UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of **CERTAIN COMPUTING DEVICES UTILIZING INDEXED SEARCH SYSTEMS AND COMPONENTS THEREOF**	**Inv. No. 337-TA-1389**

ORDER NO. 18: INITIAL DETERMINATION GRANTING-IN-PART RESPONDENTS' MOTION FOR SUMMARY DETERMINATION

(September 3, 2024)

On August 5, 2024, respondents Acer Inc. and Acer America Corporation, ASUSTek Computer Inc., ASUS Computer International, Dell Technologies Inc. and Dell Products L.P. (together, "Respondents") moved (1389-007) for summary determination of noninfringement of all remaining asserted claims ("Mot."). On August 15, 2024, complainant X1 Discovery, Inc. ("X1") filed an opposition ("Opp'n"). Thereafter, on August 23, 2024, Respondents filed a motion to strike a portion of X1's opposition as an untimely infringement theory. That motion was granted-in-part on September 3, 2024. Order No. 17. The motion for summary determination is granted-in-part, as determined below.

I. Legal Standard

a. Summary Determination

Commission Rule 210.18, in pertinent part, states:

> Any party may move with any necessary supporting affidavits for a summary determination in its favor upon all or any part of the issues to be determined in the investigation. . . . Any nonmoving party may file opposing affidavits within 10 days after service of the motion for summary determination. The administrative law judge may, in his discretion or at the request of any party, set the matter for

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> oral argument and call for the submission of briefs or memoranda. The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.

19 C.F.R. § 210.18. The Commission has analogized summary determination to summary judgment, wherein "'the evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.'" *Certain Carburetors and Products Containing Such Carburetors*, Inv. No. 337-TA-1123, Comm'n Op. at 5-6 (Oct. 28, 2019) (citing *Liebel-Flarsheim Co. v. Medrad, Inc.*, 481 F.3d 1371, 1377 (Fed. Cir. 2007) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986))). Where the moving party bears the burden of proof on a particular issue, the moving party must show that there is no genuine issue of material fact as to every element. *See Meyers v. Asics Corp.*, 974 F.2d 1304, 1307 (Fed. Cir. 1992). Where the nonmoving party bears the burden of proof on a particular issue, the moving party must show that the nonmoving party failed to produce evidence on an essential element of its claim or defense. *See Eli Lilly and Co. v. Barr Labs., Inc.*, 251 F.3d 955, 962 (Fed. Cir. 2001).

b. Claim Construction

"The construction of claims is simply a way of elaborating the normally terse claim language in order to understand and explain, but not to change, the scope of the claims." *Embrex, Inc. v. Serv. Eng'g Corp.*, 216 F.3d 1343, 1347 (Fed. Cir. 2000). Claim construction focuses on the intrinsic evidence, which consists of the claims themselves, the specification, and the prosecution history. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc); *see also Markman v. Westview Instr., Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc). As the Federal Circuit in *Phillips* explained, courts must analyze each of these components to

determine the "ordinary and customary meaning of a claim term" as understood by a person of ordinary skill in art at the time of the invention. 415 F.3d at 1313. "Such intrinsic evidence is the most significant source of the legally operative meaning of disputed claim language." *Bell Atl. Network Servs., Inc. v. Covad Commc'ns Grp., Inc.*, 262 F.3d 1258, 1267 (Fed. Cir. 2001).

The construction of a claim term is generally guided by its ordinary meaning. However, courts may deviate from the ordinary meaning when: (1) "the intrinsic evidence shows that the patentee distinguished that term from prior art on the basis of a particular embodiment, expressly disclaimed subject matter, or described a particular embodiment as important to the invention;" or (2) "the patentee acted as his own lexicographer and clearly set forth a definition of the disputed claim term in either the specification or prosecution history." *Edwards Lifesciences LLC v. Cook Inc.*, 582 F.3d 1322, 1329 (Fed. Cir. 2009); *see Apple Inc. v. Wi-LAN Inc.*, 25 F.4th 960, 967 (Fed. Cir. 2022); *GE Lighting Sols., LLC v. AgiLight, Inc.*, 750 F.3d 1304, 1309 (Fed. Cir. 2014) ("the specification and prosecution history only compel departure from the plain meaning in two instances: lexicography and disavowal."); *Omega Eng'g, Inc, v. Raytek Corp.*, 334 F.3d 1314, 1324 (Fed. Cir. 2003) ("[W]here the patentee has unequivocally disavowed a certain meaning to obtain his patent, the doctrine of prosecution disclaimer attaches and narrows the ordinary meaning of the claim congruent with the scope of the surrender."); *Rheox, Inc. v. Entact, Inc.*, 276 F.3d 1319, 1325 (Fed. Cir. 2002) ("The prosecution history limits the interpretation of claim terms so as to exclude any interpretation that was disclaimed during prosecution."). Nevertheless, there is a "heavy presumption that a claim term carries its ordinary and customary meaning." *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366 (Fed. Cir. 2002) (citations omitted). The standard for deviating from the plain and ordinary meaning is

