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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 INFOGATION CORPORATION,
12 Plaintiff,
13 v.
14 GOOGLE LLC,
15 Defendant.
16

Case No.: 21-cv-00843-H-LL

CLAIM CONSTRUCTION ORDER

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18 In the present action, Plaintiff InfoGation Corporation asserts a claim of patent
19 infringement against Defendant Google LLC, alleging infringement of U.S. Patent No.
20 6,292,743. (Doc. No. 27, FAC.) On January 13, 2021, InfoGation filed an opening claim
21 construction brief. (Doc. No. 51.) On February 3, 2021, Google filed a responsive claim
22 construction brief. (Doc. No. 52.) On February 17, 2021, InfoGation filed a reply claim
23 construction brief. (Doc. No. 54.) On March 3, 2021, Google filed a sur-reply claim
24 construction brief. (Doc. No. 59.) On March 4, 2021, the parties filed a joint claim
25 construction statement. (Doc. No. 60.)

26 On June 3, 2021, the Court issued a tentative claim construction order. (Doc. No.
27 83.) The Court held a claim construction hearing on June 7, 2021. Patricia Y. Ho and
28 Robert R. Brunelli appeared for Plaintiff InfoGation. Mark Liang and Danial A. Silverman

1 appeared for Defendant Google. After considering the parties' briefs, the parties'
2 arguments at the hearing, and all relevant information, the Court construes the disputed
3 terms from the patents-in-suit.

4 **Background**

5 In the present action, InfoGation asserts a claim for patent infringement against
6 Google, alleging infringement of the '743 patent. (Doc. No. 27, FAC.) Specifically,
7 InfoGation alleges that certain Google products and services, including those that
8 incorporate the technology of the Google Maps API, infringe Claim 21 of the '743 patent.
9 (Id. ¶ 12; see also id. ¶¶ 13-20, 26-28.)

10 The '743 patent is entitled "Mobile Navigation System" and "relates generally to [a]
11 mobile navigation system and apparatus, and more particularly to a distributed navigation
12 system having a wireless connection to a server for calculating optimal routes using real-
13 time data." U.S. Patent No. 6,292,743, at 1:5-8. In describing the prior art, the '743 patent
14 explains that, at the time of the invention, "navigation systems, in which automobiles are
15 equipped with a navigational computer that includes a display screen, an input means such
16 as a keypad or a remote control, and a storage means such as a CD" had become quite
17 popular. Id. at 1:10-14. The '743 patent explains that the problem with these devices is
18 that they are "stand-alone devices that rely completely on data stored on the local storage
19 device for geographical and other information. Thus, the capacity of the storage device
20 becomes a limiting factor as to how much information is available to users. In addition,
21 users must update their mapping databases frequently to stay current." Id. at 1:27-32.

22 In light of these problems, the '743 patent explains that it is desirable to have an
23 online navigation system that can provide current information to the user – including real-
24 time information such as traffic, weather, and road conditions – without the need for the
25 system to update its local databases whenever changes occur. '743 Patent at 1:36-41. The
26 '743 patent acknowledges that there are some prior art navigation systems, such as
27 Toyota's MONET system, that are able to connect to online servers and provide real-time
28

1 information to the user. Id. at 1:46-61. But the '743 patent notes that there are several
2 problems with those real-time navigation systems.

3 The '743 patent explains the problems with the real-time navigation systems at the
4 time of the invention as follows:

5 In these current systems, all geographical data transmitted by the server is in
6 a propriety [*sic*] format. That is, downloaded information used to describe
7 geographical data, such as point-of-interest addresses and detailed map data,
8 includes data points, indices and the like that are specific to the particular
mapping database used on the client.

9 Accordingly, the client navigation system must have a particular pre-defined
10 mapping database installed in order to work with the server. In some cases,
11 the mapping database used by the client and server must be identical. If there
12 is a mismatch between the expected mapping database and the actual mapping
13 database used on the client, the client cannot properly interpret the
geographical data downloaded from the server and the system will fail to
operate.

14 Accordingly, customers using these current systems must obtain the latest
15 version of the mapping database software available. This presents a major
16 burden for customers and manufacturers alike due to the high frequency in
17 which these databases must be updated.

18 In addition, the data downloaded by the client generally requires high
19 bandwidth communication channels due the shear volume of data transmitted
20 by these current systems. Such high bandwidth communication channels are
21 expensive and may not be readily available in all areas. It would be desirable
to develop a system that requires lower bandwidth communication channels
than that required by these current systems.

22 Another problem with the current systems outlined above is that the client
23 must include sophisticated algorithms for calculating optimal routes. In
24 addition, these route-calculating algorithms in the client must be updated in
25 accordance with current services and options available on the server. . . .

26 Another problem with the current systems is that the proprietary server cannot
27 be used with navigation systems and mapping databases provided by other
28 manufacturers.

1 '743 Patent at 1:62-2:37.

2 The '743 patent seeks to remedy these problems in the prior art systems by using a
3 generic natural language description to specify the optimal routing information that is
4 generated at the server and then transmitted from the server to the client. '743 Patent at
5 3:21-23. The specification of the '743 patent describes "a client navigation system" as
6 follows:

7 The client navigation system establishes a wireless connection to the server
8 via cellular telephone technology or the like. Once connected, the client
9 requests a specific route by uploading start and stop specifications to the
10 server. The server independently calculates an optimal route for the user
11 based on real-time and current data available to the server, as well as user
12 preferences or the like.

13 The routing information is formatted using a natural language specification in
14 accordance with each specific embodiment of the present invention.

15 Id. at 3:27-36.

16 The '743 patent explains that by having the route data generated only at the server,
17 it allows the client devices to be much less complex and not require software changes when
18 the server provides new information. '743 Patent at 2:53-3:10. The '743 patent further
19 explains that by using a generic natural language description to specify the optimal routing
20 information, the optimal routing data from the server "can be interpreted by a variety of
21 clients with minimal software additions." Id. at 3:11-14. Further, the patent explains that
22 the natural language routing descriptions can be highly compressed allowing the
23 information to travel on lower bandwidth communication channels. Id. at 3:14-20.

24 Independent claim 21 of the '743 patent, the only claim asserted by Plaintiff in the
25 present action (see Doc. No. 27, FAC ¶¶ 12, 20; Doc. No. 51 at 6), expressly claims:

26 A method for providing an optimal route using real-time information from a
27 server of a navigation system, the navigation system also comprising a client
28 and said server coupled to a computer network, said method comprising the
steps of:

establishing a wireless connection with the client;

1 receiving at the server start and end route designations from the client;
2 calculating at the server the optimal route based on real-time information at
3 the server and said start and end route designations;
4 formatting at the server the optimal route into a non-proprietary, natural
5 language description;
6 downloading from the server said non-proprietary, natural language
7 description to the client so that the client can reconstruct the optimal route
8 using a local mapping database and display said optimal route on a display
9 system coupled to the client.

