not limit the phrase to any one particular type of data.

Google has proposed construing “traffic information” in the broader context of “traffic information representative of said signals transmitted by said traffic monitors.” While Google claims this phrase is “indefinite,” its proposed construction of “traffic information representative of said signals transmitted by said traffic monitors” is “the current speed, frequency, or flow of multiple

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3 The column (“C”) and line numbers (“LN”) of the ‘862 patent are referred to throughout this brief using the convention “C:LN-LN” or “C:LN-C:LN”. Thus, 5:4-6:9 refers to column 5, line 4 through column 6, line 9 of the ‘862 patent. The ‘606 patent issued from a continuation of the application that matured into the ‘862 patent. As such, the specifications of both the ‘862 and ‘606 patents are virtually identical, with the only difference being the reference to the related application at the beginning of the ‘606 specification. Instead of citing to the column and line numbers for both patents, for simplicity and brevity, Traffic will cite only to the ‘862 patent, unless otherwise noted.

vehicles traveling along a road as detected by one or more traffic monitors.”<sup>4</sup> The phrase is clearly not indefinite, as it is supported by the claim language and in numerous places throughout the specification, and a skilled artisan could easily discern the boundaries of the claim language. “Traffic information” has a clear meaning.

Further, while Google’s proposed alternative construction appears at first to be similar to Traffic’s construction, Google’s addition of “multiple vehicles” is inappropriate in light of the specification and is an improper attempt to exclude an embodiment disclosed in the specification. (*See, e.g.*, 6:17-21) (A000018).<sup>5</sup> The specification discusses an embodiment wherein “the traffic monitors may detect the speed of *individual* vehicles traveling along a road.” *Id.* Further, Google’s proposed alternative construction would effectively rewrite the claims to require the sensing of traffic information by the traffic monitors and the computer system providing the sensed data to the mobile user stations. In contrast, the claims clearly require that the traffic monitors sense data representative of vehicular movement, which data is provided to the computer system, which computer system then provides traffic information to the mobile user stations. The specification simply discusses the types of data that may

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4 The standard for finding indefiniteness is only met where “an accused infringer shows by clear and convincing evidence that a skilled artisan could not discern the boundaries of the claim based on the claim language, the specification, and the prosecution history, as well as her knowledge of the relevant art area.” *Halliburton Energy Services, Inc. v. M-I LLC*, 514 F.3d 1244, 1249-1250 (Fed. Cir. 2008); *see also Buddhe v. Harley Davidson, Inc.*, 250 F.3d 1369, 1377 (Fed. Cir. 2001) (discussing clear and convincing standard). Further, only “claims not amenable to construction or insolubly ambiguous are indefinite.” *See Haemonetics Corp. v. Baxter Healthcare Corp.*, 607 F.3d 776, 2010 U.S. App. LEXIS 11122 (Fed. Cir. June 2, 2010) (noting that proof of indefiniteness must meet an exacting standard.)

5 The Federal Circuit has held that “[i]t is elementary that a claim construction that excludes the preferred embodiment ‘is rarely, if ever correct and would require highly persuasive evidentiary support.’” *See Neomagic Corp. v. Trident Microsystems*, 287 F.3d 1062, 1073 (Fed. Cir. 2002) (quoting *Vitronics Corp. v. Conceptor, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

constitute data representative of vehicular movement, including such data that may be included as traffic information, and does not limit such data representative of vehicular movement in terms of the number of vehicles.

Google’s construction is also overly restrictive insofar as it is limited to “speed, frequency and flow.” As explained above, the specification discloses numerous other characteristics that may be measured, e.g., average speed, individual speed, number of vehicles in a video image, traffic density, and “other data representative of traffic”. (See cites above). Google’s construction fails to encompass these embodiments or even mention the more general reference to “other data representative of traffic.” As such, Google’s construction runs afoul of the Federal Circuit’s admonishment against claim constructions that exclude preferred embodiments. *Neomagic*, 287 F.3d at 1073. Google’s proposed construction would also improperly restrict “traffic information” to only include “current” data. This is more fully discussed below, under heading A.2.

Based on the language of the specification, the Court should adopt Traffic’s construction of “traffic information,” namely “data regarding traffic conditions, which data can include, but is not limited to, the speed, velocity, motion, density, flow, frequency of vehicles on a road, and/or other data representative of the movement of vehicles on a road.”

**2. Traffic Monitors<sup>6</sup>**

<b>Traffic’s Construction</b>	<b>Google’s Construction</b>
“traffic monitors” means any device used to sense, measure, detect, and/or determine vehicular movement and transmit and/or provide a signal representative of vehicular movement.	A stationary device capable of determining the current speed, frequency, or flow of multiple vehicles traveling along a road.

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6 The phrase “traffic monitors” also appears in claims 21 and 22 of the ‘862 patent and claim 22 of the ‘606 patent and should have the same meaning in those claims as here. *Rexnord*, 274 F.3d 1342.

Claim 1(a) recites “a plurality of **traffic monitors**, each said **traffic monitor** comprising at least a detector and a transmitter, said detector providing a signal including data representative of vehicular movement and said transmitter transmitting said signals.” (A000026) (emphasis added). The intrinsic evidence and the plain meaning of “monitor” show that Traffic’s construction is proper.

The specification includes multiple examples of traffic monitors that illustrate the proper construction of this phrase. As explained with respect to Figure 2, “[t]he traffic monitor 20 has a detector 22 for measuring or otherwise sensing traffic.” (6:24-26) (A000018). The patents disclose that traffic monitors may operate through the use of “radio waves, light waves (optical or infrared), microwaves, sound waves, analog signals, digital signals, doppler shifts, or any other type of system to measure traffic conditions (data).” (6:40-44) (A000018). Practical examples of these devices or systems that are cited by the ‘862 patent include police radar guns, magnetic tags or markers, pressure sensitive detectors, magnetic loop detectors, and video cameras, to name a few. (*See generally* 6:40-7:62) (A000018-19). Figure 1 illustrates the use of traffic monitors (20) to sense, measure and detect vehicular movement (14). (Fig. 1) (A000002).

