Francisco A. Villegas (Bar No. 206997)
Damir Cefo (*pro hac vice*)
Mark W. Halderman (*pro hac vice*)
Evan M. Rosenbaum (Bar No. 310414)
fvillegas@villegascefo.com
dcefo@villegascefo.com
mhalderman@villegascefo.com
erosenbaum@villegascefo.com
VILLEGAS & CEFO, LLP
1350 Avenue of the Americas, Floor 2
New York, NY 10019
Telephone: (646) 844-0679

John V. Picone III (Bar No. 187226)
jpicone@spencerfane.com
SPENCER FANE LLP
225 West Santa Clara Street, Suite 1500
San Jose, CA 9513
Telephone: (408) 286-5100

Attorneys For Plaintiff
B.S.D. CROWN, LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

B.S.D. CROWN, LTD.,

Plaintiff,

v.

AMAZON.COM, INC., AMAZON WEB SERVICES, INC. and AMAZON.COM SERVICES, LLC

Defendants.

Case No. 3:24-CV-03503-JD

PLAINTIFF B.S.D. CROWN, LTD.'S OPENING CLAIM CONSTRICTION BRIEF

Date: May 29, 2025
Time: 11:00 a.m.
Location: Courtroom 11, 19th Floor
Judge: Hon. James Donato

AMAZON-1047
Amazon.com, Inc. v. B.S.D. Crown, Ltd.
IPR2025-00057

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MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Patent L.R. 4-5 and the Scheduling Order on October 1, 2024 (ECF No. 35), Plaintiff B.S.D. Crown, Ltd. ("BSD") submits this opening brief in support of its proposed construction of the disputed claim terms 1-6 of U.S. Patent No. 8,934,887 (the "'887 Patent") (Amended Joint Claim Construction Statement, Ex A.[1]), pertaining to asserted claims 11, 15, 16, 17, 20, 23, 24, and 25, with the text of the two independent claims (11 and 20) shown in Appendix A.

I. THE '887 PATENT

The '887 Patent is entitled, "System and Method for Running Mobile Devices in the Cloud." It discloses "decoupling mobile device HW [hardware] capabilities from actual mobile device performance and a user experience" ('887 Patent, 2:20-21)[2], permitting a "mobile device [to] act[] as an input/output interface for a user, and actual processing, storage and network interfaces are performed by a remote server." 1:15-18.

More specifically, this patent teaches methods where a mobile device operating system ("OS") executed at a server receives input information from at least one mobile device, processes the information to produce a stream of user interface information, and sends the stream of user interface information to the mobile device(s). The stream of user interface information is then used at the mobile device to reproduce audio, display, and hardware action. In some implementations, the stream of user interface information may include a separate stream for each different type of data. Additionally, the server may process input information from more than one mobile device at the same instance of the mobile device OS executed at the server. Conversely, the server may also process different input information from one mobile device at multiple instances of the mobile device OS executed at the server.[3]

These methods for cloud computation provide a variety of benefits. For example, they yield "minimal latency" (9:47-49) (otherwise known as lag or delay in the stream), and an improved

[1] Further citations to Amended JCCS exhibits will be shortened to, Ex. XX.
[2] Further citations to the '887 Patent will only reference a column and line number, x:yy-zz.
[3] This latter feature is described in, and covered by, *e.g.*, unasserted Claim 28.

user experience such that a "[u]ser should not feel that its mobile device [when streaming to and from there server] behaves differently with this solution." 9:49-52.

II. THE LAW OF CLAIM CONSTRUCTION

A. Methodology

Claim terms "are generally given their ordinary and customary meaning," defined as "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (citations omitted). Claim construction is a legal question that "begins and ends in all cases with the actual words of the claim." *Homeland Housewares, LLC v. Whirlpool Corp.*, 865 F.3d 1372, 1374-75 (Fed. Cir. 2017) (citations omitted).

Claims must "be read in view of the specification, of which they are part," (*Phillips,* 415 F.3d. at 1315 (citations omitted)), but without importing extraneous limitations from it. *See Baldwin Graphic Sys., Inc. v. Siebert, Inc.*, 512 F.3d 1338, 1345 (Fed. Cir. 2008). As emphasized in *Phillips*, "one of the cardinal sins of patent law [is] reading a limitation from the written description into the claims." 415 F.3d at 1320 (citation omitted). Generally, claims "are not limited to the preferred embodiment . . . or to the examples listed within the patent specification." *Glaxo Wellcome, Inc. v. Andrx Pharms., Inc.*, 344 F.3d 1226, 1233 (Fed. Cir. 2003) (citations omitted). Conversely, "[a] claim construction that does not encompass a disclosed embodiment is . . . 'rarely, if ever, correct and would require highly persuasive evidentiary support.'" *Johns Hopkins Univ. v. CellPro, Inc.*, 152 F.3d 1342, 1355 (Fed. Cir. 1998) (citation omitted). However, "[w]hen a claim term has an accepted scientific meaning, that meaning is generally not subject to restriction to the specific examples in the specification." *Glaxo Wellcome, Inc.*, 344 F.3d at 1233 (citations omitted).

Prosecution history may also inform claim construction, (*Phillips*, 415 F.3d at 1317), as it may reveal explicit definitions or clear disclaimers by the patentee during patent prosecution. *Data Engine Techs. LLC v. Google LLC*, 10 F.4th 1375, 1382 (Fed. Cir. 2021). "Yet because the prosecution history represents an ongoing negotiation between the PTO and the applicant, rather than the final product of that negotiation, it often lacks the clarity of the specification and thus is less useful for claim construction purposes." *Id*

B. Extrinsic Evidence

Extrinsic evidence is only considered if intrinsic evidence fails to resolve ambiguities in claim terms. *See CVI/Beta Ventures, Inc. v. Tura LP*, 112 F.3d 1146, 1153 (Fed. Cir. 1997); *see also Phillips*, 415 F.3d. at 1317 (extrinsic evidence less significant than intrinsic). If considered, it "may be used by the court to help understand the disputed limitation, [but] it may not be used to vary, contradict, expand, or limit the claim language from how it is defined, even by implication, in the specification or file history." *Novartis Pharm. Corp. v. Abbott Labs.*, 375 F.3d 1328, 1334 (Fed. Cir. 2004).

