### IN THE UNITED STATES COURT OF FEDERAL CLAIMS

E-NUMERATE SOLUTIONS, INC. and E-NUMERATE, LLC,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

C.A. No. 19-859-RTH

### PLAINTIFFS' SUPPLEMENTAL CLAIM CONSTRUCTION BRIEF

Dated: November 22, 2022

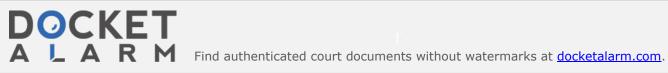
Sean T. O'Kelly
Gerard M. O'Rourke
O'KELLY & O'ROURKE, LLC
824 N. Market Street, Suite 1001A
Wilmington, DE 19801
302-778-4000
sokelly@okorlaw.com
gorourke@okorlaw.com

Attorneys for Plaintiffs



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### I. INTRODUCTION

Plaintiffs e-Numerate Solutions, Inc., and e-Numerate, LLC (collectively "e-Numerate" or "Plaintiffs") submit this Supplemental Claim Construction Brief pursuant to the Court's Order of November 21, 2022. ECF 104.

e-Numerate's proposed constructions of terms 15A, B and C (the "multiple hierarchical relationships" limitations) and e-Numerate's proposed construction of term 2 (the "report" limitation) embrace the preferred embodiments in the asserted patents. As a result, e-Numerate's proposed constructions are fully in accord with long-standing Federal Circuit precedent that embodiments should be encompassed within claim interpretations absent a compelling reason not to include them. In contrast, the Government's proposed constructions excludes these embodiments and is in direct contravention of this precedent.

### II. ARGUMENT

Each of the proposed constructions is addressed in turn.

### A. Terms 15A, B and C

The Court's proposed preliminary definitions were as follows:

Term Number	Term	Court's Proposed Definition
15A	"multiple	A line item with more than one type of hierarchical
	hierarchical	relationship with another line item, conveying
	relationships	information such as dependency on other line items and
	between two line	relation of different line items to their parents, peers,
	items"	and children. Examples of relationships between two
		line items include parent-child, siblings, and
		grandparent-grandchild.
15B	"multiple	A line item with more than one type of hierarchical
	hierarchical	relationship with another line item, conveying
	relationships	information such as dependency on other line items and
	between two line	relation of different line items to their parents, peers,



	items of	and children. Examples of relationships between two
	corresponding	line items include parent-child, siblings, and
	numerical values"	grandparent-grandchild.
15C	"multiple	A line item of the two or more line items with more
	hierarchical	than one type of hierarchical relationship with another
	relationships	line item of the two or more line items, conveying
	between two of the	information such as dependency on other line items and
	plurality of line	relation of different line items to their parents, peers,
	items"	and children. Examples of relationships between two-
		line items include parent-child, siblings, and
		grandparent-grandchild.

During the claim construction hearing, there was argument from both sides related to these claim terms and the extent to which any construction <u>may</u> or <u>must</u> include the figures in the respective patents. The parties disagreed on this issue. e-Numerate made clear in its presentation that these terms must be construed to encompass Figure 14A in the '383 and '748 patents and Figure 15 in the '842 patent. These figures are the only embodiments of financial reports contained in the specifications of the patents-in-suit. The patents-in-suit explicitly teach the applicability of the claimed inventions to financial reports. *See, e.g.,* '355 Patent at col. 49, lines 51-57 ("RDML permits records to be arranged *hierarchically within a table*. Although not a standard approach for relational tables, this permits *multiple levels of information* to be placed in a single two-dimensional table. Users desire this, for example, when viewing *financial statements*, where a single line item 55 (e.g., "Equipment leasing") may have several subcomponents ("Autos," "Trucks," "Office Equipment.")(emphasis supplied)); *see also* '355 Patent at col. 9, lines 44-52; col. 11, lines 38-48; col. 23, lines 33-50; col. 27, line 67-col. 28, line 6.

The Federal Circuit has repeatedly emphasized that claims should be construed to cover the examples and embodiments disclosed in the specification absent compelling reasons not to



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