"exacting" and requires "a clear and unmistakable disclaimer." *Thorner v. Sony Computer Entm't Am. LLC*, 669 F.3d 1362, 1366-67 (Fed. Cir. 2012); *see Epistar Corp. v. Int'l Trade Comm'n*, 566 F.3d 1321, 1334 (Fed. Cir. 2009) (requiring "expressions of manifest exclusion or restriction, representing a clear disavowal of claim scope" to deviate from the ordinary meaning) (citation omitted).

c. Infringement

"An infringement analysis entails two steps. The first step is determining the meaning and scope of the patent claims asserted to be infringed. The second step is comparing the properly construed claims to the device accused of infringing." *Markman*, 52 F.3d at 976. A patentee may prove infringement either literally or under the doctrine of equivalents. Infringement of either sort must be proven by a preponderance of the evidence. *SmithKline Diagnostics, Inc. v. Helena Labs. Corp.*, 859 F.2d 878, 889 (Fed. Cir. 1988). A preponderance of the evidence standard "requires proving that infringement was more likely than not to have occurred." *Warner Lambert Co. v. Teva Pharm. USA, Inc.*, 418 F.3d 1326, 1341 n.15 (Fed. Cir. 2005).

Literal infringement is a question of fact. *Finisar Corp. v. DirecTV Group, Inc.*, 523 F.3d 1323, 1332 (Fed. Cir. 2008). "To establish literal infringement, every limitation set forth in a claim must be found in an accused product, exactly." *Microsoft Corp. v. GeoTag, Inc.*, 817 F.3d 1305, 1313 (Fed. Cir. 2016) (quoting *Southwall Techs., Inc. v. Cardinal IG Co.*, 54 F.3d 1570, 1575 (Fed. Cir. 1995). If any claim limitation is absent, there is no literal infringement of that claim as a matter of law. *Bayer AG v. Elan Pharm. Research Corp.*, 212 F.3d 1241, 1247 (Fed. Cir. 2000).

II. Analysis

In this investigation, X1 asserts U.S. Patent Nos. 8,856,093 ("the 093 patent") and 8,498,977 ("the 977 patent") which concern computerized search techniques. Claims 1, 2, 7, and 19 of the 977 patent and claims 13 and 18 of the 093 patent are asserted for infringement. Order No. 15; EDIS Doc. 830335 (Ground Rule 5.3 Final Case-Narrowing Disclosure). In the 977 patent, claims 1 and 19 are independent and claims 2 and 7 depend from claim 1. 977 patent at cls. 1, 2, 7, 19. In the 093 patent, both of claims 13 and 18 are independent. 093 patent at cls. 13, 18. X1 alleges these claims are infringed due to two search features within Microsoft Windows and Microsoft 365 as installed on Respondents' consumer electronics products: (1) "Windows Search"; and (2) "Microsoft 365 Search." *See* Mot. at 7-10; Opp'n at 1 n.2. Respondents provide the following screenshots of Windows Search and Microsoft 365 Search, respectively, for context:

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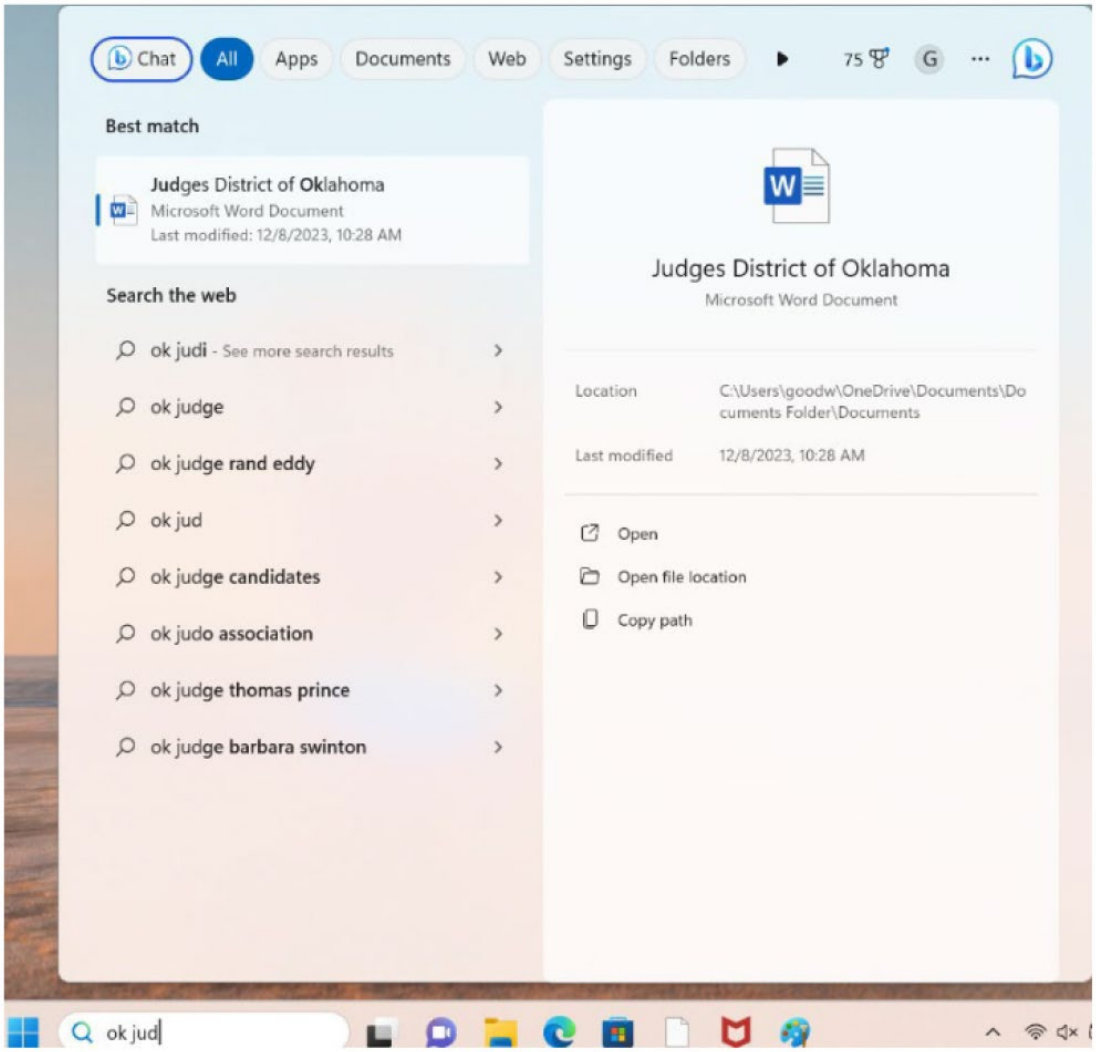
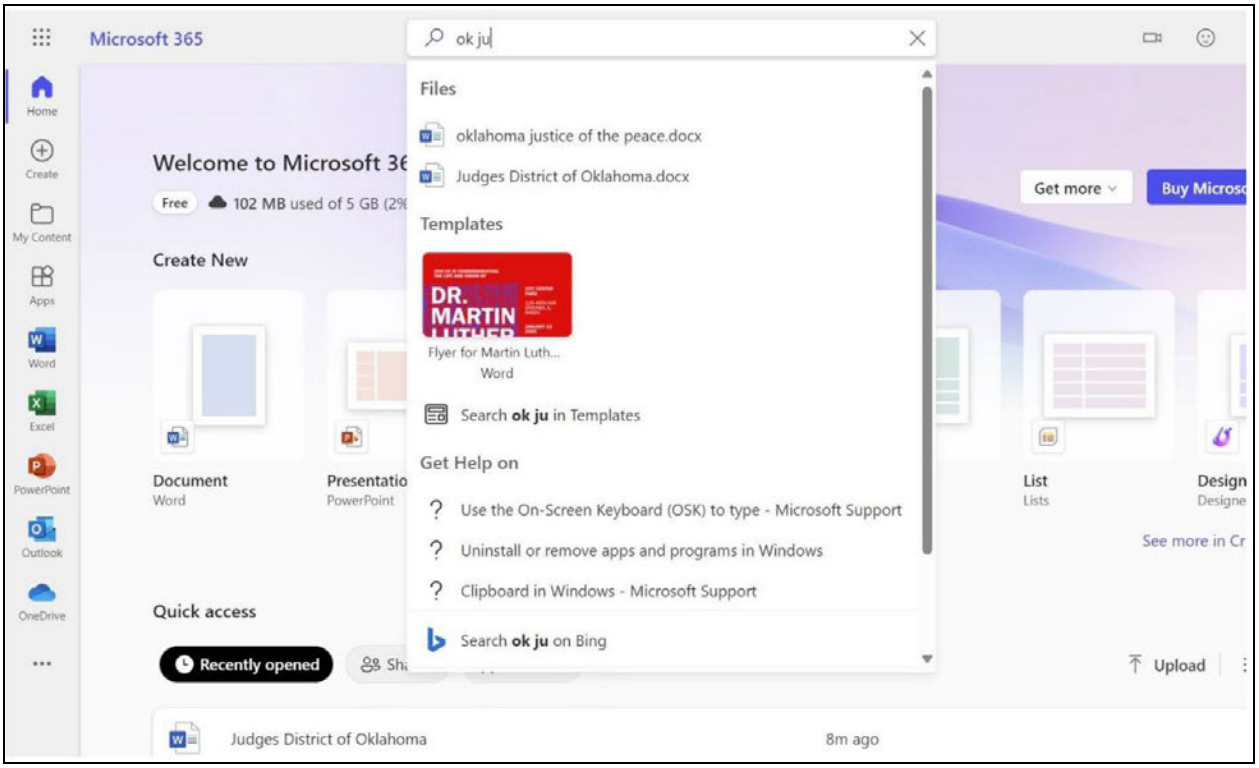


(*id.* at 8 (citing Mot., Ex. 4 (Bederson Rpt.) at ¶ 403));

[redacted]



(*id.* at 9 (citing Mot., Ex. 4 (Bederson Rpt.) at ¶ 584)).