The traffic monitors may also include users’ global positioning system-enabled cellular phones. (12:38-39; 13:6-13) (A000021-22). These example systems and/or devices measure and detect various characteristics of the movement of vehicles. (*See generally* 6:40-7:62) (A000018-19). It is clear from the specification that a traffic monitor is any device that can measure, detect, and/or determine the movements of vehicles. The plain meaning of “monitor,” *i.e.*, “[a]ny device used to observe or measure a parameter” supports this construction. *THE MODERN DICTIONARY OF ELECTRONICS*, p. 482 (7th Ed. 1999) (A000441). Traffic monitors measure parameters – here, the movement of vehicles. In view of this evidence, “traffic monitors” should be construed to mean “any device used to sense, measure,

detect, and/or determine vehicular movement and transmit and/or provide a signal representative of vehicular movement.”

Google’s proposed construction of “traffic monitors” seeks to narrow the term far beyond what would be consistent with the specification, the claim language, and the plain meaning of this phrase. Specifically, Google’s attempt to add “stationary” to the construction has no support in the specification, file history, or extrinsic evidence.<sup>7</sup> In fact, as noted above, the specification explicitly includes an example of non-stationary devices that are capable of measuring, detecting, and/or determining vehicular movement and transmitting and/or providing a signal representative of vehicular movement: in the discussion at 13:1-57, the specification discusses the use of mobile user stations to collect traffic information: “the combination of mobile user station 52, GPS receiver and transmitting and receiving units 64 provides an especially advantageous method for collecting traffic information.” (13:33-36) (A000022). The Court should reject Google’s invitation to commit a “cardinal sin” of claim construction by reading into the claims the limitations of one disclosed embodiment. Google’s proposal would also read out one of the embodiments disclosed in the specification – an approach that is rarely, if ever, correct.<sup>8</sup> Google’s attempt to require that traffic monitors be “stationary” is improper, and should be rejected.

Google’s attempt to add “current” to the construction of “traffic monitors” is another improper attempt to read limitations from a disclosed embodiment into the claims. *Phillips*, 415 F.3d at 1320.

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<sup>7</sup> *Phillips*, 415 F.3d at 1320 (“[O]ne of the cardinal sins of patent law [is] reading a limitation from the written description into the claims”); *Nazomi*, 403 F.3d 1369 (claims may embrace “different subject matter than is illustrated in the specific embodiments in the specification”).

<sup>8</sup> *Neomagic*, 287 F.3d 1073 (“[i]t is elementary that a claim construction that excludes the preferred embodiment ‘is rarely, if ever correct and would require highly persuasive evidentiary support.’”).

The specification does not limit the traffic monitors to sensing or detecting “current” values. The specification expressly states that “the detector 22 could measure the *average* speed of the vehicles (cars or trucks) 14 at locations along the road 12.” (6:32-34) (A000018) (emphasis added). The monitors may also “measure traffic flow, consisting of the number of vehicles passing a certain point for a unit of time (*e.g.* vehicles per second).” (6:37-39) (A000018). “A unit of time” can be any length of time; the unit could be a five-minute period, an hour, or day, for example. Further, in reference to adding traffic information to the traffic database, the specification states:

[T]he amount of time over which data is collected and averaged may be varied. Ideally, the traffic information presented represents traffic conditions at that moment in time. *However, it may be necessary to collect data for a length of time in order to gather enough data to either report any traffic information at all, or to insure that the traffic information is truly representative of conditions at that location.*

(16:25-32) (A000023) (emphasis added). The Court should reject Google’s attempts to improperly limit the scope of the claims to disclosed embodiments in the specification. Accordingly, “traffic monitors” should be construed to mean “any device used to sense, measure, detect, and/or determine vehicular movement and transmit and/or provide a signal representative of vehicular movement.”

### 3. Vehicular Movement<sup>9</sup>

Traffic’s Construction	Google’s Construction
“Vehicular movement” means the velocity, speed, position, and/or change in position of a vehicle.	The current speed, frequency, or flow of multiple vehicles traveling along a road as detected by one or more traffic monitors.

Claim 1(a) recites “a plurality of traffic monitors, each said traffic monitor comprising at least a detector and a transmitter, said detector providing a signal including data representative of **vehicular movement** and said transmitter transmitting said signals.” (A000026) (emphasis added). Traffic’s



construction of “vehicular movement” better captures the meaning of this phrase as indicated by the specification and extrinsic evidence. The specification provides clear evidence for the meaning of this phrase. Vehicular movement may include the speed or velocity of a vehicle. (6:18-20; 6:49; 6:58-59; 7:57-58) (A000018-19). It may also include the position and/or change in position of a vehicle. (7:63-8:21; 13:1-25) (A000019; A000022). Traffic’s construction of this phrase is further supported by WEBSTER’S NEW WORLD COMPACT SCHOOL AND OFFICE DICTIONARY p.281 (3d Ed. 1995), which defines “movement” as “moving or manner of moving,” and “move” as “to change the place or position of.” (A000440).

Though Traffic and Google appear to have proposed similar constructions for “vehicular movement,” Google’s definition attempts to eviscerate the global positioning system change in position example of vehicular movement described in the specification. The specification discloses the use of global positioning systems in the mobile user stations to collect data regarding the change in position of a vehicle, which data is sent to the computer system for processing into traffic information. (*See generally* 9:13-57) (A000022). “Vehicular movement” therefore clearly includes the change in position of a vehicle. Google’s proposed construction is deficient because it lacks any reference to the position or change in position of a vehicle – counter to the plain meaning of movement and contrary to the intrinsic evidence.

Further, Google’s proposed construction is also unduly limited to the “**current** speed, frequency, or flow of multiple vehicles traveling along a road as detected by one or more traffic monitors” for the same reasons explained above in Section III.A.2 regarding the term “current,” including that Google’s construction reads limitations from a disclosed embodiment into the claims.