10 Id. at 18:6-24.

11 On May 5, 2020, Plaintiff InfoGation filed a complaint in the United States District
12 Court for the Western District of Texas against Defendant Google LLC, alleging
13 infringement of the '743 patent. (Doc. No. 1.) On August 13, 2020, InfoGation filed an
14 amended complaint against Google. (Doc. No. 27.)

15 On August 17, 2020, Google filed a motion to transfer the action to the Southern
16 District of California pursuant to 28 U.S.C. § 1404. (Doc. No. 30.) On August 24, 2021,
17 Google filed a motion to dismiss InfoGation's first amended complaint pursuant to Federal
18 Rule of Civil Procedure 12(b)(6). (Doc. No. 32.)

19 On September 6, 2020, the Texas district court issued a scheduling order. (Doc. No.
20 36.) On November 19, 2020, the Texas district court issued an amended scheduling order.
21 (Doc. No. 46.) On April 29, 2021, the Texas district court granted Google's motion to
22 transfer and transferred the action to the United States District Court for the Southern
23 District of California. (Doc. No. 65.) By the present claim construction briefs, the parties
24 request that the Court construe several disputed claim terms from the '743 patent. (Doc.
25 Nos. 51, 52, 54, 59, 60.)

26 **Discussion**

27 **I. Legal Standards for Claim Construction**

28 Claim construction is an issue of law for the court to decide. Teva Pharm. USA, Inc.
v. Sandoz, Inc., 135 S. Ct. 831, 838 (2015); Markman v. Westview Instr., Inc., 517 U.S.
370, 372 (1996). Although claim construction is ultimately a question of law, "subsidiary

1 factfinding is sometimes necessary.” Teva, 135 S. Ct. at 838.

2 “The purpose of claim construction is to ‘determin[e] the meaning and scope of the
3 patent claims asserted to be infringed.’” O2 Micro Int’l Ltd. v. Beyond Innovation Tech.
4 Co., 521 F.3d 1351, 1360 (Fed. Cir. 2008). “It is a ‘bedrock principle’ of patent law that
5 the ‘claims of a patent define the invention to which the patentee is entitled the right to
6 exclude.’” Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc).

7 Claim terms “‘are generally given their ordinary and customary meaning[,]’” which
8 “is the meaning that the term would have to a person of ordinary skill in the art in question
9 at the time of the invention.” Id. at 1312–13. “In some cases, the ordinary meaning of
10 claim language as understood by a [PHOSITA] may be readily apparent even to lay judges,
11 and claim construction in such cases involves little more than the application of the widely
12 accepted meaning of commonly understood words.” Id. at 1314. “However, in many
13 cases, the meaning of a claim term as understood by persons of skill in the art is not readily
14 apparent.” O2 Micro, 521 F.3d at 1360. If the meaning of the term is not readily apparent,
15 the court must look to “those sources available to the public that show what a person of
16 skill in the art would have understood disputed claim language to mean,” including intrinsic
17 and extrinsic evidence. See Phillips, 415 F.3d at 1314. A court should begin with the
18 intrinsic record, which consists of the language of the claims, the patent specification, and,
19 if in evidence, the prosecution history of the asserted patent. Id.; see also Vederi, LLC v.
20 Google, Inc., 744 F.3d 1376, 1382 (Fed. Cir. 2014) (“In construing claims, this court relies
21 primarily on the claim language, the specification, and the prosecution history.”).

22 In determining the proper construction of a claim, a court should first look to the
23 language of the claims. See Vitronics, 90 F.3d at 1582; see also Comark Commc’ns v.
24 Harris Corp., 156 F.3d 1182, 1186 (Fed. Cir. 1998) (“The appropriate starting point . . . is
25 always with the language of the asserted claim itself.”). The context in which a disputed
26 term is used in the asserted claims may provide substantial guidance as to the meaning of
27 the term. See Phillips, 415 F.3d at 1314. In addition, the context in which the disputed
28 term is used in other claims, both asserted and unasserted, may provide guidance because

1 “the usage of a term in one claim can often illuminate the meaning of the same term in
2 other claims.” Id. Furthermore, a disputed term should be construed “consistently with its
3 appearance in other places in the same claim or in other claims of the same patent.”
4 Rexnord Corp. v. Laitram Corp., 274 F.3d 1336, 1342 (Fed. Cir. 2001); accord
5 Microprocessor Enhancement Corp. v. Texas Instruments Inc., 520 F.3d 1367, 1375 (Fed.
6 Cir. 2008); see also Paragon Sols., LLC v. Timex Corp., 566 F.3d 1075, 1087 (Fed. Cir.
7 2009) (“We apply a presumption that the same terms appearing in different portions of the
8 claims should be given the same meaning.” (internal quotation marks omitted)). Moreover,
9 “[a] claim construction that gives meaning to all the terms of the claim is preferred over
10 one that does not do so.” Vederi, 744 F.3d 1383.

11 A court must also read claims “in view of the specification, of which they are a part.”
12 Markman, 52 F.3d at 979; see 35 U.S.C. § 112(b) (“The specification shall conclude with
13 one or more claims particularly pointing out and distinctly claiming the subject matter
14 which the inventor or a joint inventor regards as the invention.”). “‘Apart from the claim
15 language itself, the specification is the single best guide to the meaning of a claim term.’”
16 Vederi, 744 F.3d at 1382. For example, “a claim construction that excludes [a] preferred
17 embodiment [described in the specification] ‘is rarely, if ever, correct and would require
18 highly persuasive evidentiary support.’” Adams Respiratory Therapeutics, Inc. v. Perrigo
19 Co., 616 F.3d 1283, 1290 (Fed. Cir. 2010).

20 But “[t]he written description part of the specification does not delimit the right to
21 exclude. That is the function and purpose of claims.” Markman v. Westview Instruments,
22 Inc., 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc). Therefore, “it is improper to read
23 limitations from a preferred embodiment described in the specification—even if it is the
24 only embodiment—into the claims absent a clear indication in the intrinsic record that the
25 patentee intended the claims to be so limited.” Dealertrack, Inc. v. Huber, 674 F.3d 1315,
26 1327 (Fed. Cir. 2012); see also Kara Tech. Inc. v. Stamps.com Inc., 582 F.3d 1341, 1348
27 (Fed. Cir. 2009) (“The patentee is entitled to the full scope of his claims, and we will not
28 limit him to his preferred embodiment or import a limitation from the specification into the

1 claims.”).