C. Preamble Not Limiting

Whether a preamble limits a claim depends "on the facts of each case in light of the claim as a whole and the invention described in the patent." *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, 1350 (Fed. Cir. 1998). Antecedent basis alone does not automatically render the preamble limiting. *Fujifilm Corp. v. Motorola Mob. LLC*, 2015 WL 757575, at *15-16 (N.D. Cal. 2015). Moreover, even if some language in a preamble is limiting, it "does not imply that other preamble language, or the entire preamble, is limiting." *See Cochlear Bone AB v. Oticon Med. AB*, 958 F.3d 1348, 1355 (Fed. Cir. 2020) (finding preamble provided antecedent basis for claim element, but was otherwise not limiting (citing *TomTom, Inc. v. Adolph*, 790 F.3d 1315, 1322-23 (Fed. Cir. 2015))); *Applied Mat'ls, Inc. v. Demaray LLC*, 2023 WL 3324684, at *5 (N.D. Cal. 2023) (finding some, but not all, preamble language limiting).

D. Claim Differentiation

The doctrine of "claim differentiation" presumes that claims within a patent have distinct scopes and each claim should be construed to give effect to such differences. *Versa Corp. v. Ag–Bag Int'l Ltd.*, 392 F.3d 1325, 1329-30 (Fed. Cir. 2004). "Differences among claims can . . . be a useful guide in understanding the meaning of particular claim terms." *Phillips*, 415 F.3d at 1314. The "claim differentiation tool works best in the relationship between independent and dependent claims." *Curtiss-Wright Flow Control Corp. v. Velan, Inc.*, 438 F.3d 1374, 1380 (Fed. Cir. 2006) (citing *Liebel–Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 910 (Fed. Cir. 2004)). "For example,

the presence of a dependent claim that adds a particular limitation gives rise to a presumption that the limitation in question is not present in the independent claim." *Phillips*, 415 F.3d at 1314-1315.

III. ARGUMENT

The disputed claim language is identified by Term Number as found in the Amended Joint Claim Construction and Prehearing Statement (ECF No. 54) ("Amended JCCPS"). For ease of review, these terms have been grouped by related concepts.

A. Term 1: "a method for emulating a mobile device at a server"

BSD's Proposed Construction	Amazon's Proposed Construction
This term need not be interpreted because the preamble is not limiting	Preamble is limiting / "A method for a server to imitate, i.e. act as if it is, a mobile device."

The inventions described in all four independent claims of the '887 Patent (1, 11, 20, and 28—only 11 and 20 are asserted) pertain to a unique method that off-loads computationally intensive tasks from a user's mobile device onto a server. *See, e.g.*, '887 Patent, Abstract ("methods comprise a network in which a mobile device is configured as an input/output interface for a user such that actual processing, storage and network interfaces are performed or provided by a remote server"); 2:19-21 ("methods for decoupling mobile device HW capabilities from actual mobile device performance and a user experience"). To accomplish these goals, Claims 11 and 20 disclose three steps, simplified as follows: (1) receiving by a server input information from a mobile device; (2) processing input information to produce a stream of user interface information; and (3) sending the stream of user interface information to a mobile device for reproduction. Deeper details of the invention are described within the claims, such as operating system types (14:45; 15:46-47), transmission means (14:56-57; 15:54-55), and kinds of data (14:59; 15:51). Importantly, only the dependent claims require emulation.

1. Nothing in Independent Claims 11 and 20 Require Emulation.

Asserted Claims 11 and 20 do not require emulation. In fact, of the four independent claims, only *dependent* claims associated with 1 and 11 even relate to emulation. That is, dependent claims 2 and 12 introduce for the first time emulation into the main body of a claim: "emulating, by the server, mobile device HW and executing the mobile device OS on the emulated mobile device

HW." Thus, only these two non-asserted claims require the server to act as if it is a mobile device. In contrast, no such emulation is present in independent claims 1 and 11.

2. The Preamble Is Not Limiting Because the Claim Body Itself is Structurally Complete and Claim Differentiation Renders it Superfluous.

The general rule is that "preamble language is not limiting." *Fujifilm Corp.*, 2015 WL 757575, at *15. Courts, however, may find a preamble limiting "if it recites essential structure or steps, or if it is necessary to give life, meaning, and vitality to the claim," or "[w]hen limitations in the body of the claim … derive antecedent basis from the preamble, then the preamble **may** act as a **necessary** component of the claimed invention." *Id.* (emphasis added).[4]

Here, the preamble term "emulating a mobile device at a server" adds nothing to the body of the independent claims. In fact, the phrase "for emulating a mobile device" could be removed from the preamble and the meaning of the structurally complete claims would remain unchanged because the preamble is not essential to achieving the invention's objective of off-loading the intensive processing onto a server. *See Am. Med. Sys., Inc. v. Biolitec, Inc.*, 618 F.3d 1354, 1358–59 (Fed. Cir. 2010) ("A preamble is not regarded as limiting, however, 'when the claim body describes a structurally complete invention such that deletion of the preamble phrase does not affect the structure or steps of the claimed invention.'") (citation omitted). It is irrelevant that the method-steps of the independent claims do not achieve "emulation." For instance, this scenario was described in *Bristol-Myers Squibb Co. v. Ben Venue Lab'ys, Inc.*, where the Federal Circuit affirmed a preamble as non-limiting, "**regardless [of] whether or not**" the steps of the patented method achieved the goal of the preamble language because the "claim itself strongly suggests the independence of the preamble from the body of the claim." 246 F.3d 1368, 1375 (Fed. Cir. 2001). The same is true here.