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9 The phrase “vehicular movement” also appears in claim 22 of the ‘606 patent and should have

*See, e.g., Phillips*, 415 F.3d at 1320. Google’s construction is also unduly limited in that it requires of “multiple vehicles,” as discussed in Section III.A.1, above, requiring multiple vehicles is an improper attempt to exclude an embodiment disclosed in the specification.

Accordingly, “vehicular movement” should be construed to mean “the velocity, speed, position, and/or change in position of a vehicle.”

#### 4. Computer System<sup>10</sup>

Traffic’s Construction	Google’s Construction
“computer system” means a computer or computers that receive data representative of vehicular movement from the traffic monitors and send traffic information representative of said signals transmitted by said traffic monitors to the mobile user stations by way of the network.	No construction necessary.

Claim 1(c) recites “a **computer system** interconnected with said receiver and said network.” (A000026). *See also* claim 1(e). The computer system preferably includes information representative of the road along which the traffic monitors are located, such as a map database. (8:49-52) (A000019) (emphasis added). The computer system receives data representative of vehicle movement from the traffic monitors. (8:39-41) (A000019). The computer system is further capable of operating on, manipulating, or processing the data received from the traffic monitors. (8:58-64) (A000019). The computer system is interconnected to the network using any type of interconnection. The computer system, through its interconnection with the network, transmits traffic information to mobile user stations. (9:5-27) (A000020); *see also* claim 1(e).

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the same meaning in that claim as here. *See, e.g., REXNORD*, 274 F.3d 1342.

10 “Computer system” appears in claims 9, 10, 21, 22, 23, and 25 of the ‘862 patent and claim 22 of the ‘606 patent and should have the same meaning in those claims. *REXNORD*, 274 F.3d 1342.

Google has offered no alternative construction for this phrase, and it is clear from the intrinsic evidence that the phrase “computer system” should be construed to mean “a computer or computers that receive data representative of vehicular movement from the traffic monitors and send traffic information representative of said signals transmitted by said traffic monitors to the mobile user stations by way of the network.”

**5. Interconnected<sup>11</sup>**

Traffic’s Construction	Google’s Construction
“interconnected” means the computer system facilitates the continuous or periodic movement of data from the receiver to the network.	No construction necessary.

Claim 1(c) recites “a computer system **interconnected** with said receiver and said network.” (A000026) (emphasis added). The specification states that the interconnection between the various components can be intermittent or periodic, and does not need to be in the form of a physical conductor. For example, in one embodiment, the network may be the Internet. (19:14-33) (A000025). The specification notes that the user may wish to receive only short periodic updates (such as an update every five minutes) to reduce the expense of receiving data. *Id.* The interconnection between the computer system, the receiver, and the network does not need to be permanent, but rather can be periodic. The “interconnection” serves to allow or facilitate the movement of data between various components of the system.

Google has offered no construction for this term, and Traffic’s construction is well supported by the evidence. Accordingly, the term “interconnected” should be construed to mean “the computer system facilitates the continuous or periodic movement of data from the receiver to the network.”

## 6. Mobile User Station<sup>12</sup>

Traffic's Construction	Google's Construction
"mobile user station" means an easily moving or movable device that can transmit data to and/or receive data from the network. The mobile user station may be a cellular phone or other handheld unit, or may be installed within a car.	A mobile device, distinct from a traffic monitor, capable of determining and displaying traffic information.

Claim 1(d) recites "a **mobile user station** connected to a global positioning system receiver, a display, and a communicating device." (A000026) (emphasis added). "Mobile user station" is used elsewhere in claim 1, as well. For example, claim 1(e) recites "said computer system, in response to a request for traffic information from one of said **mobile user stations**, providing in response thereto to said one of said **mobile user stations** traffic information representative of said signals transmitted by said traffic monitors." *Id.* (emphasis added). Traffic's construction of this phrase derives from descriptions of mobile user stations in the specification of the '862 patent, the surrounding claim language, and the plain meaning of the phrase, as shown by dictionary definitions.

Traffic's above construction is well supported by intrinsic evidence. For example, the specification notes that a mobile user station can be a mobile unit in a car or contained within a car. (11:63-12:2) (A000021). The mobile unit in a car or contained within a car may include transmitting and/or receiving units that are used to communicate with the network, and can communicate with same

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11 The term "interconnected" also appears in claim 21 of the '862 patent and claim 22 of the '606 patent and should have the same meaning in those claims as here. *Rexnord*, 274 F.3d 1342.

12 The phrase "mobile user station" also appears in claims 10, 21, 23, 25, and 31 of the '862 patent and claim 22 of the '606 patent and should have the same meaning in those claims as here. *Rexnord*, 274 F.3d 1342.

using either analog or digital signals. *Id.* The specification also discloses that a mobile user station can be a cellular telephone. (14:12) (A000022); *see also* Fig. 4 (A000004). Such a mobile user station would communicate with the computer system via a cellular telephone network. (14:13-15) (A000022). The types of devices shown as examples of mobile user stations in the specification of the '862 patent illustrate that "mobile user stations" are contemplated to be easily moving or movable devices. Moreover, the definition of "mobile" in THE NEW AMERICAN WEBSTER HANDY COLLEGE DICTIONARY, p.438 (3d Ed. 1995) supports Traffic's construction that a mobile user station is an easily moving or movable device. (A000444) (defining "mobile" to mean "easily moving or movable.") WEBSTER'S NEW WORLD COMPACT SCHOOL AND OFFICE DICTIONARY, p.276 (3d Ed. 1995) supports Traffic's construction, with "mobile" defined as "moving or movable." (A000443).

