

IN THE UNITED STATES DISTRICT COURT
FOR THE 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

DEFENDANT'S SUPPLEMENTAL CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court's instruction on May 11, 2020, VMware submits this supplemental claim construction brief to support VMware's proposed structures for the means-plus-function terms in U.S. Patent No. 7,949,752. These terms are identified as terms 19-25 in Dkt. No. 67-3 and discussed below.

A. Term 19: "means for receiving data for creating a network-based agent" ('752 patent claim 1)

VMware proposes that the structure is a "communication line (68) as described in '752 patent, 6:16-27, 14:48-57." The specification discloses, for example, that the communication line (68) is a link capable of supporting data transfer between a client device and a service provider. *Id.* at 14:48-57. IV's additional citations provided in Dkt. No. 81 relate to additional components such as a graphical user interface, but do not disclose the structure of communication line (68).

B. Term 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" ('752 patent claim 1)

VMware proposes that the structure is an “agent server (20) as described in ’752 patent, 7:47–65, 8:7–13, 18:34–38.” The specification citations disclose the structure of the agent server (20), for example, as using “any suitable processor such as a main-frame, file server, workstation, or other suitable data processing facility running appropriate software . . . under the control of any suitable operating system such as MS-DOS, MacINTOSH OS, WINDOWS NT WINDOWS 95, OS/2, UNIX, XENIX, GEOS, MAGIC CAP, and the like” to “control[], coordinate[], and otherwise manage[] the overall operation of programmable functionality component 4.” *Id.* at 8:7–13 and 7:51-53. IV’s additional citations provided in Dkt. No. 81, with two potential exceptions, relate to agent server functionality and/or descriptions of other components, but do not disclose the structure of agent server (20). The two potential exceptions are IV’s citations to the ’752 patent at 14:3-6 and 15:13-19. To the extent this Court finds these disclosures as structure, VMware offers a revised proposed construction of “agent server (20) as described in ’752 patent, 7:47–65, 8:7–13, 14:3-6, 15:13-19, and 18:34–38.”

C. Term 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” (’752 patent claim 1)

VMware proposes that the structure is an “agent (22) as described in ’752 patent, 8:31–34, 9:31–39.” The specification citations disclose the structure for agent 22, for example, that “agents 22 can be considered to be personal software assistants with authority delegated by the respective principals. That is, each agent 22 may be implemented as a software application, program, or process which autonomously, and possibly continuously, runs on behalf of its principal,” such that the “consumption of computational and service resources by various agents 22 can be monitored.” *Id.* at 8:29-34 and 9:36-38.

IV is wrong to disagree with VMware's identification of the '752 patent at 8:31-34. *See* Dkt. No. 81. This section discloses structure for the agent 22: "each agent 22 may be implemented as a software application, program, or process which autonomously, and possibly continuously, runs on behalf of its principal." *Id.* IV's additional citations provided in Dkt. No. 81 disclose functions of an agent (22) and not structural disclosure.

D. Term 22: "means for communicating a result of the operation over a network communications link" ('752 patent claim 1)

VMware proposes that the structure is a "communication line (68) as described in '752 patent, 6:16-27, 14:48-57." *See* Term 19 herein above.

E. Term 23: "means for mediating an interaction between the means for using the service and the service" ('752 patent claim 3)

This term was discussed in prior claim construction briefing. *See* Dkt. No. 61 at ECF page 38. VMware proposes that the structure is a service wrapper (26) as described in '752 patent, 16:22-38. IV's additional citations provided in Dkt. No. 81, with one potential exception, relate to functional language and do not provide a disclosure of structure. The one potential exception is IV's citation to the '752 patent at 25:1-24 describes an algorithm for service wrapper 26 including steps 802-820. To the extent this Court finds this disclosure as structure, VMware offers a revised proposed construction of "service wrapper (26) as described in 16:22-38 and 25:1-24."

F. Term 24: "means for monitoring an amount of the service resource used by the network-based agent" ('752 patent claim 4)

This term was discussed in prior claim construction briefing. *See* Dkt. No. 54 at ECF pages 42-43; Dkt. No. 61 at ECF page 39; Dkt. No. 64 at ECF page 25.

G. Term 25: "means for allowing a user to modify the network-based agent" ('752 patent claim 6)

VMware proposes that the structure is the “network system (2) as described in ’752 patent, 9:26–30, 10:12–15.” The specification citations disclose the structure for this term, for example, that the “customization of agents 22 can be accomplished using an electronic user device (e.g., desktop computer) communicating with network system 2 via graphical user interface 12” and that “network system 2 allows users (e.g., subscribers) to create, copy, modify, edit, or delete agents 22.” *See id.* at 9:26-30; and 10:13-14. IV’s additional citations provided in Dkt. No. 81 relate to additional structures and/or functional language, but do not disclose a structure for network system (2).

Dated: May 13, 2020

Respectfully submitted,

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