2 In most situations, analysis of the intrinsic evidence will resolve claim construction
3 disputes. See Vitronics, 90 F.3d at 1583; Teva, 135 S. Ct. at 841. However, “[w]here the
4 intrinsic record is ambiguous, and when necessary,” district courts may “rely on extrinsic
5 evidence, which ‘consists of all evidence external to the patent and prosecution history,
6 including expert and inventor testimony, dictionaries, and learned treatises.’” Power
7 Integrations, Inc. v. Fairchild Semiconductor Int’l, Inc., 711 F.3d 1348, 1360 (Fed. Cir.
8 2013) (quoting Phillips, 415 F.3d at 1317). A court must evaluate all extrinsic evidence in
9 light of the intrinsic evidence. Phillips, 415 F.3d at 1319. “Extrinsic evidence may not be
10 used ‘to contradict claim meaning that is unambiguous in light of the intrinsic evidence.’”
11 Summit 6, LLC v. Samsung Elecs. Co., 802 F.3d 1283, 1290 (Fed. Cir. 2015); see also Bell
12 Atl. Network Servs., Inc. v. Covad Commc’ns Grp., Inc., 262 F.3d 1258, 1269 (Fed. Cir.
13 2001) (“[E]xtrinsic evidence . . . may not be used to vary, contradict, expand, or limit the
14 claim language from how it is defined, even by implication, in the specification or file
15 history.”); Vederi, 744 F.3d at 1382 (“[E]xtrinsic evidence may be less reliable than the
16 intrinsic evidence.”). In cases where subsidiary facts contained in the extrinsic evidence
17 “are in dispute, courts will need to make subsidiary factual findings about that extrinsic
18 evidence.” Teva, 135 S. Ct. at 841.

19 “[D]istrict courts are not (and should not be) required to construe every limitation
20 present in a patent’s asserted claims.” O2 Micro, 521 F.3d at 1362. In certain situations,
21 it is appropriate for a court to determine that a claim term needs no construction and its
22 plain and ordinary meaning applies. See id.; Phillips, 415 F.3d at 1314. But “[a]
23 determination that a claim term ‘needs no construction’ or has the ‘plain and ordinary
24 meaning’ may be inadequate when a term has more than one ‘ordinary’ meaning or when
25 reliance on a term’s ‘ordinary’ meaning does not resolve the parties’ dispute.” O2 Micro,
26 521 F.3d at 1361. If the parties dispute the scope of a certain claim term, it is the court’s
27 duty to resolve the dispute. Id. at 1362; accord Eon Corp. IP Holdings v. Silver Spring
28 Networks, 815 F.3d 1314, 1318 (Fed. Cir. 2016).

II. Agreed Claim Constructions

A. “optimal route”

In their joint claim construction hearing statement, the parties agree on a construction for the term “optimal route.” (Doc. No. 60 at 2; see Doc. No. 51 at 8; Doc. No. 52 at 4.) In light of this, the Court construes the term “optimal route” as “recommended route based on one or more criteria.”

III. Disputed Claim Terms

A. “non-proprietary, natural language description”/ “non-proprietary” / “natural language”

As an initial matter, the parties dispute whether the Court should construe the entire term “non-proprietary, natural language description” or construe the two terms “non-proprietary” and “natural language” separately. Plaintiff proposes that the entire term “non-proprietary, natural language description” be construed as “a description that is not specific to any mapping database and includes language spoken or written by humans.” (Doc. No. 60 at 3.) Defendant proposes construing the terms “non-proprietary” and “natural language” separately. (Id.) Specifically, Defendant proposes that the Court construe the term “non-proprietary” as a “format that can be used with mapping databases provided by other manufacturers.” (Id. at 2.) And Defendant proposes that the Court construe the term “natural language” as “a language spoken or written by humans, as opposed to programming language or machine language.” (Id.) Defendant further argues that no construction for the term “description” is necessary. (Id. at 3.)

The Court begins its analysis of the parties’ dispute regarding which specific terms to construe by reviewing the claim language. Claim 21 of the ’743 patent claims: “[a] method for providing an optimal route using real-time information from a server of a navigation system, the navigation system also comprising a client and said server coupled to a computer network, said method comprising,” among other steps: “formatting at the server the optimal route into a non-proprietary, natural language description.” ’743 Patent at 18:6-9, 18:18-19. Here, the claim language uses the terms “non-proprietary” and

1 “natural language” to describe the term “description.” That the terms “non-proprietary”
2 and “natural language” are two separate and distinct components of the overall term “non-
3 proprietary, natural language description” is supported by the fact that the claim language
4 separates these two sub-terms with a comma.

5 In addition, the specification treats the terms “generic” and “natural language” as
6 two separate and distinct concepts.¹ See, e.g., ’743 Patent at 8:62-64 (“A generic
7 designation for the natural language description is depicted in block 502.”). Further, the
8 specification of the ’743 patent never uses the full combined term “non-proprietary, natural
9 language description.”

10 Moreover, Plaintiff’s own proposed construction for the claim term “non-
11 proprietary, natural language description” simply reuses the word “description” and then
12 provides separate definitions for the terms “non-proprietary and “natural language” joined
13 together by an “and.”² (See Doc. No. 51 at 8; Doc. No. 60 at 3.) Thus, in light of this and
14 the intrinsic record, the Court agrees with Defendant that the terms “non-proprietary” and
15 “natural language” should be construed separately. Nevertheless, the Court notes that even
16 if it construes these two terms separately, the Court must still construe each of them “not
17 only in the context of the particular claim in which the disputed term appears, but in the
18 context of the entire patent, including the specification.” Phillips, 415 F.3d at 1313; see
19 also id. at 1321 (explaining that courts should “focus[] the inquiry . . . on the meaning of
20 claim terms within the context of the patent”).

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25 ¹ The specification of the ’743 patent never uses the specific term “non-proprietary,” but it does use
26 the term “generic” when describing the “description.” See, e.g., ’743 Patent at 3:21 (“A generic natural
27 language description is used to specify optimal routing information that is transmitted from the server to
the client.”).

28 ² Indeed, Plaintiff previously proposed construing the terms “non-proprietary” and “natural
language” separately in the prior related action. (See Doc. No. 52-3, Ex. 2.)

1 i. “non-proprietary”

2 Defendant proposes that the Court construe the term “non-proprietary” as a “format
3 that can be used with mapping databases provided by other manufacturers.” (Doc. No. 60
4 at 2.) Plaintiff does not offer a proposed construction for the term “non-proprietary” by
5 itself. (Id.) Nevertheless, Plaintiff contends that if the Court is inclined to construe the
6 term “non-proprietary” by itself, it should be construed as “not specific to any mapping
7 database.” (Doc. No. 54 at 6 n.5; see also Doc. No. 51 at 10; Doc. No. 60 at 3.) Because
8 the parties dispute the scope of this claim term, the Court must resolve the parties’ dispute.
9 See O2 Micro, 521 F.3d at 1361; Eon, 815 F.3d at 1318.