Google's construction requires that a mobile user station cannot also act as a traffic monitor. This construction, however, is an obvious attempt to inappropriately narrow the scope of the '862 patent, and is wholly inconsistent with the language in the specification. Google's unduly narrow construction is an improper attempt to read limitations from embodiments disclosed in the specification into the claims. This is a "cardinal sin" of claim construction. *See, e.g., Phillips*, 415 F.3d at 1320. Worse still, Google's proposed construction would read out a preferred embodiment from the claims. Such a construction is rarely correct. *See MBO Labs., Inc. v. Becton, Dickson & Co.*, 474 F.3d 1323, 1333 (Fed. Cir. 2007) ("A claim interpretation that excludes a preferred embodiment from the scope of the claim is rarely, if ever, correct."). As discussed above, with respect to Google's proposed construction for "traffic monitors," the '862 patent plainly contemplates the use of mobile user stations to collect traffic information. For example, in the specification at 13:1-57, the ability of mobile user stations to collect traffic information is described: "the combination of mobile user station 52, GPS

receiver and transmitting and receiving units 64 provides an especially advantageous method for collecting traffic information.”<sup>13</sup> (13:33-36) (A000022). A mobile user station does *not* need to be distinct from a traffic monitor.

Google’s construction is accurate insofar as it states that a mobile user station is capable of displaying traffic information. Indeed, this function is affirmatively recited in the claims. *See, e.g.*, claim 1(f). But Google’s construction is incorrect and inconsistent with the intrinsic evidence insofar it requires the “mobile user station” to “determine” traffic information. Though the patents do include an embodiment in which the mobile user station may “determine” traffic information<sup>14</sup>, this is not required by the claims. The computer system may “determine” traffic information instead. For example, the specification states that “[t]he computer system 40 may manipulate the traffic information as necessary, so as to provide average speeds or other statistical data.” (8:55-58) (A000019). Accordingly, the claims do not require that the “mobile user station” to be capable of “determining” traffic information, as Google suggests in its proposed construction, as this task may be performed by the computer system. *Id.* It would therefore be improper to limit the claims to one disclosed embodiment, as Google attempts to do here.

Based on this evidence, the phrase “mobile user station” should be construed to mean “an easily moving or movable device that can transmit data to and/or receive data from the network. The mobile user station may be a cellular phone or other handheld unit, or may be installed within a car.”

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13 As noted above, “mobile user station” appears in claim 21, which recites that the mobile user station is associated with a global positioning receiver. This supports Traffic’s position that a mobile user station can act as a traffic monitor, as discussed here. *Rexnord*, 274 F.3d 1342.

14 The specification states that “the user stations *may* process the traffic information.” (8:60-61) (A000019) (emphasis added).

## 7. In Response To<sup>15</sup>

Traffic's Construction	Google's Construction
<p>"in response to" means that the computer system, rather than only arbitrarily sending traffic information representative of said signals transmitted by said traffic monitors, is capable of sending traffic information representative of said signals transmitted by said traffic monitors to a mobile user station as a result of the mobile user station sending a request for traffic information to the computer system.</p>	<p>Should be construed as part of "providing in response thereto."</p>

One problem addressed by the Traffic patents is the inability of previous systems to provide "traffic information which allows a commuter to obtain information at any time desired by the commuter." (4:18-22) (A000017). This is reflected in claim 1(g), which recites: "wherein said computer system has a map database, and said computer system, **in response** to said request for information, transmits map information representative of a portion of said map database, and said map information representative of said map database is displayed graphically together with said traffic information." (A000026) (emphasis added). This also reflected in claim 1(e), which recites: "said computer system, in response to a request for traffic information from one of said mobile user stations, providing in response thereto to said one of said mobile user stations traffic information representative of said signals transmitted by said traffic monitors." (A000026).

Traffic's construction of this phrase is proper, in view of the plain meaning of the word "response," along with the intrinsic evidence. WEBSTER'S NEW WORLD COMPACT SCHOOL AND OFFICE

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15 The phrase "in response to" also appears in claim 21 of the '862 patent and claim 22 of the '606 patent and should have the same meaning in those claims as here. *Rexnord*, 274 F.3d 1342.

DICTIONARY, p. 366 (3d Ed. 1995) defines “response” as “something done in answer or reply.” (A000445). This is consistent with its use in the ‘862 patent. For example, the specification discusses the process of a mobile user station making a request to the computer system for traffic information, followed by transmission of traffic information to the mobile user station by the computer system. (4:52-56; 5:3-5; 9:14-18; 12:8-16) (A000017-18; A000020; A000021). The mobile user station may also request traffic information for only certain areas of interest. (9:25-27) (A000020). The computer system then answers the request by transmitting the appropriate traffic information. *Id.* This process therefore takes the form of a query from the mobile user station, followed by an answer from the computer system. (9:13-15; 9:25-27) (A000020).

A key factor here is that the process of transmitting traffic information from the computer system to the mobile user station is not necessarily done purely arbitrarily, or on periodic intervals.<sup>16</sup> Instead, the mobile user station may “obtain immediate information rather than waiting for the broadcast of information at specific times.” (10:6-18) (A000020). The user may therefore request and receive immediate and contemporaneous traffic conditions. *Id.* The user does not need to wait for a periodic traffic report. (12:22-27) (A000021). The application of this technology in the field of cellular communications is discussed, as well. For example, a mobile user station can use a cellular telephone network to make a request for traffic information. (14:13-15) (A000022). In answer to this request, the computer system transmits the requested information over the cellular telephone network to the mobile user station. (14:15-23) (A000022).

Google’s proposed construction of this phrase is in the broader context of the phrase “providing

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<sup>16</sup> Though the Traffic patents not prohibit the arbitrary transmission of traffic information. The system is also capable of automatically sending traffic information at predetermined times, or after certain events have occurred, such as turning the ignition key. (11:3-5; 11:15-18) (A000021).



in response thereto.” Google’s proposed construction does not address the capacity for non-arbitrary transmission of traffic information disclosed by the ‘862 patent. Google’s proposed construction is contrary to this important point by injecting the words “to minimize manipulation by the commuter while driving.” While ease of use is a goal of the Traffic patents, an important feature is the ability to request traffic information whenever the user desires. Traffic’s construction is proper here, and Google’s should be rejected.