The non-essential nature of the preamble can be demonstrated with a comparison of independent Claim 11 to its dependent Claim 12. The steps of Claim 11 (and 1, 20, 28) occur at the server. 14:43-44 ("***receiving, by the server***, input information from at least one mobile device"); 14:45-46 ("**processing**, by a mobile device operating system (OS) ***executed at the server***,

[4] All emphasis is added unless otherwise specified.

the input information to produce a stream of user interface information"); 14:52-53 ("***sending, by the server***, the stream of user interface information"). These steps and structure accomplish the objective of the invention—off-loading intensive processing onto a server.

While in Claim 11 the mobile device operating system is executed at the server, dependent Claim 12 recites "**emulating, by the server, mobile device HW and executing the mobile device OS on the emulated mobile device HW**." 14:62-64. Thus, the emulation limitation introduced in Claim 12 (and other dependents) narrows Claim 11's server to also emulate mobile device hardware and execute the OS thereon. If the preamble of Claim 1 is construed as limiting, then it would render dependent Claim 12 superfluous of the independent Claim 11 from which it depends. Claim differentiation, however, instructs that there is a presumption that two claims in the same patent will not have identical scope. *Versa Corp.*, 392 F.3d at 1329-30. Here, "the presence of a dependent claim that adds a particular limitation"— *i.e.*, "emulating, by the server"— "gives rise to a presumption that the limitation in question is not present in the independent claim." *Phillips*, 415 F.3d at 1314-1315. Nothing here warrants discounting that presumption.

In short, under Defendants' proposal, dependent Claims 2 and 12 would add nothing to independent Claims 1 and 11; thus, claim differentiation instructs the preamble is not limiting.

3. The Preamble Language "A Server" is not a Necessary Antecedent Basis.

While the preamble language "a server" may arguably introduce "the server" recited in the claim body, "this alone does not require that the preamble be read as limiting." *Fujifilm Corp.*, 2015 WL 757575, at *16. To be limiting, the preamble must also "act as a necessary component" of the claimed invention. *See Am. Med. Sys.*, 618 F.3d at 1358. That is not true here.

Indeed, the original claim body language recited "a server," instead of "the server." Ex. B (U.S. Appl. No. 13/606,675) at AMAZON_BSDII_00002099, 2101, 2103-04, showing appl. claims 20, 30, 39 (corresponding to issued claims 1, 11, 20) directed to "receiving, by **a server**." Plaintiff made clear during prosecution that the change from "a" to "the" server was merely "cosmetic in nature." Ex. B. at AMAZON_BSDII_00001925, 1927-28, 1930, 1934 (Applicant amended "a server" recited in the body of application claims 20, 30, 39 (patent Claims 1, 11, 20) to read "the server" and stated that "[t]he amendments . . . clarify the wording of the claims, and

are **cosmetic in nature**."). Moreover, the body of Claim 11 recites all necessary steps (*i.e.*, "receiving," "processing" and "sending") and structure ("server," "OS" and "mobile device") making "a server" in the preamble superfluous. Thus, as "the claim body describes a structurally complete invention [and] deletion of the preamble phrase does not affect the structure or steps of the claimed invention," the preamble should not be construed to be a separate limitation. *Am. Med. Sys., Inc.*, 618 F.3d at 1358-59; *see also Bristol-Myers Squibb Co*, 246 F.3d at 1375 (finding the steps of claimed method are performed the same way regardless of whether, as stated in the preamble, a reduction of hematologic toxicity occurs).

Additionally, the non-essential nature of the preamble (including the "emulat[ion]" and "mobile device" therein) is confirmed (a) by the specification's description of the preamble's emulation as an alternative embodiment (2:25-3:67 (eight Example Embodiments, four of which make no reference to emulation)), (b) by the independent recitation of the preamble's emulation and mobile device as subject matter introduced with dependent Claims 2 and 12, and (c) by the recitation of the preamble's mobile device within the main body of Claims 1, 11, and 20 as "at least one mobile device" and "a plurality of different mobile devices."

Finally, to the extent the Court finds "a server" a necessary antecedent basis, such a finding "does not imply that the remainder of the preamble language [*e.g.*, "emulating" and "mobile device"], is also limiting." *See Cochlear Bone AB*, 958 F.3d at 1355 (finding preamble language "a patient" provided antecedent basis for "the patient" recited in the claim body, but did not render any other preamble language limiting (citing *TomTom, Inc.*, 790 F.3d at 1322-23)). Courts have instead required a separate showing for any remaining preamble language to be limiting. *See*, *e.g.*, *Applied Mat'ls, Inc.*, 2023 WL 3324684, at *5 (finding preamble language "insulating film on a substrate" limiting but other preamble language "method of deposition" and "depositing" not limiting); *L2 Mobile Tech., LLC v. TCL Electr. Ltd.*, Memorandum at pp. 11-12 and Table, (ECF No. 87), 1:22-cv-01306 (D. Del. March 7, 2024) (finding that the preamble terms "transmitting side" and "receiving side" provided limiting antecedent basis for later terms, but other preamble language was not limiting); *Sanofi-Aventis US LLC v. Fresenius Kabi USA LLC*, 2016 WL

5898627, at *4-6 (D.N.J. 2016) (finding preamble language "a patient" limiting, but other preamble phrases "method of treating" and "method of increasing the survival" not limiting).

B. Term 2: "a Mobile Device Operating System (OS)"

BSD's Proposed Construction	Amazon's Proposed Construction
"an operating system capable of running on a mobile device"	"An operating system that is specifically designed to be run on a mobile device (e.g., Google Android, Windows Phone or Mobile, Nokia Symbian, Apple iOS)."

