

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**Intellectual Ventures I LLC and
Intellectual Ventures II LLC,**

**Plaintiffs/Counter-
Defendants,**

v.

VMware, Inc.,

Defendant/Counter-Plaintiff.

Civil Action No. 1:19-CV-1075-ADA

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION STATEMENT

In accordance with the Court’s December 9, 2019 Order Governing Proceedings – Patent Case (Dkt. No. 44), the parties hereby submit this Joint Claim Construction Statement.

A. Consolidated Briefing

The consolidated briefing by Plaintiffs Intellectual Ventures I LLC and Intellectual Ventures II LLC (“IV” or “Plaintiffs”) is attached herein as Exhibit A. The consolidated briefing by Defendant VMware, Inc. (“VMware” or “Defendant”) is attached herein as Exhibit B.

B. Agreed-Upon Constructions

The parties met and conferred and have been able to reach agreement regarding the construction of the certain terms in the asserted patents.

The chart below provides the construction of those claim terms upon which the parties agree.

Term	Agreed-Upon Construction
“resource” (’686 patent, claims 5-7) (’726 patent, claims 1, 4-5, 8)	“set of functions and features of a physical host, such as disk space, memory, network capacity and processing cycles (CPU resources), used in implementing tasks for each virtual server”

“indication that a first physical host is overloaded” (’686 patent, claim 5-7)	“indication that a first physical host would not support additional resource allocations at that time”
“the first physical host is overloaded” (’686 patent, claims 7) (’726 patent, claims 1, 4-5)	“the first physical host will not support additional resource allocations at that time”
“agent” (’752 patent, claims 1, 3-4, 9 and 24)	“a process that occupies a place and that is mobile i.e. can move from a first place to a second place”
Preamble (’051 patent, claims 1, 3)	The preamble is limiting.

C. Disputed Claim Constructions

Exhibit C attached hereto identifies the disputed claim terms including each party’s proposed construction of each disputed claim term.

Dated: April 17, 2020

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CERTIFICATE OF SERVICE

I hereby certify that, on April 17, 2020, the foregoing document was electronically filed with the Clerk of Court using the Court's CM/ECF system which will send notification of such filing to all counsel of record, including counsel of record for Plaintiffs Intellectual Ventures I LLC and Intellectual Ventures II LLC.

/s/Katherine Vidal _____

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