Based on this evidence, the phrase “in response to” should be construed to mean “the computer system, rather than only arbitrarily sending traffic information representative of said signals transmitted by said traffic monitors, is capable of sending traffic information representative of said signals transmitted by said traffic monitors to a mobile user station as a result of the mobile user station sending a request for traffic information to the computer system.”

**8. Providing In Response Thereto to Said One of Said Mobile User Stations**

Traffic’s Construction	Google’s Construction
“providing in response thereto to said one of said mobile user stations” means the computer system supplies traffic information in response to (as defined above) a request from a mobile user station.	In response to a commuter's request, providing relevant traffic information for display by the mobile user station to minimize manipulation by the commuter while driving.

As noted above, claim 1(c) recites that “said computer system, in response to a request for traffic information from one of said mobile user stations, **providing in response thereto to said one of said mobile user stations** traffic information representative of said signals transmitted by said traffic monitors.” (A000026) (emphasis added). Traffic contends that the phrase “providing in response thereto” should have the same construction as “in response to,” in Section III.A.7, above. Further, as

discussed above, Google’s proposed construction neglects to account for the capacity for non-arbitrary transmission of traffic information disclosed by the ‘862 patent. Accordingly, Traffic contends that “providing in response thereto” should be construed to mean that the “computer system, rather than only arbitrarily sending traffic information representative of said signals transmitted by said traffic monitors, is capable of sending traffic information representative of said signals transmitted by said traffic monitors to a mobile user station as a result of the mobile user station sending a request for traffic information to the computer system.”

**9. Traffic Information Representative of Said Signals Transmitted by Said Traffic Monitors**

<b>Traffic’s Construction</b>	<b>Google’s Construction</b>
“traffic information representative of said signals transmitted by said traffic monitors” does not need a construction. However, if one is required, “traffic information representative of said signals transmitted by said traffic monitors” means “traffic information,” as defined above.	Indefinite; alternatively, the current speed, frequency, or flow of multiple vehicles traveling along a road as detected by one or more traffic monitors.

Claim 1(e) recites “said computer system, in response to a request for traffic information from one of said mobile user stations, providing in response thereto to said one of said mobile user stations **traffic information representative of said signals transmitted by said traffic monitors.**” (A000026) (emphasis added). Traffic contends that the phrase “traffic information representative of said signals transmitted by said traffic monitors” is easily understood in the context of “traffic information,” and does not, therefore, require construction. Contrary to Google’s assertion that this phrase is indefinite, the claim language itself is very clear. *See Halliburton*, 514 F.3d 1249-1250. Moreover, Google’s alternative definition bears similarities to Traffic’s proposed construction of “traffic information,” discussed in Section III.A.1, above.

Accordingly, if the Court determines that a definition is needed for this phrase, Traffic proposes that the Court adopt the following definition: “data regarding traffic conditions, which data can include, but is not limited to, the speed, velocity, motion, density, flow, frequency of vehicles on a road, and/or other data representative of the movement of vehicles on a road.”

**10. Displayed Graphically<sup>17</sup>**

Traffic’s Construction	Google’s Construction
“displayed graphically” means that information representative of the map database and the traffic information are displayed in a pictorial format, such as a drawing, on the display of the mobile user station.	Represented other than in text format.

Claim 1(f) recites that the “traffic information transmitted by said computer system is **displayed graphically** on said display.” (A000026) (emphasis added). This phrase has a clear meaning, given the context of the language of the patent and the common meaning of “graphics.”

The specification thoroughly discusses the display of graphics on the display of the mobile user station. For example, the specification discusses the use of different colors or patterns on an image of a map to represent different traffic speeds. (9:41-55) (A000020); Fig. 3 (A000003). Moreover, the specification notes that the display can depict information in graphical or textual form, such as by identifying mile markers or similar information. *Id.* The specification also discusses the use of icons or other symbols to represent information. (10:58-11:2) (A000020). The Traffic patents also provide for a number of different methods for displaying and scrolling maps, such as using a “centered display,” an “offset display,” a “look-ahead display,” a “stationary display,” or an “area display.” (16:57-19:10) (A000023-25). These map display types each define a method of creating a pictorial representation of

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17 The phrase “displayed graphically” also appears in claims 21 and 31 of the ‘862 patent and claim 22 of the ‘606 patent and should have the same meaning in those claims as here. *Rexnord*, 274

geographic data. *Id.* The plain meaning of “graphics” is consistent: “using computer technology to create a drawing that is usually displayed on a terminal or plotter.” The MODERN DICTIONARY OF ELECTRONICS, p.325 (7th Ed. 1999) (A000447).

Google’s construction says nothing about the meaning of “graphical”. All Google’s construction does is say what “graphical” excludes. Furthermore, Google’s proposed construction, “represented other than in text format,” ignores the portions of the specification cited above. Google’s proposed construction is therefore too narrow to be a proper construction for this phrase.

Accordingly, the phrase “displayed graphically” should be construed to mean “information representative of the map database and the traffic information are displayed in a pictorial format, such as a drawing, on the display of the mobile user station.”

### 11. Map Database<sup>18</sup>

Traffic’s Construction	Google’s Construction
“map database” means a collection of map data representative of, but not limited to, roads, streets, highways, latitude and longitude information, and/or other geographical information.	No construction necessary.

Claim 1(g) recites “said computer system has a **map database**, and said computer system, in response to said request for information, transmits map information representative of a portion of said **map database**, and said map information representative of said database is displayed graphically together with said traffic information.” (A000026) (emphasis added). Traffic’s proposed construction of “map database” is well-supported by the specification and the plain meaning of “database,” which is defined by The MODERN DICTIONARY OF ELECTRONICS, p.173 (7th Ed. 1999) as “[a] collection of

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F.3d 1342.

18 The phrase “map database” also appears in claim 21 of the ‘862 patent and should have the same meaning in that claim as here. *Rexnord*, 274 F.3d 1342.

related data that can be retrieved from memory at will.” (A000446).