10 The Court begins with an analysis of the claim language. A review of the claim
11 language does not resolve the parties’ dispute. The claim language simply states that the
12 claimed method involves “formatting at the server the optimal route into a non-proprietary,
13 natural language description.” ’743 Patent at 18:18-19.

14 A review of the specification shows that it supports Defendant’s proposed
15 construction, and not Plaintiff’s proposal. In describing the prior art navigation systems,
16 the specification explains: “In these current systems, all geographical data transmitted by
17 the server is in a propriety [*sic*] format.” ’743 Patent at 1:62-63. The specification explains
18 that this was a problem because “the proprietary server cannot be used with navigation
19 systems and mapping databases provided by other manufacturers.” Id. at 2:34-36.
20 Therefore, “[i]t would be desirable to have a navigation system that can be easily adapted
21 to work with a variety of mapping software and navigational systems.” Id. at 2:39-41. The
22 specification goes on to provide: “The present invention alleviates many of the failings of
23 the prior art. . . . The present invention can be used with any mapping database installed on
24 the client navigation system.” Id. at 2:45-50; see also id. at 3:23-26 (“The natural language
25 description is completely independent from the local mapping database software used on
26 the clients, and can therefore be used in conjunction with any type of mapping database
27 software.”); id. at 3:6-10 (“A feature of the present invention is that the server is hardware
28 and software independent from the client. In this fashion, navigation systems from any

1 vendor can be easily adapted to work with the server of the present invention.”).

2 Plaintiff argues that Defendant’s proposed construction is incorrect because it
3 requires reading a limitation from the specification into the claims. (Doc. No. 54 at 3.) A
4 court should not import limitations from the specification into a claim construction absent
5 a clear indication in the intrinsic record that the patentee intended the claims to be so
6 limited. See Dealertrack, 674 F.3d at 1327; Douglas Dynamics, 717 F.3d at 1342. But,
7 here, there is a clear indication in the specification that the patentees intended the invention
8 to require that the route description be capable of being used with mapping databases
9 provided by other manufacturers. The Federal Circuit has explained that “[w]here the
10 general summary or description of the invention describes a feature of the invention . . .
11 and criticizes other products . . . that lack that same feature, this operates as a clear
12 disavowal” Edwards Lifesciences LLC v. Cook Inc., 582 F.3d 1322, 1333 (Fed. Cir.
13 2009) (quoting Astrazeneca AB v. Mut. Pharm. Co., 384 F.3d 1333, 1340 (Fed. Cir. 2004)).
14 Here, the specification describes as a feature of the invention that it can be used with any
15 type of mapping database software, see ’743 Patent at 2:45-50, 3:23-26, and the
16 specification criticizes the prior art navigation systems for not being able to be used with
17 “mapping databases provided by other manufacturers.” Id. at 2:34-36. Thus, this language
18 constitutes a clear disavowal of navigation systems that do not have the capability of being
19 used with mapping databases provided by other manufacturers.

20 In addition, the Court notes that in the cited passages, the specification is describing
21 the invention as a whole, not merely a preferred embodiment. See, e.g., ’743 Patent at
22 2:45-50 (“The present invention can be used with any mapping database installed on the
23 client navigation system.”). The Federal Circuit has explained: “When a patentee
24 describes the features of the present invention as a whole, he alerts the reader that this
25 description limits the scope of the invention.” Pacing Techs., LLC v. Garmin Int’l, Inc.,
26 778 F.3d 1021, 1025 (Fed. Cir. 2015) (internal quotation marks omitted)); accord Regents
27 of Univ. of Minnesota v. AGA Med. Corp., 717 F.3d 929, 936 (Fed. Cir. 2013).

28 Further, that the term “non-proprietary” requires that the route is formatted so that it

1 can be used with mapping databases provided by other manufacturers is also supported by
2 a disavowal contained in the prosecution history. “Statements made during prosecution
3 may also affect the scope of the claims.” Computer Docking Station Corp. v. Dell, Inc.,
4 519 F.3d 1366, 1374 (Fed. Cir. 2008). “Under the doctrine of prosecution disclaimer, a
5 patentee may limit the meaning of a claim term by making a clear and unmistakable
6 disavowal of scope during prosecution.” Purdue Pharma L.P. v. Endo Pharm. Inc., 438
7 F.3d 1123, 1136 (Fed. Cir. 2006); see also Golden Bridge Tech., Inc. v. Apple Inc., 758
8 F.3d 1362, 1365 (Fed. Cir. 2014) (“Prosecution disclaimer or disavowal must be clear and
9 unmistakable.”). “A patentee could do so, for example, by clearly characterizing the
10 invention in a way to try to overcome rejections based on prior art.” Computer Docking,
11 519 F.3d at 1374. Furthermore, “the prosecution history may be given substantial weight
12 in construing a term where that term was added by amendment.” Bd. of Regents of the
13 Univ. of Texas Sys. v. BENQ Am. Corp., 533 F.3d 1362, 1369 (Fed. Cir. 2008).

14 The prosecution history shows that none of the originally filed claims included the
15 term “non-proprietary.” (Doc. No. 52-6, Ex. 5.) The PTO rejected those claims as
16 anticipated by the prior art reference Delorme, U.S. Patent No. 5,948,040. (Doc. No. Doc.
17 No. 52-7, Ex. 6.) In response to the PTO’s rejection, the applicants amended certain claims
18 and added new claims (including the claim that eventually became claim 21), thereby
19 adding the “non-propriety” claim limitation to the new claims. (Doc. No. 52-5, Ex. 4 at 9.)
20 The applicants explained that the amendments made the claims patentable because
21 “DeLorme does not disclose, teach, or suggest, among other things, formatting the optimal
22 route into a non-proprietary, natural language description and downloading the non-
23 proprietary, natural language description to the client.” (Id. at 11.) In distinguishing
24 DeLorme, the applicants explained that one problem with the DeLorme system “is that the
25 proprietary server cannot be used with navigation systems and mapping databases provided
26 by other manufacturers.” (Id. at 12.) The applicants explained, in contrast:

27 In the claimed method and navigation system, formatting the optimal
28 route into a nonproprietary, natural language description and downloading the

1 non-proprietary, natural language description to the client allows the
2 navigation system to be used with any mapping database installed on the client
3 navigation system. . . . The claimed invention also alleviates the need for user
4 to update their mapping database whenever a new version is available.
5 Navigation client systems from any vendor can be easily adapted to work with
6 the server of the present invention because natural language is used to describe
7 optimal routing information. . . . The natural language description is
8 completely independent from the local mapping database software used on the
clients, and can therefore be used in conjunction with any type of mapping
database software. DeLorme does not disclose teach or suggest the claimed
method nor any of the advantages enumerated above.”