This term from asserted claims 11 and 20 concerns the kind of operating system that runs on a server. The claims recite that it be a "mobile device operating system (OS)," which the intrinsic record instructs means "an operating system capable of running on a mobile device." Contrary to Defendants' proposal, nothing in the intrinsic record limits the mobile device operating system to those "specifically designed to run on a mobile device." *See Nikon Corp. v. ASM Lithography B.V.*, 308 F.Supp.2d 1039, 1088 (N.D. Cal. 2004) ("A 'cardinal sin of claim construction,' the Federal Circuit has observed, is to import limitations into claims where claim language permits a construction broader than the embodiments.") (citations omitted). Defendants' proposed construction would exclude well-known mobile device (*i.e.*, laptop) operating systems (*e.g.*, Windows or Linux), thereby limiting operating systems to those specifically designed for mobile phones.

1. "Mobile Devices" include Smartphones, Tablets and Laptops.

At the outset, the term "mobile devices" covers more than mere smartphones. The patent's description of Related Art begins by explaining that "mobile devices," in addition to smartphones, also include tablets and laptops. 1:27-29 ("The current generation of mobile devices (e.g., smartphones, tablets and laptops) . . ."). This is followed by embodiments that specifically contemplate phones, tablets and laptops as "mobile devices." *See, e.g.*, Fig. 2 (referring to Mobile Device as "Phone/Tablet/Laptop, Etc."). The '887 Patent even provides that "mobile devices" can include "streamers." *See* 10:7-8 ("For example, a user may use a plurality of different mobile devices, e.g., a smartphone, a tablet, and a streamer. . ."). Thus, the specification teaches a broad understanding of "mobile device."

Extrinsic evidence confirms that mobile devices are portable electronic devices. Microsoft

Computer Dictionary, Fifth Ed. 2002, ("mobile computing," n. "The process of using a computer while traveling. Mobile computing usually requires a portable computer that is battery powered, rather than a desktop system."), Ex. at H at BSD2_00002206; Cambridge Advanced Dictionary & Thesaurus (2015) (mobile device, noun, "any piece of electronic equipment such as a mobile phone or small computer that you can use in different places"), Ex. I; Merriam Webster's Dictionary (2011) (mobile adj. "capable of moving or being moved"), Ex. J.

For at least these reasons, "mobile devices" are not limited to smartphones, but include tablets, laptops, streamers, and other portable computer devices.

2. Mobile Devices Can Run a Variety of Operating Systems.

The '887 Patent explains that a mobile device *has* an operating system. *See* 1:55-61 ("A conventional mobile device is a stand-alone entity in which the entire SW stack executes on the HW of the mobile device itself . . . [and] includes . . . **an OS and applications executing on top of the OS**."). However, the mobile OS at the server may be much more powerful than the one designed for mobile device operation:

> FIG. 3 shows an example system solution SW stack separated between a mobile device and a server. . . . **[T]he basic OS/simple SW executing on the mobile device 10 may be a different (and much simpler) OS or software protocol than the mobile OS executing on the server** 12.

5:48-59.

3. Defendants Incorrectly Limit the Operating System Executed at the Server to Those "specifically designed" for Smartphones.

Defendants' proposed definition improperly limits the definition in two ways: (a) it erroneously narrows the operating systems to those used on smartphones (although the Defendants provide a straw man argument by calling it "mobile devices"), and (b) it requires the operating systems to be "specifically designed" for smartphones without any intrinsic or extrinsic support for such a limitation. This proposal, tailored for non-infringement purposes, should be rejected.

First, Defendants limit the operating systems to those used for smartphones (and certain tablets). Indeed, their parenthetical list identifies Google Android, Windows Phone or Mobile, Nokia Symbian and Apple's iOS. While the patent identifies these examples as operating systems on mobile devices, this is not an exhaustive list: 1:40-42 ("different types of OS's (**e.g.**, Google's

Android, Microsoft's Windows Mobile, Nokia's Symbian and Apple's iOS)"); 4:66-67 ("the server 12 executes a mobile device operating system (OS) (**e.g.**, Google Android 4.1 or Windows phone 8)"); and 8:7-8 ("The server 12 executed the mobile OS (**e.g.**, Google's Android or Microsoft's Windows Phone Mobile)"). In all instances within the specification (the above three), the exemplary list is prefaced by "e.g.," which is non-limiting. *See Interval Licensing LLC v. AOL, Inc.*, 766 F.3d 1364, 1373–74 (Fed. Cir. 2014) ("a [POSITA] would not understand the 'e.g.' phrase to constitute an exclusive definition of [a phrase]."). Moreover, "[e]ven when the specification describes only a single embodiment, the claims of the patent will not be read restrictively unless the patentee has demonstrated a clear intention to limit the claim scope using 'words or expressions of manifest exclusion or restriction.'" *Liebel-Flarsheim*, 358 F.3d at 906. That is not possible here. Having used the term "e.g.," instead of "i.e.," no such intention existed.

Second, Defendants improperly try to limit this term to cover only the operating systems that are "specifically designed" for essentially smartphones. This has no support in the intrinsic or extrinsic record. It is noteworthy that, unlike for phones and tablets, the '887 Patent does not identify any laptop operating system, much less one specifically designed for mobile use. Instead, expert testimony pertaining to infringement will show that laptop operating systems can include Windows, Windows Server, and Linux Ubuntu. To exclude these well-known operating systems would be improper. *See Am. Piledriving Equip., Inc. v. Geoquip, Inc.*, 637 F.3d 1324, 1331 (Fed. Cir. 2011) ("It is well settled that the role of a district court in construing claims is not to redefine claim recitations or to **read limitations into the claims to obviate factual questions of infringement** and validity") (citations omitted); *cf.* ECF No. 046-3, at 13-15 – BSD's Infringement Contentions (showing laptops and phones using Windows Server and Linux Ubuntu and that laptop operating systems can include Windows, Windows Server, and Linux Ubuntu). Thus, it would be improper to require an operating system specifically designed to run on a mobile device. *National Steel Car. Lid. v. Canadian Pacific Railway. LTD.*, 357 F.3d 1319, 1336 n.19 (Fed. Cir. 2004) ("Claim interpretations that do not read on the preferred embodiment are rarely, if ever correct and would require highly persuasive evidentiary support.").