Among other things, claims 1 and 19 in the 977 patent both recite: "wherein the first string and the second string are non-adjacent in at least one of the identified documents." 977 patent at cls. 1, 19. And claims 13 and 18 in the 093 patent both recite: "initiating an incremental search of a plurality of documents in order to locate documents that each comprises the first string." 093 patent at cls. 13, 18. Respondents contend that, based on all intrinsic and extrinsic evidence, the proper construction of "non-adjacent in at least one of the identified documents" (977 patent) and "documents that each comprise[s] the first string" (093 patent) means "the search terms must be located within the *content* of the documents, rather than in the file name or another attribute associated with the file." Mot. at 14 (emphasis in original); *see id.* at 21. And, according to Respondents, under the proper construction, Windows Search and

Microsoft 365 Search do not literally infringe because they do not search contents of documents (*i.e.*, within the document). *See* Mot. at 21-25 (citing, *inter alia*, Mot., Ex. 5 (Mizenmacher Rpt.); Mot., Ex. 6 (Christensen Dep.) at 99:17-19; Mot., Ex. 9 (Bederson Dep.) at 143:9-146:7, 162:3-15, 169:11-175:10, 175:22-177:16). Respondents explain:

> Microsoft intentionally designed the accused Windows features not to search file content during an incremental search in order to improve user experience. *See* Ex. 3 (Mitzenmacher Opening Report) at ¶¶ 82-83, 100-102. Content searching rendered the results too voluminous and slowed the search process. *See id.* In contrast, X1 designed its domestic industry products to specifically search document content, which X1 touts as a key feature of its products. *See id.* ¶¶ 83, 102.

Id. at 10. Respondents assert that X1 does not present a theory of literal infringement when the above construction is adopted. *Id.* at 22; *see id.* at 23-25 (citing Mot., Ex. 4 (Bederson Rpt.)). All parties agree that doctrine of equivalents is not at issue for this motion. Opp'n at 2 n.4; Mot. at 26 n.6; *see* Order No. 11.

The record supports summary determination of non-infringement under the 977 patent, but not the 093 patent. First, as it pertains to claim construction, Respondents' references to the plain language of the claims and the patents' shared specification are not particularly persuasive. The plain language of "non-adjacent in at least one of the identified documents" (977 patent) could refer to the content of the document but also its attributes (*e.g.*, metadata), since the attributes are a part of the file. Indeed, as X1 notes, the specification discloses that a single document "target" can include both "content information" and "attribute information." Opp'n at 11 (citing 977 patent at 2:23-29).

Respondents argue this ordinary interpretation "would be an improper stretch" but do not explain why (Mot. at 14-15), and they otherwise acknowledge that "the specification discloses

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attributes that can also be searched, including file name, file type, file modification date field, file size, and file path" (*id.* at 16). While these attributes are disclosed as searched using a separate field from the field assigned to document contents (*see id.* at 15 (citing 977 patent at 16:21-30), 16 (citing 977 patent at Fig. 4A, 15:12-45)), the claims at issue make no reference to different or multiple search fields (*see* 977 patent at cl. 1 (reciting only "a first search field"), 19 (same)). So the specification's teaching of using separate fields to search between "document attributes" and "within documents" (*id.* at 16) is not implicated by the claim language "wherein the first string and the second string are non-adjacent in at least one of the identified documents." *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001) ("In construing claims, the analytical focus must begin and remain centered on the language of the claims themselves, for it is that language that the patentee chose to use to 'particularly point [ ] out and distinctly claim [ ] the subject matter which the patentee regards as his invention.").

The plain meaning of "documents that each comprise[s] the first string" (093 patent) would also capture the attributes of documents since, again, the attributes are a part of the file and the document is fairly said to "comprise" everything that it includes. Respondents do not even attempt to cite examples from the specification showing any alternate usage or patentee definition of "comprise." *See* Mot. at 20-21.

Turning back to the 977 patent, Respondents' citations to its prosecution history fare no better. *See* Mot. at 17-19. Referring to the appendices attached to X1's complaint, Respondents argue that in three separate events, the applicant amended the claims and distinguished the prior art "based on searching the content of the document." *Id.* (citing Complaint, App'x A, Part 3 at *227-232); Complaint, App'x A, Part 4 at *26-31, 75-80). Not so. In the first event, the

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applicant merely clarified that a search for "Dr. Jones" must look for "Dr." and "Jones" as separate terms, and not "Dr. Jones" as one phrase. Complaint, App'x A, Part 3 at *231. This is a different issue from searching document contents vs. attributes. In fact, "wherein the first string and the second string are non-adjacent in at least one of the identified documents," had not yet been added to the claims. *Id.* at *227.

In the second event, the applicant did remark that certain prior art ("Spaey") was "quite different in that it is searching header information associated with music files, rather than documents that 'are primarily textual,'" as Respondents allege. Mot. at 18; Complaint, App'x A, Part 4 at *31. But Respondents have tellingly left off the applicant's previous sentence which makes it clear the comment was in reference to claim language which read, "a plurality of documents that are primarily textual, including word processing documents and/or electronic mail":

> Additionally, claim 1 has been amended to recite that the documents being searched "are primarily textual, including word processing documents and/or electronic mail." Spaey is quite different in that it is searching header information associated with music files, rather than documents that "are primarily textual" as recited in amended claim 1. Claim 1 has been further amended to recite that "at least one of the identified documents includes the first string and the second string in non-contiguous locations," in addition to the amendment to specify that the first string and second string are received in a same field. Thus, claim 1 now recites that at least one of the identified documents that is primarily textual includes the first search string at a location that is non-contiguous to the location of the second search string. As noted above, Spaey fails to teach or suggest this feature. Thankachan's search for "Dr. Jones" also fails to

Complaint, App'x A, Part 4 at *31; *see id.* at *26 (full claim language). This is not the claim limitation now needing construction and so the applicant's remark is inapposite.