9 (Id. at 12-13.) Here, in an effort to overcome the DeLorme prior art reference, the patentees
10 clearly and unambiguously characterized their invention as using a route description that
11 could be used with any type of mapping database provided by other manufacturers. Thus,
12 this language in the prosecution history constitutes a disavowal of claim scope and should
13 be given substantial weight. See Computer Docking, 519 F.3d at 1374; Bd. of Regents of
14 the Univ. of Texas Sys., 533 F.3d at 1369.

15 In sum, Defendant’s proposed construction for the claim term “non-proprietary” is
16 consistent with and supported by clear disavowals contained in both the specification and
17 the prosecution history of the ’743 patent.³ Accordingly, the Court construes the term
18 “non-proprietary” as a “format that can be used with mapping databases provided by other
19 manufacturers.”⁴

22 ³ To support its claim construction position, Defendant also argues that the Court should adopt the
23 same construction for this term as set forth in the Court’s claim construction order in the prior action,
24 InfoGation Corp. v. Huawei Device USA, Inc., 16-cv-1903 (S.D. Cal., May 5, 2017), under the principles
25 of stare decisis. (Doc. No. 52 at 1, 7-8.) The Court need not consider what stare decisis effect if any the
26 Court’s prior claim construction order has with respect to this claim term because under a new independent
review of the record and the parties’ arguments, the Court adopts Defendant’s proposed construction for
this claim term.

27 ⁴ The Court rejects Plaintiff’s contention that a jury could misunderstand this claim construction to
28 require that Plaintiff must identify a mapping database provided by another manufacturer. (See Doc. No.
54 at 5-6.) Google concedes that the word “can” in its proposed construction means only that the “non-
proprietary” format is capable of being used by other manufacturers. (Doc. No. 59 at 5.) Google’s

1 ii. “natural language”

2 Defendant proposes that the Court construe the term “natural language” as “a
3 language spoken or written by humans, as opposed to programming language or machine
4 language.” (Doc. No. 60 at 2.) Plaintiff proposes that the term “natural language” not be
5 construed by itself. (*Id.*) Nevertheless, Plaintiff contends that the term “natural language”
6 within the overall term “non-proprietary, natural language description” means that it
7 “includes language spoken or written by humans.” (Doc. No. 51 at 14; Doc. No. 60 at 3.)

8 As an initial matter, Defendant argues that its proposed construction for this claim
9 term should be adopted because its proposed construction follows this Court’s prior
10 construction for this claim term in the related action InfoGation Corp. v. Huawei Device
11 USA, Inc., 16-cv-1903 (S.D. Cal., May 5, 2017). (Doc. No. 52 at 12-13.) Defendant
12 argues that the principles of stare decisis dictate adopting this Court’s prior construction
13 for this claim term. (*Id.* at 13, 1.) “In general, prior claim construction proceedings
14 involving the same patents-in-suit are ‘entitled to reasoned deference under the broad
15 principals of stare decisis and the goals articulated by the Supreme Court in Markman, even
16 though stare decisis may not be applicable per se.’” Blue Calypso, Inc. v. Groupon, Inc.,
17 93 F. Supp. 3d 575, 583 (E.D. Tex. 2015); accord Bascom Glob. Internet Servs., Inc. v.
18 AT&T Corp., No. 3:14-CV-3942-M, 2017 WL 5905698, at *8 (N.D. Tex. Sept. 20, 2017);
19 see also Kinetic Concepts, Inc. v. Wake Forest Univ. Health Scis., No. SA-11-CV-163-
20 XR, 2013 WL 6164592, at *3 (W.D. Tex. Nov. 25, 2013) (“[T]his Court gives reasoned
21 deference to the decisions of other district courts that have construed these claims.”). Thus,
22 “prior constructions are entitled to ‘substantial weight’ and should not be departed from
23 ‘absent a strong reason for doing so.’” Bascom Glob. Internet Servs., 2017 WL 5905698,
24 at *8 (quoting TQP Dev., LLC v. Intuit Inc., No. 2:12-CV-180-WCB, 2014 WL 2810016,
25 at *6 (E.D. Tex. June 20, 2014)).

26
27
28 proposed construction does not require identifying “other manufacturers” to satisfy the claim language.
(*Id.*)

1 In the prior action, the Court did not adopt Plaintiff’s proposed construction for the
2 term “natural language.” (See Doc. No. 52-2, Ex. 1 at 15-20.) Further, Plaintiff’s proposed
3 construction in this action is different from the one offered in the prior action, and, although
4 different, more closely resembles the construction that was adopted by the Court in the
5 prior action. Thus, the Court is presented with a narrower dispute with respect to this claim
6 term in this action than it was presented with in the prior action. In light of this, the Court
7 declines to adopt its prior construction for this claim term from the related action under the
8 principles of stare decisis. Instead, the Court engages in an independent evaluation of the
9 present claim construction dispute. See, e.g., Blue Calypso, 93 F. Supp. 3d at 583 (“The
10 Court nonetheless conducts an independent evaluation during claim construction
11 proceedings.”); see also Rambus Inc. v. Hynix Semiconductor Inc., 569 F. Supp. 2d 946,
12 966 (N.D. Cal. 2008) (“[A] fresh look at a claim construction can hone a prior court’s
13 understanding and construction of a patent.”); Kinetic Concepts, 2013 WL 6164592, at *3
14 (“Stare decisis does not preclude this court from an independent analysis of claims that
15 have been construed in other district courts.”).

16 Here, the parties agree that the term “natural language” encompasses a “language
17 spoken or written by humans.” (Doc. No. 60 at 2-3.) Nevertheless, the parties dispute
18 whether the term “natural language” can include programming language or machine
19 language. (See Doc. No. 52 at 12; Doc. No. 54 at 6.) Because the parties dispute the scope
20 of this claim term, the Court must resolve the parties’ dispute. See O2 Micro, 521 F.3d at
21 1361; Eon, 815 F.3d at 1318.

22 The Court begins its analysis of this claim term by reviewing the intrinsic record. A
23 review of the claim language does not resolve the parties’ dispute as the claim language
24 itself does not reveal the meaning of the term “natural language.” The claim language
25 simply states that the “optimal route” is “formatted using a non-proprietary, natural
26 language description.” ’743 Patent at 17:15-16. The claim language does not specify
27 whether the description must only include language spoken or written by humans or
28 whether it can also include some programming language.