Here, the “collection of related data” that is stored in memory is data related to geographical information, such as roads and highways. (9:29-30) (A000020). The map database may contain information representative of roads and may include latitude and longitude information associated with various geographic locations. (8:46-49; 9:29-9:32; 14:49-15:9; 18:17) (A000019-20; A000022-23; A000024). The map database may contain other information, including but not limited to information related to restaurants, gas stations, hospitals, rest areas, or roadside attractions. (10:55-67) (A000020). The map database may be stored in and maintained by the computer system. (4:67-5:1) (A000017-18). It is also possible for the map database to be stored in the mobile user station, or in both the computer system and the mobile user station. (14:49-15:9; 15:35-36) (A000022-23).

Accordingly, the phrase “map database” should be construed to mean “collection of map data representative of, but not limited to, roads, streets, highways, latitude and longitude information, and/or other geographical information.”

**B. Claim 9 of the ‘862 Patent**

Claim 9 (A0027) reads as follows, with the disputed terms and phrases bolded: “The system of claim 1 wherein **said user** provides latitude and longitude information to said **computer system**.”

<b>Traffic’s Construction</b>	<b>Google’s Construction</b>
“said user” does not need a construction. However, if a construction is required, “said user” means said mobile user station of claim 1.	Indefinite; alternatively, a person who operates a mobile user station.

Traffic contends that the phrase “said user” is easily understood in the context of the claims and does not require construction. Here, “said” means that the term was used previously in the claims. Claim 9 depends from claim 1 only, so “user” must refer back to “mobile user station” in claim 1. A

common principle of claim construction is that the claims themselves provide guidance as to the meaning of particular claim terms.<sup>19</sup> Google’s assertion that this phrase is indefinite is incorrect. Here, it is very clear that the reference to “said user” in claim 9 refers back to the “mobile user station” in claim 1. The term “said user” is not indefinite. Google’s alternative construction makes no sense in the context of the claims and cannot be a proper construction.

If the Court determines that a construction of “said user” is needed, Traffic proposes that the phrase “said user” should be construed to have the same meaning as “mobile user station,” *i.e.*, “an easily moving or movable device that can transmit data to and/or receive data from the network. The mobile user station may be a cellular phone or other handheld unit, or may be installed within a car.”

**C. Claim 21 of the ‘862 Patent**

Claim 21 (A0027) reads as follows, with the disputed terms and phrases bolded:<sup>20</sup>

21	A system for providing <b>traffic information</b> to a plurality of mobile users connected to a network, comprising:
a.	a plurality of <b>mobile user stations</b> , each mobile user station being associated with a display, a global positioning system receiver and a communicating device to allow each of said mobile user stations to send and receive signals;
b.	a <b>computer system interconnected</b> with another communicating device and a network, said computer system being capable of sending and receiving signals to and from said mobile user stations;
c.	said computer system including a <b>map database</b> and a <b>traffic information database</b> , said traffic information database containing <b>data representative of traffic</b> at a plurality of locations;

<sup>19</sup> See, e.g., *Philips*, 415 F.3d 1314; see also *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1088 (Fed. Cir. 2003)(noting that “the context of the surrounding words of the claim also must be considered in determining the ordinary and customary meaning of those terms.”)

<sup>20</sup> Traffic contends that “Traffic information,” “mobile user station,” “computer system,” “interconnected,” “map database,” and “displaying graphically” should have the same meanings as identified by Traffic, above. *Rexnord*, 274 F.3d 1342.

d.	at least one of said mobile user stations providing a request to said computer system for information together with a respective geographic location of said one of said mobile user stations, and <b>in response thereto, said computer system providing to said one of said mobile user stations information representative of selected portions of said traffic information database</b> based on said respective geographic location of said one of said mobile user stations; and
e.	said one of said mobile user stations <b>displaying graphically</b> on said display information representative of said selected portions of said map database and said selected portions of said traffic information database.

### 1. Traffic Information Database<sup>21</sup>

Traffic's Construction	Google's Construction
"traffic information database" means a collection of traffic information.	The term should be construed as part of the larger phrase "traffic information database containing data representative of traffic" and consistent with our definition below of "data representative of traffic."

The phrase "traffic information database" appears in claim 21(c), which recites: "computer system including a map database and a **traffic information database**, said traffic information database containing data representative of traffic at a plurality of locations." (A000027) (emphasis added). The meaning of "traffic information database" is easily discerned from the specification and the plain meaning of database. As noted above, "database" has a well-understood meaning in the art: "[a] collection of related data that can be retrieved from memory at will." THE MODERN DICTIONARY OF ELECTRONICS, p.173 (7th Ed. 1999) (A000446).

The specification provides clear guidance as to the meaning of this phrase and describes what may be included in the database. For example, "the database ... includes traffic information, such as the average vehicle velocity calculated for that location." (15:23-25) (A000023). The traffic

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<sup>21</sup> The phrase "traffic information database" also appears in claims 22, 23, 25, and 31 of the '862 patent and should have the same meaning in those claims as here. *Rexnord*, 274 F.3d 1342.

information database may also include latitude and longitude information for the traffic information, as well as the direction the traffic moves for any given road. *Id.* The traffic information may be combined with the map database, or may be separate. (15:29-37) (A000023).

To further clarify the traffic information database, the specification also discusses the scope of the traffic information database. It specifies that “the computer system may maintain a limited traffic information database that only stores traffic information for selected major roads. Thus, the traffic information database may contain data for fewer roads than contained in the map database.” (20:19-24). The specification also discusses the manner by which traffic information may be entered into the traffic information database, and methods by which to “screen” information entering the database. (*See generally* 20:1-21:42) (A000025-26). For instance, screening may take place to prevent the velocity of a vehicle stopped at a stop sign from entering the traffic information database. *Id.* It is also possible to screen the traffic information to prevent traffic information from roads that are not of interest from entering the traffic information database. *Id.* Such screening takes place when mobile user stations are acting as traffic monitors, as described above.<sup>22</sup> *Id.* The specification lists many other examples in which traffic information may be screened from being entered into the traffic information database. *Id.* In view of the ample discussion in the specification regarding the traffic information database, the phrase has a clear meaning.