On the other hand, BSD's construction permitting different mobile devices and operating systems that run thereon is fully consistent with the specification: "Mobile device manufacturers address different market segments by designing and manufacturing **many mobile device variants**, **each with different HW capabilities and accompanying OS**". 1:48-52.

C. Term 3: "User interface information"

BSD's Proposed Construction	Amazon's Proposed Construction
"Data that can be used to recreate or produce a display (e.g., video and/or image), audio, text, and/or other feedback (e.g., notifications, HW action data) without any processing thereof other than the decoding and playback or reproduction of the user interface information itself by the mobile device"	Plain and ordinary meaning

The specification clearly provides a definition of the term "user interface information":

> The user interface information **is** data that can be used to recreate or produce a display and/or audio without any processing thereof other than the decoding and playback or reproduction of the user interface information itself by the mobile device 10.

5:8-12.

The patentee thus acted as its own lexicographer. *See Trs. of Columbia Univ. v. Symantec Corp.*, 811 F.3d 1359, 1363 (Fed. Cir. 2016) ("The only meaning that matters in claim construction is the meaning in the context of the patent."). "When a patentee defines a claim term, the patentee's definition governs, even if it is contrary to the conventional meaning of the term." *Honeywell Int'l Inc. v. Univeral Avionics Sys. Corp.*, 493 F.3d 1358, 1361 (Fed. Cir. 2007).

Moreover, this definition is consistent with the rest of the specification. For example, the '887 Patent teaches that computationally intensive tasks occur at the server, (4:39-42 ("a mobile device acts as an input/output interface for a user such that actual processing, storage and network interfaces are performed or provided by a remote server")), but Plaintiff's proposed construction also captures the inventive aspect that media decoding may nonetheless occur at the mobile device. 7:51-61 ("the mobile device 10 further comprises intensive processing tasks, e.g., encoding/decoding of video . . . and . . . decoding video, audio, images and text data (user interface information) . . . integration . . . [and] producing a display and reproduction thereof").

In contrast, Defendants' position, that "user interface information" is understood by its plain and ordinary meaning, provides no basis to understand this term. For example, a conventional interpretation of this term (not applicable to the '887 Patent) could mean that mere information about a "user interface" would satisfy this limitation. Without more, the jury would be left in a difficult position to divine the meaning of this term. Thus, construction is proper. *O2 Micro Intern. Ltd. v. Beyond Innovation Tech. Co.*, 521 F.3d 1351, 1361 (Fed. Cir. 2008) ("A determination that a claim term 'needs no construction' or has the 'plain and ordinary meaning' may be inadequate when a term has more than one 'ordinary' meaning or when reliance on a term's 'ordinary' meaning does not resolve the parties' dispute.").

D. Term 4: "To produce a stream of user interface information . . . based on a same instance of the mobile device OS" and "instance"

BSD's Proposed Construction	Amazon's Proposed Construction
"to produce, based on the same instance of the mobile device OS, a stream of user interface information" and "occurrence"	Plain and ordinary meaning

1. The Same Instance Modifies Production of User Interface Information.

Plaintiff's proposal clarifies that the production of a stream of user interface information is based on "a same instance of the mobile device operating system." This is the plain meaning supported by the intrinsic record. Defendants oppose without explanation. Thus, construction will help the jury. *See, e.g.*, *O2 Micro*, 521 F.3d at 1362 ("[c]laim construction is . . . to clarify and when necessary to explain what the patentee covered by the claims . . .") (citation omitted).

Each independent claim (1, 11, 20 and 28) identifies a processing step with three subparts:

1) processing the input information (that was received in the first "receiving" step);
2) to produce stream(s) of user interface information (which is sent by the ***server*** to the mobile device in a separate step of each independent claim); and
3) for use in reproducing display, audio and HW action at the mobile device.

Only the production (of a stream of user interface information) is at issue here. The other two sub-parts are not in dispute, except the parties differ as to the definition of the term "instance," as explained in the next subsection. Note that this step (with its three sub-parts) is accomplished by

"a mobile device operating system (OS) executed ***at the server***." (Claims 1 and 11).

With this understanding, the only reasonable interpretation of the disputed language is that "based on a same instance of the mobile device OS" modifies the term "to [produce a stream][5] of user interface information." *See* Claims 1, 11, and 20.

The language interposed between "to produce a stream of user interface information" and "based on a same instance of the mobile device operating system," namely, "for use in reproducing at the mobile device at least one of a display, audio and a hardware (HW) action by a HW component of the mobile device," is a statement of ultimate use for the stream of user interface information ***at the mobile device***, and is unrelated to either the ***production*** of the stream of user interface information or the ***server*** where the production takes place.

Because a mobile device operating system is executed at the server, the limitation at issue here, producing "based on a same instance of the mobile device operating system," can only modify the step performed at the server (*i.e.*, the production of a stream of user interface information), and not the reproduction at the mobile device. Construing "based on the same instance of the mobile device OS" to somehow modify the limitation that occurs at the mobile device, which has no connection to the server or the stream of user interface information that is produced, would render the term non-sensical or meaningless. *See Tubular Rollers, LLC v. Maximus Oilfield Prods., LLC*, No. 2021-2319, 2023 WL 4230371, at *6 (Fed. Cir. June 28, 2023) ("A claim construction that renders asserted claims facially nonsensical cannot be correct.").

The specification supports this plain meaning as it makes clear that the production of user interface information is based on the same instance of the mobile device OS: "a plurality of mobile devices 10 may send input information to and receive ***user interface information from the same instance of an OS executed by the server*** 12." (10:2-5); "[A] user may own several different devise [sic], e.g., a cellular phone, a tablet, etc. and the user may ***use the same OS instance on the server 12 for each device***" (13:14-17).