1 A review of the '743 patent's specification resolves the parties' dispute. Figure 5 of
2 the '743 patent and its accompanying text provide an example of "a natural language format
3 that can be used to specify route[s] in accordance with an embodiment of the present
4 invention." Id. at 4:29-31, 8:60-62. Figure 5 is depicted below:

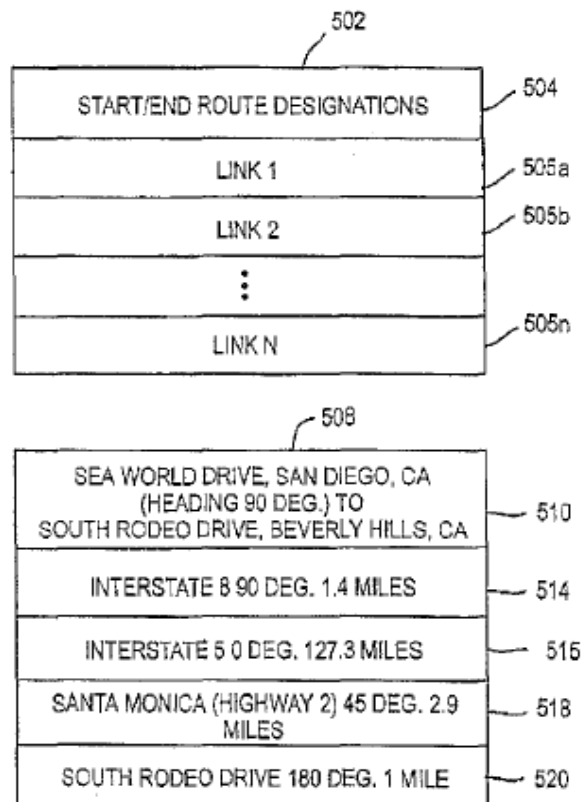


Fig. 5

21 Id. fig. 5. The specification goes on to explain:

22 A generic designation for the natural language description is depicted in block
23 502. This is followed by a specific example of a formatted calculated route
24 as shown in block 508.

25 The natural language description 502 preferably consists of start and end route
26 designations 504. These designations are described using a natural language
27 specification and generally include such information as street names and city
28 names, etc. . . .

The start and end route designations are followed by a number of links 505 a,
505 b . . . 505 n (generally 505). Each link 505 is described using a natural

1 language description. This can include many variables such as a street name,
2 a distance, a turning orientation, a landmark designation, a turning distance
3 from the landmark, etc. . . .

4 . . .

5 As stated above, the natural language routing description 502 begins with the
6 start/end route designations 504. An example of a start/end route designation
7 is shown in block 510. These designations can be as simple as the name of
8 the start and end streets as well as the city and state of such streets. In this
example, the start/end route designation is defined as “Sea World Drive, San
Diego Calif. to South Rodeo Drive, Beverly Hills Calif.[”] The meaning of
these terms is self-explanatory.

9 Id. at 8:62-9:27. In the example of a natural language route description given in figure 5
10 and its accompanying text, the route description is formatted in the human language of
11 English and contains the names of start and end streets along with additional information.
12 See, e.g., id. But this does not resolve the parties’ dispute as both parties agree that the
13 claimed “natural language description” includes a language spoken or written by humans.

14 Nevertheless, the Court agrees with Plaintiff that figure 5 inherently includes
15 information about the ordered relationship between the links in the figure (i.e., the order in
16 which the turns must be taken) and that information would not be in a natural language.
17 (See Doc. No. 51 at 13.) In the example of a natural language description set forth in figure
18 5, the route is broken up into five separate links. See ’743 Patent fig. 5, 9:5-6 (“The start
19 and end route designations are followed by a number of links 505 a, 505 b . . . 505 n
20 (generally 505)”). Because this is a description of an “optimal route,” the ordering of these
21 links matter, and there must be some information within the data establishing that order.
22 Cf. id. at 10:39-40 (describing the routing description as “turn-by-turn text instructions”).
23 That the order of the links matters is further supported by the specification referring to
24 certain links as the “starting point,” the “first link,” “the next link,” or the “last link.” Id.
25 at 9:28, 9:53, 10:11, 10:31, 11:4. As such, the specification supports Plaintiff’s proposed
26
27
28

1 construction for this claim term and not Defendant’s proposal.⁵

2 Defendant argues that its proposed construction is supported by extrinsic evidence
3 in the form of definitions for the term “natural language” from technical computer
4 dictionaries. (Doc. No. 52 at 13.) But “extrinsic evidence . . . may not be used to vary,
5 contradict, expand, or limit the claim language from how it is defined, even by implication,
6 in the specification or file history.” Bell Atl. Network, 262 F.3d at 1269; see also Summit
7 6, 802 F.3d at 1290 (“Extrinsic evidence may not be used ‘to contradict claim meaning that
8 is unambiguous in light of the intrinsic evidence.’”). The specification describes the natural
9 language description as inherently including some non-natural language elements
10 necessary for ordering the links. Thus, the Court declines to consider the proposed
11 extrinsic evidence to the extent Defendant is offering it to contradict the specification’s
12 teachings.

13 In sum, the Court adopts Plaintiff’s proposed construction for this claim term, and
14 the Court rejects Defendant’s proposal. Accordingly, the Court construes the term “natural
15 language” as “includes language spoken or written by humans.”

16 B. “downloading from the server said non-proprietary, natural language
17 description to the client”

18 Plaintiff proposes that the term “downloading from the server said non-proprietary,
19 natural language description to the client” be construed as “transmitting the optimal route
20 in a non-proprietary, natural language description to the client.” (Doc. No. 60 at 3.)
21 Defendant proposes that this term not be construed, and, instead, should be given its plain
22 and ordinary meaning. (Id.)

23
24
25 ⁵ At the hearing, Defendant disputed the notion that figure 5 inherently includes information about
26 the ordered relationship between the links in the figure. Defendant contended that it was possible to
27 provide a route description where the entire description including its ordering is provided via a natural
28 language. But the problem with this argument is that what defendant described at the hearing is not what
is shown in figure 5 of the patent. Figure 5 simply displays five separate links that each contain natural
language within the link, but no explanation of how the ordering of those links is maintained. See ’743
Patent at fig. 5.

1 Here, the parties dispute whether the claimed “downloading” step in claim 21 is
2 performed by the client or by the server. (Doc. No. 51 at 14; Doc. No. 52 at 16.) Plaintiff
3 proposes that it is performed by the server. (Id.) Defendant proposes that it is performed
4 by the client. (Id.) Because the parties dispute the scope of this claim term, the Court must
5 resolve the parties’ dispute. See O2 Micro, 521 F.3d at 1361; Eon, 815 F.3d at 1318.

6 The Court begins its analysis of the parties’ dispute by reviewing the claim language.
7 Claim 21 of the ’743 recites “[a] method for providing an optimal route using real-time
8 information from a server of a navigation system, the navigation system also comprising a
9 client” comprising, among other steps, “downloading from the server said non-proprietary,
10 natural language description to the client.” ’743 Patent at 18:6-9, 18:20-21. Here, the
11 claim language describes a method involving a navigation system that contains “a server”
12 and “a client.” In the method step at issue, the claim language states that the step involves
13 “downloading from the server said non-proprietary, natural language description to the
14 client.” Id. at 18:20-21. Here, the claim explains that the “downloading” step occurs from
15 the server to the client, and, thus, counter to both parties’ positions, the “downloading” step
16 actually requires performance from both the server and the client. Under this claim
17 language, “downloading” means that the server sends the “non-proprietary, natural
18 language description” to the client and the client receives the “non-proprietary, natural
19 language description” from the server under the claimed method.