The third event from the 977 patent prosecution history is equally unavailing. The claim limitation at issue is now present in the claims—"wherein the first string and the second string are non-adjacent in at least one of the identified documents." Complaint, App'x A, Part 4 at *75. But the applicant remarks contain no insight other than to generally assert the prior art fails to teach this feature. *See id.* at *79-80. There is no "clear" or "unmistakable" disclaimer here under *Thorner.* 669 F.3d at 1367. Thus, these events do not support Respondents' construction as for the 977 patent. Respondents do not even attempt to show how they support the same construction for the alternate claim language present in the 093 patent. *See* Mot. at 20-21.

Nevertheless, Respondents have persuasively shown that during the prosecution of a related patent, the applicant explicitly disclaimed searching outside of a document's contents as meeting "non-adjacent in at least one of the identified documents." Mot. at 19-20. U.S. Patent No. 9,633,139 ("the 139 patent") is entitled "Methods and Systems for Search Indexing" and is a continuation of the same original application that the 977 and 093 patents continue from—"application No. 10/654,588, filed on Sep. 3, 2003, now Pat. No. 7,370,035."[1] *See* 977 patent at cover; 093 patent at cover; 139 patent at cover. During its prosecution, independent claim 2 read remarkably similarly to claim 1 of the 977 patent:

[1] No party attaches the 139 patent to their briefings, but as a record of the USPTO, it is proper to take official notice of its contents. *Certain Infotainment Systems, Components Thereof, and Automobiles Containing the Same*, Inv. No. 337-TA-1119, Order No. 52 (Sep. 23, 2019).

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2. **(Previously Presented)** A method of performing a search comprising:

receiving a first partial search string in a first search field;

receiving a second partial search string in the first search field;

wherein the first and second partial search strings are separated by a string separator character in the first search field;

incrementally searching a set of documents in order to identify search results, wherein the incrementally searching comprises:

searching for a first one or more documents each including at least one string that corresponds to the first partial search string;

searching for a second one or more documents each including at least one string that corresponds to the second partial search string; and

updating the search results as each successive character of the first partial search string and the second partial search string is received respectively in the first search field by identifying one or more documents included in both the first one or more documents and the second one or more documents, wherein the first partial search string and the second partial search string are non-adjacent in at least one of the identified documents.

Mot., Ex. 8 at *118. Most important is the last limitation, which is effectively the same as the operative limitation in claim 1 and 19 of the 977 patent: "wherein the first [partial search] string and the second [partial search] string are non-adjacent in at least one of the identified documents."

As with the 977 patent, the examiner applied the Spaey reference against this claim of the 139 patent. Mot., Ex. 8 at *124. The applicant argued *specifically* that "the first partial search string and the second partial search string are non-adjacent in at least one of the identified documents" was not taught in Spaey because Spaey searched metadata and had "no teaching or suggestion of searching content of a document itself":

[redacted]