Likewise, the March 31, 2014, Amendment and Response to Office Action, in which the "based on the same instance of the mobile device OS" was added at the end of the processing step

[5] The parties agree that Claim 20 includes the bracketed language. Amended JCCS at 2, n. 1.

in Claim 30 (issued Claim 11), further amended the sending step to firmly tie the "same instance of the mobile device OS" to the "stream of user interface information":

> [P]rocessing, by a mobile device operating system (OS) executed [by] at the server, the input information to produce a stream of user interface information for use in reproducing at the mobile device at least one of a display, audio and a hardware (HW) action by a HW component of the mobile device based on a same instance of the mobile device OS; and
> sending, by the server, the stream of user interface information to the mobile device, wherein the stream of user interface information ***from the same instance of the mobile device OS*** comprises a plurality of different types of data …

Ex. B at AMAZON_BSDII_00001927-28 (underlining in original).

> It follows that Relan fails to teach or suggest the step of "sending, by the server, the stream of user interface information to the mobile device, ***wherein the stream of user interface information from the same instance of the mobile device OS*** comprises a plurality of different types of data …

Id. at AMAZON_BSDII_00001941.

Because the claims and intrinsic record support Plaintiff's proposed construction that ties the production of the stream of user interface information to the last added element "based on the same instance of the mobile device OS," the Court should adopt Plaintiff's proposed construction.

2. An Instance Is Simply an Occurrence.

"Instance" as used by the patentee has a plain and ordinary meaning consistent with a layperson's understanding of the word—"occurrence"—a term commonly used as its synonym, but avoids confusion with other specialized applications of that same word as explained below. Ex. K (2012) (n, "an occurrence of something"); Ex. L (2011) (synonym, n "occurrence").

The patent discloses the term "instance" in different contexts. For example, it refers to (a) the "same instance" of a mobile device operating system (3:40-41, "The server processes, by a same instance of a mobile device operating system (OS) executed by the server…"), but also to (b) the "same instance" of a virtual machine (6:11-13, "[T]he ability for multiple different mobile devices 10 to use the same instance of a virtual machine . . .").

The claims and the intrinsic record, however, are clear that the claimed "instance" does not relate to an instance of a virtual machine, but to an operating system executed at a server. *See* Claims 1, 11, 20 and 28. The intrinsic record further confirms this understanding. *See, e.g.*, 3:38-

48 ("The server processes, by a same instance of a mobile device operating system (OS) executed by the server, . . ."), 3:49-67 ("The **server processes**, by a second mobile device operating system (OS) executed by the server . . . wherein the second mobile device OS has at least one of a different OS type, a different OS version and a **different OS instance** than the first mobile device OS.").

E. Term 5: "at least one of the display, the audio and the hardware (HW) action"

BSD's Proposed Construction	Amazon's Proposed Construction
"at least one of each of the display, the audio **and** the hardware (HW) action"	Plain and ordinary meaning

A POSITA would understand that the plain and ordinary meaning of this term is "at least one of ***each*** of the display, the audio and the hardware (HW) action." Importantly, the Federal Circuit has concluded that similar "at least one of . . . and" clauses have a conjunctive meaning. For instance, in *SuperGuide Corp. v. DirecTV Enters., Inc.*, the Federal Circuit held that where "[t]he phrase **'at least one of' precedes a series of categories of criteria**, and the patentee used the term **'and'** to separate the categories of criteria," it "connotes a conjunctive list." 358 F.3d 870, 886 (Fed. Cir. 2004). In applying grammatical principles, the Federal Circuit concluded that "at least one of . . . and" "modifies ***each*** member of the list, i.e., ***each*** category in the list." *Id*.

Similarly, this Court has recognized:

> Where a phrase such as "group consisting of" **"precedes a series of categories of criteria, and the patentee used the term "*and*"** to separate the categories of criteria," this **"connotes a conjunctive list."** In other words, applying the correct grammatical principle, the phrase "group consisting of" **"modifies each member of the list, i.e., each category in the list.**"

Rackable Sys., Inc. v. Super Micro Computer, Inc., No. C 05-3561 PJH, 2006 WL 3065577, at *12 (N.D. Cal. Oct. 27, 2006) (cleaned up). Therefore, the claim language here requires at least one of ***each*** of "the display, the audio and the hardware (HW) action."

This construction is supported by the Claims and the intrinsic record. First, the claims recite "at least one . . . ***and***" (not "at least one . . . ***or***"), indicating a conjunctive meaning. *See Phillips*, 415 F.3d at1312-1313 (A "fundamental maxim is that the words in a claim should be given their ordinary meaning."). Further, the antecedent for sending "at least one of **the** display, audio **and**

the HW action" in Claims 1 and 20 is "to produce **a** display, audio **and a** hardware (HW) action." 13:44-46; 15:43-44. This antecedent phrase similarly uses the conjunctive term "and." *See Phillips*, 415 F.3d. at 1314 ("[T]he context in which a term is used . . . can be highly instructive."). "And" thus carries a conjunctive meaning in the "at least one of . . . and" term.

While Defendants suggest that this term uses its plain and ordinary meaning, their disjunctive interpretation effectively changes the claim word "and" to "or" (*i.e.*, "at least one of a display, audio, ***or*** a hardware action"), and thus is at odds with the plain meaning. *See Toshiba Corp. v. Hynix Semiconductor, Inc.*, No. C-04-4708 VRW, 2006 WL 2432288, at *16 (N.D. Cal. Aug. 21, 2006) (rejecting defendant's proposal "because its construction contradict[ed] the claim language"). Defendants' disjunctive interpretation is confirmed by their Petition for *Inter Partes* Review ("IPR") (IPR2025-00057) ("Pet."). *See* Pet. at 3 (citing Ex. 1002,'887 File History at 182–190 ("the Applicant amended independent claims 20, 30, and 47 (issued as claims 1, 11, and 20, respectively) to recite that the server produces 'a stream of user interface information' for use in reproducing a display, audio, ***or*** HW action 'at the mobile device.'").