20 That the server sends the “non-proprietary, natural language description” and the
21 client receives that “non-proprietary, natural language description” is further supported by
22 the surrounding language in claim 21. See Phillips, 415 F.3d at 1314 (“[T]he context in
23 which a term is used in the asserted claim can be highly instructive.”). Claim 21 explains
24 that prior to the “downloading” step, the server “calculat[es]” the “optimal route” and
25 “format[s]” “the optimal route into a non-proprietary, natural language description.” ’743
26 Patent at 18:15-19. Claim 21 then explains that the “downloading” step occurs so that the
27 client can “display said optimal route.” Id. at 18:23-24. Thus, the surrounding language
28 explains that under the claimed method in claim 21 the “optimal route” begins at the server

1 but is then sent to and received by the client so that it can be displayed on the client. As
2 such, the “downloading” step requires both sending by the server and receipt by the client.
3 In sum, the claim language supports the notion that the “downloading” step is performed
4 by both the server and the client.

5 At the claim construction hearing, Plaintiff argued that the claim language supports
6 the notion that performance by the only server is required because the claim language at
7 issue uses the phrase “so that the client can” when describing the actions taken by the
8 “client” device. Plaintiff argues that this language merely requires that the client be capable
9 of performing those recited actions, not that it actual must perform the actions. Although
10 the Court agrees that the phrase “so that the client can” refers to capability and not actual
11 performance, this argument fails for two reasons. First, the word “downloading” is
12 contained in the claim language prior to the phrase “so that the client can.” See ’743 Patent
13 at 18:20-24. Thus, the claim language does not refer to mere capability with respect to
14 “downloading.” The claim language requires “downloading,” which the intrinsic record
15 explains requires both sending by the server and receipt by the client. Second, the client
16 only has the capability to “reconstruct the optimal route” and “display [the] optimal route”
17 if it has received the optimal route during the “downloading” step. As such, the Court
18 rejects Plaintiff’s argument.

19 In its briefing, Plaintiff also argues that the doctrine of claim differentiation supports
20 its proposed construction. (Doc. No. 51 at 15-18.) Specifically, Plaintiff argues that a
21 comparison of independent claim 21 with independent claim 22 shows that the
22 “downloading” step is performed by the server only. (Id.)

23 “Although the doctrine [of claim differentiation] is at its strongest ‘where the
24 limitation sought to be “read into” an independent claim already appears in a dependent
25 claim,’ there is still a presumption that two independent claims have different scope when
26 different words or phrases are used in those claims.” Seachange Int’l, Inc. v. C-COR, Inc.,
27 413 F.3d 1361, 1368–69 (Fed. Cir. 2005). “However, the doctrine ‘only creates a
28 presumption that each claim in a patent has a different scope; it is not a hard and fast rule

1 of construction.” Id. at 1369. “[T]he doctrine of claim differentiation can not broaden
2 claims beyond their correct scope, determined in light of the specification and the
3 prosecution history and any relevant extrinsic evidence . . . [C]laims that are written in
4 different words may ultimately cover substantially the same subject matter.” Id.; see also
5 Fenner Invs., Ltd. v. Cellco P’ship, 778 F.3d 1320, 1327 (Fed. Cir. 2015) (“Although claim
6 differentiation is a useful analytic tool, it cannot enlarge the meaning of a claim beyond
7 that which is supported by the patent documents.”).

8 Plaintiff’s claim differentiation argument is based on the premise that according to
9 the preambles of the respective claims, claim 21 is directed to a method performed by a
10 server, while claim 22 is directed to a method performed by a client. (Doc. No. 51 at 16.)
11 The Court rejects this premise. The preamble for claim 21 does not state that it is directed
12 to a method performed by a server. Rather, the preamble states: “[a] method for providing
13 an optimal route using real-time information from a server of a navigation system, the
14 navigation system also comprising a client.” ’743 Patent at 18:6-9. Here, the preamble
15 describes a method involving a navigation system that is comprised of both a server and a
16 client. The preamble does not use any language expressly stating that entire claimed
17 method is directed to and performed by only one of those two components of the system
18 (i.e., the server).⁶

19 Further, the Court notes that a review of other claims in the ’743 patent shows that
20 there is nothing unusual about interpreting claim 21 to have some parts of the claimed
21 method performed by the server and other parts performed by the client. The ’743 patent
22 contains other independent claims where some method steps are clearly performed by the
23 server while other steps are clearly performed by the client. See Phillips, 415 F.3d at 1314
24 (“Other claims of the patent in question, both asserted and unasserted, can also be valuable
25

26
27 ⁶ To support its argument, Plaintiff attempts to rely on a comparison between the preamble in claim
28 22 and the preamble in claim 21. (See Doc. No. 51 at 16.) But, unlike the preamble in claim 22 which
states that the method is performed “at client,” Claim 21 does not similarly say that the method is
performed at the server. Compare ’743 Patent at 18:26 with id. at 18:7.

1 sources of enlightenment as to the meaning of a claim term.”). For example, in independent
2 claim 1, the step of “accessing real-time information by the server” is clearly performed by
3 the server. ’743 Patent at 15:64. Yet the step of “displaying said optimal route on a display
4 system coupled to the client” in claim 1 is clearly performed on the client. *Id.* at 16:7-8.
5 Thus, claim 1 – like claim 21 – claims a method where part of the method is performed by
6 the server and part of the method is performed by the client. As a result, the Court rejects
7 Plaintiff’s claim differentiation argument.

8 Moreover, Plaintiff’s proposed claim construction impermissibly requests that the
9 Court rewrite the claim language. *See Source Vagabond Sys. Ltd. v. Hydrapak, Inc.*, 753
10 F.3d 1291, 1301 (Fed. Cir. 2014) (“[A] court may not rewrite a claim even if giving a
11 disputed claim its plain meaning would lead to a ‘nonsensical result.’”); *Resonate Inc. v.*
12 *Alteon Websystems, Inc.*, 338 F.3d 1360, 1365 (Fed. Cir. 2003) (“Courts may not rewrite
13 claim language”); *see also Chef Am., Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1374
14 (Fed. Cir. 2004) (Courts must “construe the claim as written, not as the patentees wish they
15 had written it.”). The drafters of the ’743 patent could have used the term “transmitting”
16 in claim 21, but they chose not to, and instead used the term “downloading.” *See, e.g.*,
17 ’743 Patent at 15:62, 18:31 (using the term “transmitting”).

