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Date: Thursday, May 14, 2020 at 12:48 AM

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Subject: RE: Intellectual Ventures I LLC et al v. VMware, Inc. (1:19-cv-01075-ADA)

Counsel,

My apologies for the late email. The updated preliminary constructions are below.

If the parties have time before the hearing, please confer with the other side to determine if the parties agree on a preliminary construction for a particular term and please be ready to inform the Court at the beginning of the hearing. Thanks.

-Josh

Term Number	Term	Preliminary Construction
16	"exhausted"	"unavailable to be used again at that instant of time, but may be available for use at a later instant of time"
17	"consumed"	"used"
18	"service"	"network-based functionality"
19	"means for receiving data for creating a network-based agent"	Function: receiving data for creating a network-based agent Structure: communication line (68) as described and depicted in 6:16-27, 14:48-57, 14:26-30, Fig. 3; and equivalents
20	"means for invoking, in response to receiving a URL defining a type of event and identifying the network-based agent, an execution of the network-based agent"	Function: invoking, in response to receiving a URL defining a type of event and identifying the network based agent, an execution of the network-based agent Structure: agent server (20) as described and depicted in 7:47-65, 8:7-13, 18:34-38, Figs. 1, 5; and equivalents
21	"means, including the network-based agent, for using a service and a service resource configured to be consumed by the network-based agent for performing the operation"	Function: using a service and a service resource configured to be consumed by the network-based agent for performing the operation Structure: agent (22) as described in 9:31-39, 8:31-34, 8:39-55, 24:26-63, Figs. 2 and 17; and equivalents

22	“means for communicating a result of the operation over a network communications link”	Function: communicating a result of the operation over a network communications link Structure: communication line (68) as described and depicted in 6:16-27, 14:48-57, 14:26-30, Fig. 3; and equivalents
23	“means for mediating an interaction between the means for using the service and the service”	Function: mediating an interaction between the means for using the service and the service Structure: service wrapper (26) as described and depicted in 16:22-38, 11:38-49, 16:39-62, Figs. 1 and 6; and equivalents
24	“means for monitoring an amount of the service resource used by the network-based agent”	Function: monitoring an amount of the service resource used by the network-based agent Structure: monitor as described in 16:50-61 and depicted in Fig. 6; and equivalents
25	“means for allowing a user to modify the network-based agent”	Function: allowing a user to modify the network-based agent Structure: network system (2) as described and depicted in 9:26-30, 10:12-15, 10:1-7, 19:45-52, 19:59-64, 20:15-21:26, Fig. 11; and equivalents

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Sent: Wednesday, May 13, 2020 7:01 PM

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Subject: Intellectual Ventures I LLC et al v. VMware, Inc. (1:19-cv-01075-ADA)

Counsel,

The Court provides the following preliminary constructions for the '752 and '051 Patents in advance of tomorrow's Markman hearing. Please note that the Court is refining its preliminary constructions for the corresponding structure in the means-plus-function terms in the '752 Patent (Terms 19-25). The Court will provide those later this evening after reviewing the Parties' supplemental briefs.

The purpose of preliminary constructions is to streamline the hearing by providing the parties an indication of the Court's current position for each term. Although the parties, of course, are free to argue for their proposed construction, it is generally unlikely that the Court will select a party's proposed construction instead of the preliminary construction. As such, the Court believes that making arguments to fine-tune the preliminary construction may be more helpful. The preliminary constructions are not final as the Court may change some constructions based on the arguments at the hearing. Please submit any slides the parties wish to use at the Markman hearing by 11AM tomorrow.

The order of the terms below is the order in which the Court take up argument.

If you have any questions, please let me know. Thanks.

-Josh

Term Number	Term	Preliminary Construction
16	"exhausted"	"unavailable to be used again at that instant of time, but may be available for use at a later instant of time"
17	"consumed"	"used"
18	"service"	"network-based functionality"
19-25	[Means-plus-function terms]	TBA
26	"virtual server"	Plain and ordinary meaning, wherein the plain and ordinary meaning means "a software abstraction of a physical server that has the appearance being a separate, dedicated physical server, but reside(s) on a physical server and use(s) the physical server's resources"
27	"physical interface(s)"	Plain and ordinary meaning ¹ ¹ Should IV assert that the physical layer does not comprise hardware, the Court would likely grant VMWare's motion to strike.
28	"physical interfaces" and "tunnel identifiers"	Plain and ordinary meaning
29	"customer forwarding [table/information]"	Plain and ordinary meaning

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