Google proposes that “traffic information database” be construed in the larger phrase “traffic information database containing data representative of traffic” and that the meaning is consistent with Google’s proposed construction of “data representative of traffic.” This position sheds little light on the

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22 This further illustrates why Google’s construction of “mobile user station” is incorrect when it states that a “mobile user station” cannot act as a traffic monitor.



actual meaning of “traffic information database,” as Google claims “data representative of traffic” is indefinite. Alternatively, Google proposes that this phrase means “the current speed, frequency, or flow of multiple vehicles traveling along a road.” (See Section III.E.7, *infra*). It is unclear exactly how Google would have this Court construe “traffic information database containing data representative of traffic” such that it is consistent with “data representative of traffic.” The Court should not be required to guess at Google’s position here. Rather, the Court should construe “traffic information database” according to its plain meaning and that provided in the specification.

Based on this considerable evidence, the phrase “traffic information database” should be construed to mean “a collection of traffic information.”

## 2. Data Representative of Traffic

Traffic’s Construction	Google’s Construction
“data representative of traffic” does not need a construction. However, if one is required, “data representative of traffic” means traffic information.	Indefinite; alternatively, the current speed, frequency, or flow of multiple vehicles traveling along a road.

Traffic contends that the phrase “data representative of traffic” does not need a construction. As used in the claims – “computer system including a map database and a traffic information database, said traffic information database containing **data representative of traffic** at a plurality of locations” – this phrase has a very clear meaning. (A000027) (emphasis added). The context of the words around this phrase removes any doubt as to its meaning. See *ACTV*, 346 F.3d 1088.

If a construction for this phrase is required, the Court should construe “data representative of traffic” to have the same meaning as “traffic information,” which, as stated above should be “data regarding traffic conditions, which data can include, but is not limited to, the speed, velocity, motion, density, flow, frequency of vehicles on a road, and/or other data representative of the movement of vehicles on a road.” The Court should reject Google’s construction for the same reasons discussed

above with respect to “traffic information.”

**3. In Response Thereto [to a Request] Providing to Said One of Said Mobile User Stations**

<b>Traffic’s Construction</b>	<b>Google’s Construction</b>
“in response thereto [to a request] providing to said one of said mobile user stations” has the same meaning as “in response to” in claim 1, above.	In response to a commuter’s request, providing relevant traffic information for display by the mobile user station to minimize manipulation by the commuter while driving, the request and the response must occur simultaneously.

Claim 1(d) recites “at least one of said mobile user stations providing a request to said computer system for information together with a respective geographic location of said one of said mobile user stations, and **in response thereto**, said computer system **providing to said one of said mobile user stations** information representative of selected portions of said traffic information database based on said respective geographic location of said one of said mobile user stations.” (A000027) (emphasis added). Traffic contends that “in response thereto [to a request] providing to said one of said mobile user stations” should be construed with the same meaning as “in response to,” in claim 1. This phrase is used in the same manner as the phrase “in response to” and should therefore be construed with the same meaning. *Rexnord*, 274 F.3d 1342.

Google’s proposed construction for this phrase makes little sense and adds restrictions that find no support in the specification or the claims. Google’s proposed restriction that “the request and the response must occur simultaneously” has no support in the specification. Moreover, this proposed restriction does not even comport with the dictionary definition of “response,” which is “something done in answer or reply.” WEBSTER’S NEW WORLD COMPACT SCHOOL AND OFFICE DICTIONARY, p. 366 (3d Ed. 1995) (A000445). It is inconceivable how an answer or reply could be simultaneous with a request. Google’s proposed construction is therefore flawed.

Accordingly, “in response thereto [to a request] providing to said one of said mobile user stations” should have the same meaning as “in response to,” in claim 1 of the ‘862 patent, *i.e.*, “the computer system, rather than only arbitrarily sending traffic information representative of said signals transmitted by said traffic monitors, is capable of sending traffic information representative of said signals transmitted by said traffic monitors to a mobile user station as a result of the mobile user station sending a request for traffic information to the computer system.”

#### 4. Providing to Said One of Said Mobile User Stations

Traffic’s Construction	Google’s Construction
“providing to said one of said mobile user stations” does not need a construction. However, if one is required, “providing to said one of said mobile user stations” means that the computer system transmits data to the mobile user station.	Providing relevant traffic information for display by the mobile user station to minimize manipulation by the commuter while driving.

Claim 1(d) recites “at least one of said mobile user stations providing a request to said computer system for information together with a respective geographic location of said one of said mobile user stations, and in response thereto, said computer system **providing to said one of said mobile user stations** information representative of selected portions of said traffic information database based on said respective geographic location of said one of said mobile user stations.” (A000027) (emphasis added). Traffic contends that this is a simple phrase that does not need a construction. The plain meaning of the words in this phrase, together with the intrinsic evidence demonstrates the meaning of the phrase. The specification, for example, lists a number of ways that traffic information can be provided to a mobile user station. (9:5-27; 10:6-18) (A000020). This can include transmitting the traffic information over a network, such as a telephone network. (9:13) (A000020). The plain meaning of this phrase is also clear, as shown by dictionary definitions of the word “provide.” “Provide” can be

defined as “to supply what is needed.” THE NEW AMERICAN WEBSTER HANDY DICTIONARY, p.540 (3d Ed. 1995). (A000442).

Google’s construction has no support in the intrinsic evidence or the plain meaning of the phrase, and should therefore be rejected. Specifically, Google’s addition of “to minimize manipulation by the consumer while driving” finds no support in the patent. Accordingly, if a definition is required, “providing to said one of said mobile user stations” means that the computer system transmits data to the mobile user station.