Moreover, the Claims negate a disjunctive construction. For example, Claim 11 refers to a "***plurality of different*** data types and the server sends ***each*** different ***type of data***" (14:55-57), which only makes sense if "and" is read conjunctively so as to include a plurality of ***different*** data types (*i.e.*, at least one of ***each*** of the display, audio ***and*** hardware actions). *See Phillips*, 415 F.3d at 1314 ("[T]he context . . . can be highly instructive."); *see also ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1088 (Fed. Cir. 2003) ("[T]he context of the surrounding words of the claim also must be considered in determining the ordinary and customary meaning of those terms."). Defendants' position—that only one type of data is required (*i.e.*, display, audio, ***or*** hardware actions)—is nonsensical in the context of Claim 11's teaching of a plurality of different data types. *See Toshiba Corp. v. Hynix Semiconductor, Inc.*, No. C-04-4708 VRW, 2006 WL 2432288, at *16 (N.D. Cal. Aug. 21, 2006) (rejecting defendant's proposed construction because it contradicted the claim language); *see also Honeywell Int'l, Inc. v. Acer America Corp.*, No. 6:07-cv-125, 2009 WL 68896, at *9 (E.D. Tex. Jan. 7, 2009) (construction that contradicts the claims "must be rejected").

The specification further reinforces a conjunctive reading of this term. It consistently uses the conjunction "and" in reference to this term: "The mobile device produces at least one of a display, audio ***and*** a HW action by a HW component of the mobile device from the at least one data stream." 2:33-36; *see also* 2:43-46; 2:54-57; 2:67-3:3; 3:6-8; 3:44-45; 3:61-63. Courts often find terms to be limited "to a context consistently used throughout the specification." *See Depomed, Inc. v. Ivax Corp.*, 532 F. Supp. 2d 1170, 1180 (N.D. Cal. 2007) (citation omitted).

Importantly, the patentee knew how to use disjunctive language: "The mobile device 10 produces the display, speaker audio ***and/or*** a HW action of a hardware component . . . based on the mirrored emulated user interface information." 6:66-7:3. But the patentee purposefully chose not to use disjunctive language in the claims opting for the conjunctive word "and."

Moreover, the specification supports a conjunctive construction in that it teaches that "[t]he mobile device 10 decodes and **assembles the separate video, image and text data streams** of the display data/user interface data into a display." 10:56-58. It "enables **different HW operations or actions** according to requests from the [server] . . . . The mobile device 10 decodes the compressed **audio** of the user interface data and reproduces the audio at the speaker **in coordination with the assembled display**." 10:58-64. Similarly, the specification teaches that "[t]he server 12 decodes the ***audio/video data***, processes and stores the audio/video data . . . and sends . . . the result of the processing to the mobile device 10 at S72 (**each type of data being sent in a different data stream**)." 11:21-25. The "mobile device 10 decodes the processed audio/video data from each stream, **integrates the data from the separate streams together** to produce a display and displays the result and reproduces the audio to the user at S73." 11:29-33. It would not make sense if the claims permitted only one of the display, the audio **or** the hardware (HW) actions because the patent teaches assembling and integrating different data streams together.

Accordingly, the term "at least one of the display, the audio and the hardware (HW) action" should be construed, consistent with the plain and ordinary meaning of its conjunctive form, as "at least one of each of the display, the audio and the hardware (HW) action," which requires at least one display action, at least one audio action, and at least one hardware (HW) action.

F. Term 6: "quality of service / quality of service different from a quality of service of another of said separate data streams"[6]

BSD's Proposed Construction	Amazon's Proposed Construction
Quality of Service: "characteristics of a service that bear on its ability to satisfy stated and implied needs of the user of the service" Plain and ordinary meaning	Quality of Service: Plain and ordinary meaning "Prioritizing certain data streams over others in limited bandwidth environments."

A POSITA would understand the plain and ordinary meaning of "quality of service" as "characteristics of a service that bear on its ability to satisfy stated and implied needs of the user of the service," and the remainder of the term (*i.e.*, "quality of service different from a quality of service of another of said separate data streams") has a plain and ordinary meaning that requires no construction. Conversely, Defendants argue that "quality of service" needs no construction, while the remainder of the term ("quality of service different from a quality of service of another of said separate data streams") means "prioritizing certain data streams over others in limited bandwidth environments."

Both parties agree that "quality of service" should be given its plain and ordinary meaning. BSD, however, believes that a construction will help clarify this technical term and assist the jury. *See O2 Micro*, 521 F.3d at 1362 ("[C]laim construction is a matter of resolution of disputed meanings and technical scope, ***to clarify and when necessary to explain*** what the patentee covered by the claims . . . .") (citation omitted); *see also Largan Precision Co, Ltd v. Genius Elec. Optical Co., Ltd*, No. 13-CV-02502-JD, 2014 WL 5358426, at *4 (N.D. Cal. Oct. 20, 2014) (finding "no reason why a claim term cannot be given a construction that ***explains, in language comprehensible to a jury, what the term means*** to a person of ordinary skill in the art.").

BSD's proposal comes from the ITU-T's (the Telecommunication Standardization Sector of the ITU, the United Nations agency for digital technologies) definition of "quality of service (QoS)" in its "Vocabulary for performance and quality of service" amendments. There, the term is defined as the "totality of **characteristics of a** telecommunications **service that bear on its ability to satisfy stated and implied needs of the user of the service**." Ex. M at BSD2_00002196. BSD's

[6] The Parties agree there is a typographical error and that the relevant portion should state "a quality of service different [from a] quality service of another of said separate data streams" to match the language in claim 10. Amended JCCS at 3, n 2.

construction (*i.e.*, "characteristics of a service that bear on its ability to satisfy stated and implied needs of the user of the service") is thus how a POSITA would understand this technical term. The disputed term is found in dependent claims 7, 16, and 24, and reads in full, "The method of claim [x], wherein at least one of said separate data streams comprises a quality of service different from a quality of service of another of said separate data streams." Even in context, "quality of service," without more, is likely unhelpful to the jury. BSD's construction will make clear that quality of service means the characteristics of a service that satisfy the needs of the user.