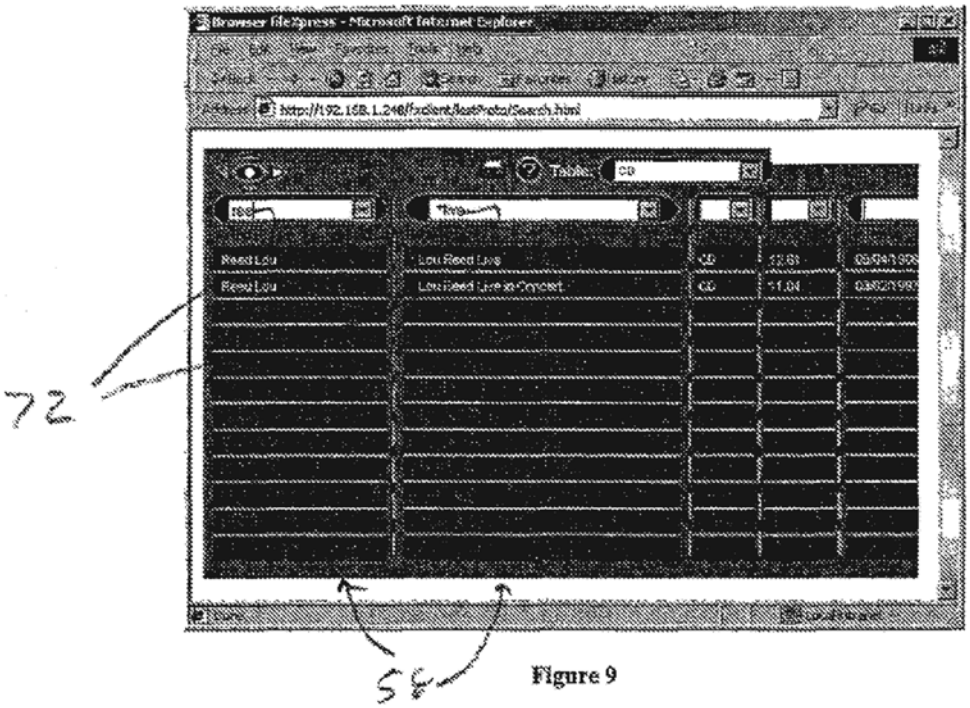

Figure 9

> Additionally, Spaey, as well as the other art of record, fails to teach or suggest that "the first partial search string and the second partial search string are non-adjacent in at least one of the identified documents," as recited in claim 2. The Office Action cites the same portions of Spaey as allegedly teaching this feature. However, no such teaching or suggestion is found in Spaey. In contrast, Spaey appears to search meta-data associated with a music file, such as artist, album, format, or length, according to search criteria entered into separate fields associated with these separate meta-data items. There is no teaching or suggestion of searching content of a document itself, such that the search results would include "the first partial search string and the second partial search string [are] non-adjacent in at least one of the identified documents," as recited in claim 2.
>
> For at least the reasons discussed above, Applicant respectfully requests allowance of claim 2.

Id. at *126. This is a clear disclaimer that searching metadata associated with a file alone does not qualify as searching the content of a document itself as is required by "wherein the first

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[partial search] string and the second [partial search] string are non-adjacent in at least one of the identified documents." *Thorner*, 669 F.3d at 1367. The Federal Circuit has repeatedly held that applicant remarks on common terms such as this are binding in related applications (*e.g.*, the 977, 093, and 193 patents). *See, e.g.*, *Teva Pharms. USA, Inc. v. Sandoz, Inc.*, 789 F.3d 1335, 1343 (Fed. Cir. 2015) ("A statement made during prosecution of related patents may be properly considered in construing a term common to those patents, regardless of whether the statement pre- or post-dates the issuance of the particular patent at issue.") ("*Teva*"); *Infinity Computer Prods., Inc. v. Oki Data Americas, Inc.*, 987 F.3d 1053, 1059 (Fed. Cir. 2021) (citing *Teva*); *MasterMine Software, Inc. v. Microsoft Corp.*, 874 F.3d 1307, 1311 n.2 (Fed. Cir. 2017) (citing *Teva*); *One-E-Way, Inc. v. Int'l Trade Comm'n*, 859 F.3d 1059, 1068 (Fed. Cir. 2017) (citing *Teva*).

X1 has essentially no counter argument to these facts and law other than a suggestion that applications which come later are not binding on the interpretation of those that come earlier. *See* Opp'n at 19-20. As cited above, the court in *Teva* explicitly rejected this suggestion. *Teva*, 789 F.3d at 1343.

Thus, "non-adjacent in at least one of the identified documents" means non-adjacent within the content of at least one of the identified documents, as per Respondents' construction for claims 1 and 19 of the 977 patent. This limitation does not appear in claims 13 or 18 of the 093 patent, however. And Respondents have not adequately shown how the otherwise clear disclaimer connects with "documents that each comprise[s] the first string." So the standard of *Thorner* has not been met at this time and Respondents' motion is denied as to the 093 patent.