**5. Information Representative of Selected Portions of Said Traffic Information Database**

<b>Traffic’s Construction</b>	<b>Google’s Construction</b>
“information representative of selected portions of said traffic information database” means that certain data from the map database and certain data from the traffic information database are transmitted to the mobile user station.	Indefinite in identification of selecting entity ( <i>i.e.</i> user or system) and kind of information selected; alternatively, the current speed, frequency, or flow of multiple vehicles traveling along a road as detected by the traffic monitors, a subset of which is selected by the commuter.

Claim 21(d) recites: “at least one of said mobile user stations providing a request to said computer system for information together with a respective geographic location of said one of said mobile user stations, and in response thereto, said computer system providing to said one of said mobile user stations **information representative of selected portions of said traffic information database** based on said respective geographic location of said one of said mobile user stations.” (A000027) (emphasis added). The meaning of this phrase is clear in view of the context of the claim and the specification. A benefit of the claimed system is that a user of the system can request and obtain traffic information relevant to his or her geographic location, or traffic information of other interest. The computer system is therefore capable of transmitting the relevant traffic information, along with the relevant map information.

The specification clarifies the meaning of this phrase. For example, the specification states that the computer system provides map data: “the computer system provides data from its memory which is representative of the road, such as data from a map database, which is displayed as a road on the display.” (9:29-31) (A000020). The specification further states that the computer system provides traffic information: “the computer system also provides traffic information collected by each, *or a selected set*, of the respective traffic monitors ... and/or the traffic information derived from the individual mobile user stations having a global positioning system locator.” (9:33-38) (A000020) (emphasis added). “The computer system may send traffic information corresponding to only some of the traffic monitors. The user may select which portions of the road are of interest, and the computer system may transmit traffic information corresponding to that portion of the road.” (9:23-9:27) (A000020). This indicates that a smaller set of the traffic information can be transmitted to the mobile user station. This is further described in the specification, which notes that “[w]hen a user requests traffic information from the computer system, the computer system transmits the requested data based on either the geographic location of the user, or for the geographic location requested by the user.” (15:38-46) (A000023). It is therefore clear that this phrase indicates that the computer system provides certain traffic information based on the user’s location or choice.

Google’s indefiniteness argument is wrong because the phrase here has a clear meaning, and Google cannot show that the phrase is “insolubly ambiguous.”<sup>23</sup> For example, Google states that the entity performing the selection is indefinite. Not so. The specification makes it clear that the “selecting” can be done by either the mobile user station (*see, e.g.*, 15:38-45) (A000023) *or* the computer system. (*See* 11:3-19) (A000021) (discussing the computer system sending traffic information

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23 Only “claims not amenable to construction or insolubly ambiguous are indefinite.” *See*

at predetermined intervals). Google also states that the phrase is indefinite in the kind of information selected. The claim itself specifies that information from the traffic information database is selected. As discussed above in III.C.1, above, the traffic information database contains traffic information. Accordingly, the kind of information selected here is traffic information. Further, Google’s proposed alternative construction is wrong, as well, because it improperly attempts to limit the claim to “current” values. as discussed above in Section III.A.2.

Accordingly, “information representative of selected portions of said traffic information database” should be construed to mean “that certain data from the map database and certain data from the traffic information database are transmitted to the mobile user station.”

**D. Claim 22 of the ‘606 Patent**

Claim 22 (A0055) reads as follows, with the disputed terms and phrases bolded:

22	A system for providing <b>traffic information</b> to a plurality of mobile users connected to a network, comprising:
a.	a plurality of <b>traffic monitors</b> , each said traffic monitor comprising at least a detector and a transmitter, said detector providing a signal including data representative of <b>vehicular movement</b> and said transmitter transmitting said signals;
b.	a receiver that receives said signals transmitted by said traffic monitors;
c.	a <b>computer system interconnected</b> with said receiver and said network;
d.	a <b>mobile user station</b> includes a display, and a receiving device;
e.	said computer system <b>providing to said one of said mobile user stations traffic information representative of said signals transmitted by said traffic monitors</b> ;
f.	said traffic information transmitted by said computer system is <b>displayed graphically</b> on said display; and
g.	wherein <b>less than all available traffic information</b> is displayed by said display.

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*Haemonetics*, 607 F.3d 776, 2010 U.S. App. LEXIS 11122.

Of these bolded phrases, the only one not already addressed is “**less than all available traffic information.**” Traffic’s constructions for the other bolded phrases and terms are set forth above.

<b>Traffic’s Construction</b>	<b>Google’s Construction</b>
“less than all available traffic information” means that the computer system may send traffic information corresponding to only some of the traffic monitors.	Indefinite in degree (i.e. amount of information) and kind of information.

Claim 22(g) recites: “wherein less than all available traffic information is displayed by said display.” (A000055). The meaning of this phrase can be readily discerned from the specification.

The specification states in no uncertain terms that “[t]he computer system may send traffic information corresponding to only some of the traffic monitors. The user may select which portions of the road are of interest, and the computer system may transmit traffic information corresponding to that portion of the road.” (9:23-9:27) (A000020). It is clear, therefore, that “less than all available traffic information” refers to a subset of the traffic information – in other words, traffic information from only some of the traffic monitors.

Google’s assertion that this phrase is indefinite in degree is flawed. The degree or amount of information is apparent from the language of the phrase itself. “Less than all” means between zero and one hundred percent. This is a clearly defined degree. Moreover, the kind of information at issue here is apparent from the language of the phrase, as well. The phrase clearly spells out that traffic information is the type of information at issue.

The Court should construe “less than all available traffic information” to mean that “the computer system may send traffic information corresponding to only some of the traffic monitors.”

#### IV. CONCLUSION

For the above reasons, Traffic requests that the Court adopt Traffic's claim constructions which are well grounded in the claim language, the intrinsic evidence, and the plain meaning of the terms as shown by the extrinsic evidence.

Respectfully submitted,

Dated: July 16, 2010

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