BSD's construction is also supported by the specification, which teaches that "[e]ach individual stream of data may have a different **QoS so that a quality of experience (QoE) is optimal even if [bandwidth] BW is lacking**. For example, voice and sensor data streams may typically have a higher QoS level than video data streams **so that a user receives high quality calls and senses minimal lag of the user interface**." 9:40-46. Further, when explaining the configuring of the mobile device for minimal latency, the specification explains that "**a user should not feel** that the mobile device 10 behaves differently from a conventional mobile device in which functionality is executed locally." 9:47-52. These disclosures buttress BSD's construction of "quality of service"—that the term includes the "characteristics of a service that bear on its ability to **satisfy stated and implied needs of the user** of the service."

On the other hand, Defendants' proposal to construe the latter portion of this clause (*i.e.*, "quality of service different from a quality of service of another of said separate data streams") as "prioritizing certain data streams over others in limited bandwidth environments" inappropriately limits the term and provides no clarification for a jury. ***Nothing*** in the claim requires "***prioritizing***" certain data streams in limited bandwidth conditions. *See Nikon Corp.*, 308 F. Supp. 2d at 1088 ("A 'cardinal sin of claim construction,' the Federal Circuit has observed, is to import limitations into claims where claim language permits a construction broader than the embodiments."). The words of the phrase Defendants seek to construe are already clear, non-technical words that need no construction—there simply must be separate data streams with different qualities of service. *See Brown v. 3M*, 265 F.3d 1349, 1352 (Fed. Cir. 2001) (concluding that "[non-]technical terms of art . . . do not require elaborate interpretation").

Nor does the specification command such a construction. While the specification discusses that certain data streams **may** have lower or higher levels of QoS (*e.g.*, "a video stream **may** receive H.264 encoding/decoding and a **lowest level QoS.** A voice stream **may** receive lossless encoding and a **higher level of QoS"** (9:57-59)), there is no disavowal, lexicography, or other reason to import these embodiments (which are couched in language of possibility (*i.e.*, "may")) to limit the clear claim language by including prioritization in certain bandwidth environments. *See Thorner v. Sony Computer Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) ("There are only two exceptions to the general rule that claim terms are given their plain and ordinary meanings: '(1) when a patentee sets out a definition and acts as his own lexicographer, or (2) when the patentee disavows the full scope of a claim term either in the specification or during prosecution.'") (citations omitted); *see also DealerTrack, Inc. v. Huber*, 674 F.3d 1315, 1327 (Fed. Cir. 2012) ("As a general rule, 'it is improper to read limitations from a preferred embodiment described in the specification—even if it is the only embodiment—absent a clear indication in the intrinsic record that the patentee intended the claims to be so limited.'") (citations omitted).

Indeed, Defendants' proposal itself creates confusion as it provides no guidance on which "certain" data streams are prioritized or what constitutes "limited bandwidth environments." *See Network Appliance Inc. v. Sun Microsystems Inc.*, No. C07-06053 EDL, 2008 WL 4193049, at *35-36 (N.D. Cal. Sept. 10, 2008) (rejecting proposed construction that added confusing language).

IV. CONCLUSION

For the above stated reasons, Plaintiff respectfully requests that the Court construe the disputed terms as set forth herein.

Dated: April 4, 2025

By: */s/ Francisco A. Villegas*

Francisco A. Villegas
Damir Cefo (*pro hac vice*)
Mark W. Halderman (*pro hac vice*)
Evan M. Rosenbaum
VILLEGAS & CEFO LLP

John V. Picone III
SPENCER FANE LLP

Attorneys for Plaintiff
B.S.D. CROWN, LTD.

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2025, I caused the service of the foregoing on counsel of record via ECF filing, including on the following:

Stefani E. Shanberg
Robin L. Brewer
Nathan B. Sabri
Mathieu A. Swiderski
Karl M. Johnston
PERKINS COIE LLP
505 Howard Street, Suite 1000
San Francisco, CA 94105
sshanberg@perkinscoie.co
rbrewer@perkinscoie.com
nsabri@perkinscoie.com
mathieuswiderski@perkinscoie.com
kjohnston@perkinscoie.com

Larry L. Shatzer
EDELL, SHAPRIO & FINNAN
9801 Washingtonian Blvd.
Suite 750
Gaithersburg, MD 20878
lshatzer@esfip.com

Attorneys for Defendant Amazon.com, Inc., Amazon Web Services, Inc., and Amazon.com Services, LLC

By: */s/ Francisco A. Villegas*

APPENDIX A, INDEPENDENT CLAIMS 11 AND 20

11. A method for emulating a mobile device at a server, comprising:

receiving, by the server, input information from at least one mobile device;

processing, by a mobile device operating system (OS) executed at the server, the input information to produce a stream of user interface information for use in reproducing at the mobile device at least one of a display, audio and a hardware (HW) action by a HW component of the mobile device based on a same instance of the mobile device OS; and

sending, by the server, the stream of user interface information to the mobile device, wherein the stream of user interface information from the same instance of the mobile device OS comprises a plurality of different types of data and the server sends each different type of data to the mobile device in a separate data stream for reproduction on the mobile device of at least one of the display, audio and the HW action by the HW component of the mobile device.

20. A method for emulating a mobile device at a server comprising:

receiving, by the server, input information from a plurality of different mobile devices, wherein the input information has not been processed to produce a display, audio and a hardware (HW) action by a corresponding HW component of the mobile devices;

processing, by a same instance of a mobile device operating system (OS) executed at the server, the input information from each of the plurality of different mobile devices to produce user interface information for use in reproducing at the different mobile devices at least one of the display, audio and the HW action by the HW components of the different mobile device based on the same instance of the mobile device OS; and

sending, by the server, the user interface information to at least one of the plurality of different mobile devices.