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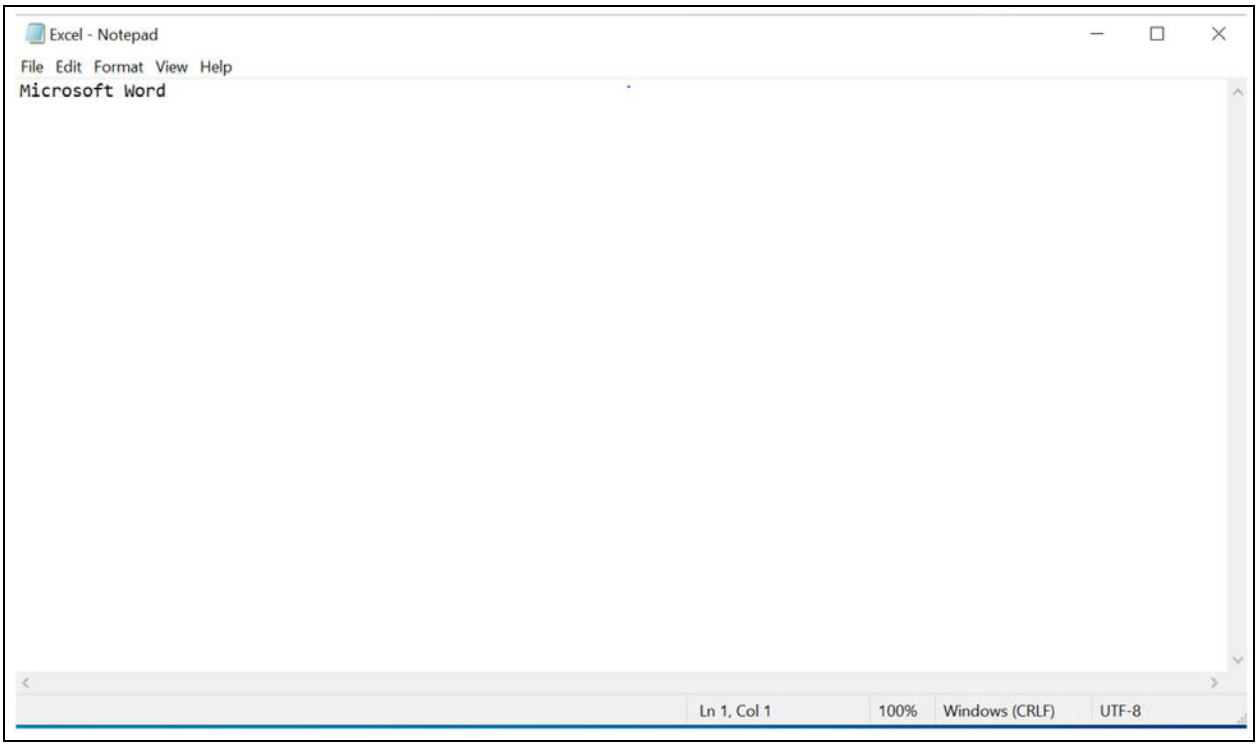
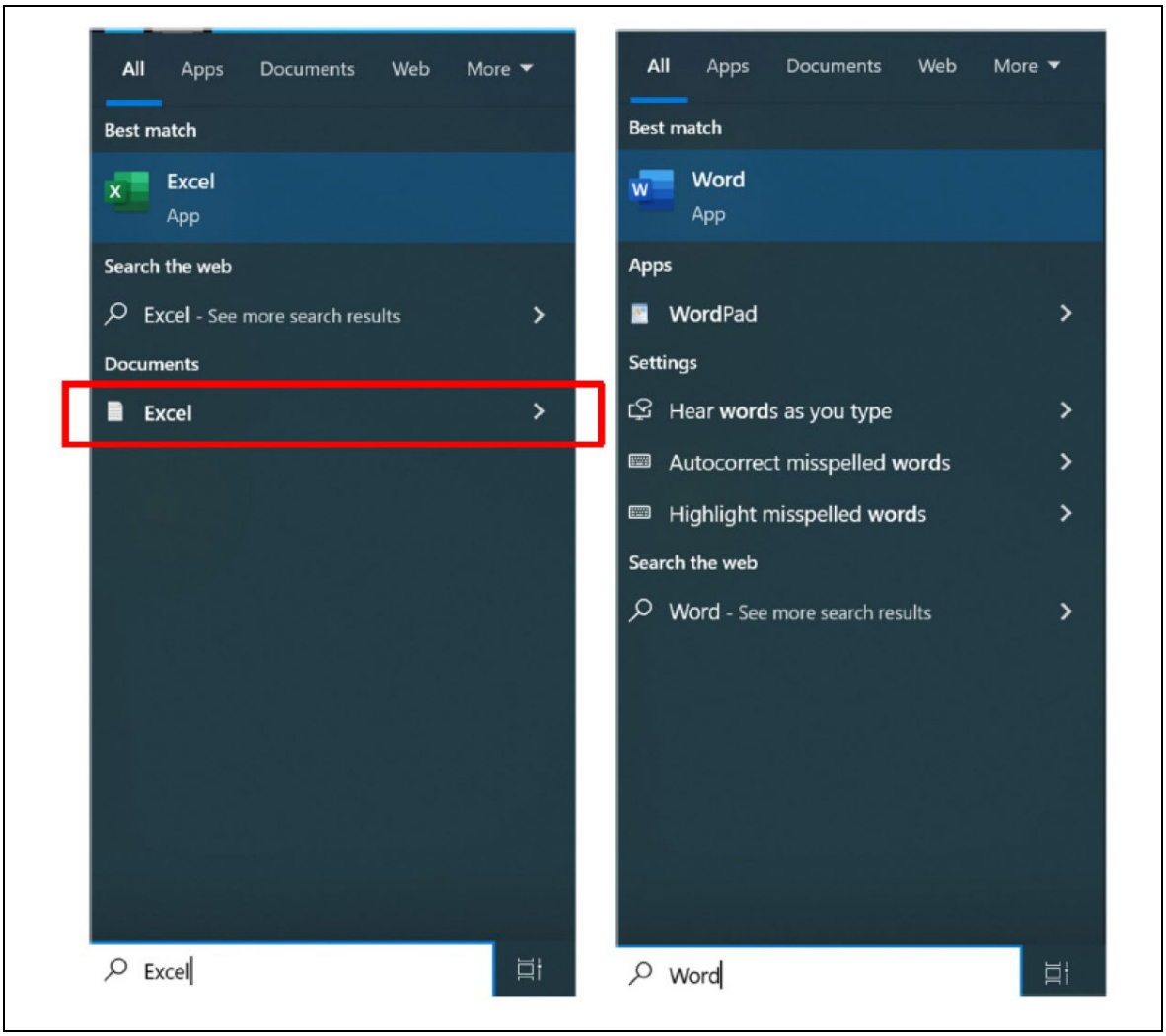
This leaves the question of whether there is a genuine issue that the accused Windows Search and Microsoft 365 Search do not search document contents. As noted, Respondents contend that X1 has not presented such a theory, but even if it did, the features demonstrably do not search past any documents' metadata. For support, Respondents rely on the testing of their expert, Dr. Mitzenmacher, who created a text file named "excel.txt" with "Microsoft Word" in its contents, and then showed "Windows Search identified this document when Dr. Mitzenmacher searched 'excel,' but not when he searched 'word'—demonstrating that Windows Search does not search within documents":