18 Turning to the specification, the specification also supports the notion that
19 “downloading” requires both sending by the server and receipt by the client. The
20 specification in multiple places refers to information/data being downloaded from the
21 server to the client where the data is not just sent by the server, but it is also received by
22 the client. *See, e.g.*, ’743 Patent at 3:11-20 (“An advantage of the present invention is that
23 low bandwidth communication channels can be used to download the information from the
24 server to the clients.”); *id.* at 7:50-52 (“Route data that is calculated by the server 114 is
25 downloaded to the navigation computer 204 via the web server interface 302.”);⁷ *id.* at
26

27
28 ⁷ Plaintiff acknowledges that the specification at times refers to “the client” as “the navigation
computer.” (*See* Doc. No. 51 at 3.)

1 8:45-48 (“Next, in step 416, the server downloads the calculated optimal route to the
2 navigation computer 204. Typically, this data is compressed prior to downloading in step
3 416. Upon receipt of the compressed data, the client uses a decompression algorithm to
4 expand the data to its original text format.”).

5 Plaintiff argues that the specification supports its position that the “downloading”
6 step is only performed by the server. (Doc. No. 51 at 18-19.) The Court disagrees. To
7 support its argument, Plaintiff primarily relies on figure 4 from the specification. (See id.
8 at 18.) Step 416 of figure 4 states “server downloads route to the client.” ’743 Patent at
9 fig. 4. But the next two steps of figure 4 are “client interprets routing data and queries
10 mapping database to reconstruct route” and “route is displayed on display screen.” Id.
11 Thus, according to these steps presented in figure 4, the route is not only sent by the server;
12 the route is also received by the client, so that the client is then able to display the route on
13 the display screen. Indeed, in its description of figure 4 in the technical background section
14 of its claim construction brief, Plaintiff concedes that under the embodiment presented in
15 figure 4, the route is received by the client. (See Doc. No. 51 at 5-6 (“The client then
16 receives the downloaded information from the server.”).) As such, figure 4 supports the
17 Court’s interpretation that “downloading” requires both sending by the server and receipt
18 by the client.

19 Further, to support their respective claim construction positions, both parties present
20 the Court with extrinsic evidence in the form of definitions from technical dictionaries.
21 (See Doc. No. 51 at 19-20; Doc. No. 52 at 19.) Because the Court is able to resolve the
22 parties’ dispute by reviewing the intrinsic record, the Court need not consult extrinsic
23 evidence. See Eidos Display, LLC v. AU Optronics Corp., 779 F.3d 1360, 1365 (Fed. Cir.
24 2015) (explaining that where “the intrinsic record is clear,” extrinsic evidence “is
25 ultimately immaterial”). Nevertheless, the Court notes that the extrinsic evidence offered
26 by both sides supports the Court’s claim construction analysis that the “downloading” step
27 requires both sending by the server and receipt by the client. (See Doc. No. 51-2, Ex. 1
28 (“download[.] to transmit a file or program from a central computer to a smaller computer

1 or a computer at a remote site.”); Doc. No. 52-18, Ex. 17 (“download[.] To receive a file
2 transmitted over a network.”); Doc. No. 52-19, Ex. 18 (“Download[.] 1. To receive data
3 from another computer (often called a host computer or host system or just plain host) into
4 your computer.”).)

5 Finally, at the claim construction hearing, Plaintiff argued that the Court should
6 somehow modify its proposed construction for this claim term to recognize that receipt by
7 the client is “automatic” when the server sends the “optimal route/non-proprietary natural
8 language description.” The Court rejects this proposal. Plaintiff could not identify any
9 language in the intrinsic record explaining that receipt by the client is “automatic.” To the
10 contrary, both the claim language and the specification explain that a “wireless connection”
11 between the server and client device is needed to perform the method. ’743 Patent at 18:11.
12 If the client does not maintain that wireless connection on its end, the downloading step
13 cannot be fully performed as there cannot be receipt of the optimal route by the client.⁸ As
14 such, the Court rejects Plaintiff’s proposal that receipt by the client is “automatic.”

15 In sum, the Court rejects both of the parties’ proposed claim construction positions.
16 According to the intrinsic record, the “downloading” step in claim 21 is performed by both
17 the client and the server. As such, the Court construes the claim term “downloading from
18 the server said non-proprietary, natural language description to the client” as “the server
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20
21 ⁸ It is not hard to imagine a scenario under the claim language, where there is a wireless connection
22 between the client and server that has been “establish[ed]”; the server receives “start and end route
23 designations from the client;” and the server then sends the optimal route to client, but the client has failed
24 to maintain the wireless connection on its end due to, for example, a drop in service, so the optimal route
25 is never received by the client.

26 Indeed, this is the problem with the mailbox analogy offered by Plaintiff at the claim construction
27 hearing. Plaintiff attempted to assert that if it sends a letter in the mail to someone it is “automatically”
28 received by that person’s mailbox regardless of whether the person knows the letter is there or not. But
this is simply not true. When you send a letter in the mail, it is not automatically received at a mailbox.
Receipt of a letter requires actions by people other than the sender. In Plaintiff’s analogy, it requires that
the postal service process the letter, locate the correct address, and then deliver that letter to the mailbox.
It also requires that the recipient own a mailbox and have given the correct address to the sender.

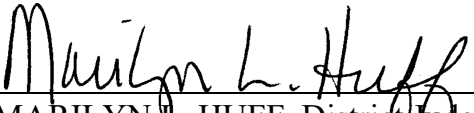
1 sending the non-proprietary, natural language description and the client receiving the non-
2 proprietary, natural language description.”⁹

3 **Conclusion**

4 For the reasons above, the Court adopts the constructions set forth above. In
5 addition, the Court sets forth a briefing schedule for supplemental briefing on Defendant’s
6 pending Rule 12(b)(6) motion to dismiss. Defendant must file its supplemental brief by
7 **June 21, 2021**; Plaintiff must file its supplemental opposition brief by **July 2, 2021**;
8 Defendant must file its reply supplemental brief by **July 12, 2021**. The motion to dismiss
9 remains under submission.

10 **IT IS SO ORDERED.**

11 DATED: June 8, 2021

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13 MARILYN L. HUFF, District Judge
14 UNITED STATES DISTRICT COURT
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25 ⁹ Because the proper construction of this claim term is at issue in Defendant’s pending Rule 12(b)(6)
26 motion to dismiss, and the Court rejects both parties’ proposed constructions for this claim term, the Court
27 orders the parties to provide supplemental briefing on Defendant’s pending Rule 12(b)(6) motion to
28 dismiss. Defendant must file its supplemental brief by June 21, 2021; Plaintiff must file its supplemental
opposition brief by July 2, 2021; Defendant must file its reply supplemental brief by July 12, 2021. The
motion to dismiss remains under submission.