[redacted]



Mot. at 22-23 (citing Mot., Ex. 5 (Mitzenmacher Rpt.) at ¶ 81). Respondents had X1's expert run the same test and others during his deposition to the same effect. *See id.* at 23 (citing Mot., Ex. 9 (Bederson Dep.) 143:9-146:7 (creation of document titled "Excel" with "BenBederson" in content), 162:3-15, 169:1-175:10 (no return of document after search string of "B"), 175:22-177:16 (no return of document with "The quick brown fox jumps over the lazy dog" in contents after search of "quick" with "lazy")). Respondents further refer to testimony from a Microsoft engineer that Windows Search does not "query document content." *Id.* at 22 (citing Mot., Ex. 6

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(Christensen Dep.) at 99:17-19). And for Microsoft 365 Search, Respondents again point to testimony from Dr. Mitzenmacher that it does not search document content based on his testing and discussions with a Microsoft employee. *Id.* at 25 (citing Mot., Ex. 5 (Mitzenmacher Rpt.) at ¶ 100). Notably, that portion of X1's testing reproduced above only shows matching document titles being returned. *Id.* at 8-9 ("ok" and "jud" search string).

Respondents' evidence is persuasive and X1 fails to raise a genuine dispute in response. Tellingly, X1 does not point to any of its expert's testing or testimony to show document contents are searched. *See* Opp'n at 22-24. Instead, X1 first refers to hypothetical "HTML files," as a type of document in which "metadata is included in the contents of the HTML file." Opp'n at 23. X1 reasons, "[a]s to at least HTML files, then, the term 'contents' is at least broad enough to include the file's metadata. This fact alone precludes summary determination." *Id.*

X1 is incorrect. If metadata-type information happens to be present in the contents of the document then it becomes "content information" according to the patent. 977 patent at 2:23-29 (disclosing a search "target" can include both "content information" and "attribute information"). So even if an HTML file has metadata in its attributes and also in its contents, then X1 still must show that a Windows Search or a Microsoft 365 Search located the file because of its contents and not its attributes. Using Dr. Mitzenmacher's "excel" test as an example, if the HTML file was named "Wikipedia – Barcelona, Spain" and also included "Wikipedia – Barcelona, Spain" in its contents, it would not be sufficient to show the search term "Barcelona" returned the file—because it could have come from the filename (*i.e.*, attribute). Regardless, X1 provides no evidence of testing Windows Search or Microsoft 365 Search against an HTML file having these properties, or documentation explaining what would happen. *See id.* So the point is nothing

more than attorney speculation. 19 C.F.R. § 210.18(c) ("the opposing party's response, by affidavits, answers to interrogatories, or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue of fact for the evidentiary hearing under § 210.36(a)(1) or (2)."). X1 makes a similar argument for JPEG and .doc/.docx files to the same non-effect. *See* Opp'n at 24 ("Dr. Bederson opines that a POSITA would have understood the structure of these files and would have recognized that the patents could locate documents whose metadata matches the search strings.").[2]

X1 also points to testimony from Microsoft engineer Brandon Flynn. Opp'n at 23. This argument was struck by Order No. 17 as untimely and is not considered.

X1 finally argues that "Dr. Bederson's expert report also explains that a POSITA would have understood that metadata is part of the content of a document" and "a POSITA would have understood that a user is not limited to locating documents through the claimed method based solely on terms found in the content of the document." Opp'n at 24 (citing Opp'n, Ex. 2 (Bederson Rpt.) at ¶ 39). This, however, is an argument for claim construction—not evidence that Windows Search or Microsoft 365 Search search document contents. So, in sum, there is no meaningful evidence that the accused features search the content of a document itself, as required by the claims, as opposed to the document's metadata attributes. Thus, there is no infringement under claims 1 and 19 of the 977 patent and this portion of Respondents' motion is granted.

[2] X1 supports its discussion of JPEG and .doc/.docx files with citations of "*Id.*" but it is unclear in context what this shorthand represents. *See* Opp'n at 23-24.

Accordingly, Respondents' motion for summary determination (1389-007) is GRANTED-IN-PART. This Initial Determination, the underlying motion, and exhibits appurtenant thereto are certified to the Commission.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall be the determination of the Commission thirty (30) days after the date of service of the initial determination, unless a party files a petition for review of the Initial Determination within five (5) business days after service of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein. Any issue or argument not raised in a petition for review, or response thereto, will be deemed to have been abandoned and may be disregarded by the Commission in reviewing the Initial Determination pursuant to 19 C.F.R. §§ 210.43(b) and (c).

Within seven days of the date of this document, the parties shall submit to the Office of the Administrative Law Judges a joint statement as to whether or not they seek to have any portion of this document deleted from the public version. If the parties do seek to have portions of this document deleted from the public version, they must submit to this office a copy of this document with red brackets indicating the portion or portions asserted to contain confidential business information. The submission may be made by email and/or hard copy by the aforementioned date and need not be filed with the Commission Secretary.

SO ORDERED.

Cameron Elliot
Administrative Law Judge